

# HOUSE BILL No. 1321

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-5; IC 35-31.5-2; IC 35-46-8.2.

**Synopsis:** GPS devices and starter interrupter devices. Prohibits the installation, placement, or attachment of a GPS device or a starter interrupter device in, on, or to a motor vehicle by a lienholder in connection with the potential or actual: (1) enforcement of the lienholder's interest in the motor vehicle; or (2) repossession of the motor vehicle; without the written and signed consent of the owner of the motor vehicle. Provides that a violation of these provisions is a deceptive act for purposes of the deceptive consumer sales act. Establishes as Class A misdemeanors the related criminal offenses of: (1) lienholder vehicular stalking; (2) lienholder vehicular disablement; and (3) unlawful vehicular tracking. Sets forth the elements of these offenses.

**Effective:** July 1, 2019.

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## Jackson

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January 14, 2019, read first time and referred to Committee on Roads and Transportation.

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First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

# HOUSE BILL No. 1321



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 24-5-0.5-3, AS AMENDED BY P.L.170-2017,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 3. (a) A supplier may not commit an unfair,  
4 abusive, or deceptive act, omission, or practice in connection with a  
5 consumer transaction. Such an act, omission, or practice by a supplier  
6 is a violation of this chapter whether it occurs before, during, or after  
7 the transaction. An act, omission, or practice prohibited by this section  
8 includes both implicit and explicit misrepresentations.  
9 (b) Without limiting the scope of subsection (a), the following acts,  
10 and the following representations as to the subject matter of a  
11 consumer transaction, made orally, in writing, or by electronic  
12 communication, by a supplier, are deceptive acts:  
13 (1) That such subject of a consumer transaction has sponsorship,  
14 approval, performance, characteristics, accessories, uses, or  
15 benefits it does not have which the supplier knows or should  
16 reasonably know it does not have.  
17 (2) That such subject of a consumer transaction is of a particular



- 1 standard, quality, grade, style, or model, if it is not and if the  
2 supplier knows or should reasonably know that it is not.
- 3 (3) That such subject of a consumer transaction is new or unused,  
4 if it is not and if the supplier knows or should reasonably know  
5 that it is not.
- 6 (4) That such subject of a consumer transaction will be supplied  
7 to the public in greater quantity than the supplier intends or  
8 reasonably expects.
- 9 (5) That replacement or repair constituting the subject of a  
10 consumer transaction is needed, if it is not and if the supplier  
11 knows or should reasonably know that it is not.
- 12 (6) That a specific price advantage exists as to such subject of a  
13 consumer transaction, if it does not and if the supplier knows or  
14 should reasonably know that it does not.
- 15 (7) That the supplier has a sponsorship, approval, or affiliation in  
16 such consumer transaction the supplier does not have, and which  
17 the supplier knows or should reasonably know that the supplier  
18 does not have.
- 19 (8) That such consumer transaction involves or does not involve  
20 a warranty, a disclaimer of warranties, or other rights, remedies,  
21 or obligations, if the representation is false and if the supplier  
22 knows or should reasonably know that the representation is false.
- 23 (9) That the consumer will receive a rebate, discount, or other  
24 benefit as an inducement for entering into a sale or lease in return  
25 for giving the supplier the names of prospective consumers or  
26 otherwise helping the supplier to enter into other consumer  
27 transactions, if earning the benefit, rebate, or discount is  
28 contingent upon the occurrence of an event subsequent to the time  
29 the consumer agrees to the purchase or lease.
- 30 (10) That the supplier is able to deliver or complete the subject of  
31 the consumer transaction within a stated period of time, when the  
32 supplier knows or should reasonably know the supplier could not.  
33 If no time period has been stated by the supplier, there is a  
34 presumption that the supplier has represented that the supplier  
35 will deliver or complete the subject of the consumer transaction  
36 within a reasonable time, according to the course of dealing or the  
37 usage of the trade.
- 38 (11) That the consumer will be able to purchase the subject of the  
39 consumer transaction as advertised by the supplier, if the supplier  
40 does not intend to sell it.
- 41 (12) That the replacement or repair constituting the subject of a  
42 consumer transaction can be made by the supplier for the estimate



- 1 the supplier gives a customer for the replacement or repair, if the  
 2 specified work is completed and:
- 3 (A) the cost exceeds the estimate by an amount equal to or
  - 4 greater than ten percent (10%) of the estimate;
  - 5 (B) the supplier did not obtain written permission from the
  - 6 customer to authorize the supplier to complete the work even
  - 7 if the cost would exceed the amounts specified in clause (A);
  - 8 (C) the total cost for services and parts for a single transaction
  - 9 is more than seven hundred fifty dollars (\$750); and
  - 10 (D) the supplier knew or reasonably should have known that
  - 11 the cost would exceed the estimate in the amounts specified in
  - 12 clause (A).
- 13 (13) That the replacement or repair constituting the subject of a  
 14 consumer transaction is needed, and that the supplier disposes of  
 15 the part repaired or replaced earlier than seventy-two (72) hours  
 16 after both:
- 17 (A) the customer has been notified that the work has been
  - 18 completed; and
  - 19 (B) the part repaired or replaced has been made available for
  - 20 examination upon the request of the customer.
- 21 (14) Engaging in the replacement or repair of the subject of a  
 22 consumer transaction if the consumer has not authorized the  
 23 replacement or repair, and if the supplier knows or should  
 24 reasonably know that it is not authorized.
- 25 (15) The act of misrepresenting the geographic location of the  
 26 supplier by listing an alternate business name or an assumed  
 27 business name (as described in IC 23-0.5-3-4) in a local telephone  
 28 directory if:
- 29 (A) the name misrepresents the supplier's geographic location;
  - 30 (B) the listing fails to identify the locality and state of the
  - 31 supplier's business;
  - 32 (C) calls to the local telephone number are routinely forwarded
  - 33 or otherwise transferred to a supplier's business location that
  - 34 is outside the calling area covered by the local telephone
  - 35 directory; and
  - 36 (D) the supplier's business location is located in a county that
  - 37 is not contiguous to a county in the calling area covered by the
  - 38 local telephone directory.
- 39 (16) The act of listing an alternate business name or assumed  
 40 business name (as described in IC 23-0.5-3-4) in a directory  
 41 assistance data base if:
- 42 (A) the name misrepresents the supplier's geographic location;



- 1 (B) calls to the local telephone number are routinely forwarded  
2 or otherwise transferred to a supplier's business location that  
3 is outside the local calling area; and  
4 (C) the supplier's business location is located in a county that  
5 is not contiguous to a county in the local calling area.
- 6 (17) The violation by a supplier of IC 24-3-4 concerning  
7 cigarettes for import or export.
- 8 (18) The act of a supplier in knowingly selling or reselling a  
9 product to a consumer if the product has been recalled, whether  
10 by the order of a court or a regulatory body, or voluntarily by the  
11 manufacturer, distributor, or retailer, unless the product has been  
12 repaired or modified to correct the defect that was the subject of  
13 the recall.
- 14 (19) The violation by a supplier of 47 U.S.C. 227, including any  
15 rules or regulations issued under 47 U.S.C. 227.
- 16 (20) The violation by a supplier of the federal Fair Debt  
17 Collection Practices Act (15 U.S.C. 1692 et seq.), including any  
18 rules or regulations issued under the federal Fair Debt Collection  
19 Practices Act (15 U.S.C. 1692 et seq.).
- 20 (21) A violation of IC 24-5-7 (concerning health spa services), as  
21 set forth in IC 24-5-7-17.
- 22 (22) A violation of IC 24-5-8 (concerning business opportunity  
23 transactions), as set forth in IC 24-5-8-20.
- 24 (23) A violation of IC 24-5-10 (concerning home consumer  
25 transactions), as set forth in IC 24-5-10-18.
- 26 (24) A violation of IC 24-5-11 (concerning real property  
27 improvement contracts), as set forth in IC 24-5-11-14.
- 28 (25) A violation of IC 24-5-12 (concerning telephone  
29 solicitations), as set forth in IC 24-5-12-23.
- 30 (26) A violation of IC 24-5-13.5 (concerning buyback motor  
31 vehicles), as set forth in IC 24-5-13.5-14.
- 32 (27) A violation of IC 24-5-14 (concerning automatic  
33 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 34 (28) A violation of IC 24-5-15 (concerning credit services  
35 organizations), as set forth in IC 24-5-15-11.
- 36 (29) A violation of IC 24-5-16 (concerning unlawful motor  
37 vehicle subleasing), as set forth in IC 24-5-16-18.
- 38 (30) A violation of IC 24-5-17 (concerning environmental  
39 marketing claims), as set forth in IC 24-5-17-14.
- 40 (31) A violation of IC 24-5-19 (concerning deceptive commercial  
41 solicitation), as set forth in IC 24-5-19-11.
- 42 (32) A violation of IC 24-5-21 (concerning prescription drug



- 1 discount cards), as set forth in IC 24-5-21-7.
- 2 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 3 appraisals), as set forth in IC 24-5-23.5-9.
- 4 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 5 forth in IC 24-5-26-3.
- 6 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 7 as set forth in IC 24-5.5-6-1.
- 8 (36) A violation of IC 24-8 (concerning promotional gifts and
- 9 contests), as set forth in IC 24-8-6-3.
- 10 (37) A violation of IC 21-18.5-6 (concerning representations
- 11 made by a postsecondary credit bearing proprietary educational
- 12 institution), as set forth in IC 21-18.5-6-22.5.
- 13 **(38) A violation of IC 24-5-16.7 (concerning the installation,**
- 14 **placement, or attachment of a GPS device or a starter**
- 15 **interrupter device in, on, or to a motor vehicle), as set forth in**
- 16 **IC 24-5-16.7-7.**
- 17 (c) Any representations on or within a product or its packaging or
- 18 in advertising or promotional materials which would constitute a
- 19 deceptive act shall be the deceptive act both of the supplier who places
- 20 such representation thereon or therein, or who authored such materials,
- 21 and such other suppliers who shall state orally or in writing that such
- 22 representation is true if such other supplier shall know or have reason
- 23 to know that such representation was false.
- 24 (d) If a supplier shows by a preponderance of the evidence that an
- 25 act resulted from a bona fide error notwithstanding the maintenance of
- 26 procedures reasonably adopted to avoid the error, such act shall not be
- 27 deceptive within the meaning of this chapter.
- 28 (e) It shall be a defense to any action brought under this chapter that
- 29 the representation constituting an alleged deceptive act was one made
- 30 in good faith by the supplier without knowledge of its falsity and in
- 31 reliance upon the oral or written representations of the manufacturer,
- 32 the person from whom the supplier acquired the product, any testing
- 33 organization, or any other person provided that the source thereof is
- 34 disclosed to the consumer.
- 35 (f) For purposes of subsection (b)(12), a supplier that provides
- 36 estimates before performing repair or replacement work for a customer
- 37 shall give the customer a written estimate itemizing as closely as
- 38 possible the price for labor and parts necessary for the specific job
- 39 before commencing the work.
- 40 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
- 41 company or other provider of a telephone directory or directory
- 42 assistance service or its officer or agent is immune from liability for



1 publishing the listing of an alternate business name or assumed  
 2 business name of a supplier in its directory or directory assistance data  
 3 base unless the telephone company or other provider of a telephone  
 4 directory or directory assistance service is the same person as the  
 5 supplier who has committed the deceptive act.

6 (h) For purposes of subsection (b)(18), it is an affirmative defense  
 7 to any action brought under this chapter that the product has been  
 8 altered by a person other than the defendant to render the product  
 9 completely incapable of serving its original purpose.

10 SECTION 2. IC 24-5-16.7 IS ADDED TO THE INDIANA CODE  
 11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2019]:

13 **Chapter 16.7. Use of GPS Devices and Starter Interrupter**  
 14 **Devices in Motor Vehicles**

15 **Sec. 1. This chapter does not apply to the following:**

16 (1) A motor vehicle manufacturer or a person, acting within  
 17 the scope of the person's employment, who installs an  
 18 in-vehicle communication or telematics system.

19 (2) A person who installs, places, or attaches at the request of  
 20 the owner of a motor vehicle subject to a lien:

21 (A) a GPS device; or

22 (B) a starter interrupter device;

23 in, on, or to the motor vehicle.

24 (3) A law enforcement officer acting in the officer's official  
 25 capacity.

26 (4) A parent or guardian who:

27 (A) installs, places, or attaches a GPS device in, on, or to a  
 28 motor vehicle in order to track the location of the parent's  
 29 or guardian's minor child; or

30 (B) obtains GPS device information concerning the  
 31 location of the parent's or guardian's minor child.

32 (5) An employer or business owner tracking the movement or  
 33 location of a motor vehicle owned, leased, or assigned for use  
 34 by the employer or business owner.

35 **Sec. 2. As used in this chapter, "GPS device" means an**  
 36 **electronic device or software program that permits the tracking of**  
 37 **a person or object by means of global positioning system**  
 38 **coordinates.**

39 **Sec. 3. (a) As used in this chapter, "lienholder", with respect to**  
 40 **a motor vehicle, means a person that has an interest in the motor**  
 41 **vehicle, which interest secures the payment or performance of an**  
 42 **obligation owed to the person by the owner of the motor vehicle.**



1 (b) The term includes an agent of the lienholder.

2 Sec. 4. As used in this chapter, "motor vehicle" means a private  
3 passenger motor vehicle primarily designed for transporting  
4 passengers. The term includes passenger vans and minivans that  
5 are primarily designed for transporting passengers.

6 Sec. 5. As used in this chapter, "starter interrupter device"  
7 means a mechanism that:

8 (1) is installed in a motor vehicle; and

9 (2) when activated by remote control will prevent the motor  
10 vehicle from starting.

11 Sec. 6. (a) A lienholder shall not install, place, or attach (or  
12 cause the installation, placement, or attachment of) a GPS device  
13 in, on, or to a motor vehicle for the purpose of tracking the location  
14 of the motor vehicle in connection with the potential or actual:

15 (1) enforcement of the lienholder's interest in the motor  
16 vehicle; or

17 (2) repossession of the motor vehicle.

18 without the written and signed consent of the owner of the motor  
19 vehicle.

20 (b) A lienholder shall not install, place, or attach (or cause the  
21 installation, placement, or attachment of) a starter interrupter  
22 device in, on, or to a motor vehicle for the purpose of disabling the  
23 motor vehicle in connection with the potential or actual:

24 (1) enforcement of the lienholder's interest in the motor  
25 vehicle; or

26 (2) repossession of the motor vehicle.

27 Sec. 7. A person who violates section 6 of this chapter commits  
28 a deceptive act that is actionable by the attorney general or by a  
29 consumer under IC 24-5-0.5-4 and is subject to the remedies and  
30 penalties set forth in IC 24-5-0.5.

31 SECTION 3. IC 35-31.5-2-145.5 IS ADDED TO THE INDIANA  
32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
33 [EFFECTIVE JULY 1, 2019]: Sec. 145.5. "GPS device", for  
34 purposes of IC 35-46-8.2, has the meaning set forth in  
35 IC 35-46-8.2-2.

36 SECTION 4. IC 35-31.5-2-186.7 IS ADDED TO THE INDIANA  
37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
38 [EFFECTIVE JULY 1, 2019]: Sec. 186.7. "Lienholder", for purposes  
39 of IC 35-46-8.2, has the meaning set forth in IC 35-46-8.2-3.

40 SECTION 5. IC 35-31.5-2-207, AS ADDED BY P.L.114-2012,  
41 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2019]: Sec. 207. (a) "Motor vehicle" has the meaning set forth





1 in IC 9-13-2-105(a).

2 (b) "Motor vehicle", for purposes of IC 35-46-8.2, has the  
3 meaning set forth in IC 35-46-8.2-4.

4 SECTION 6. IC 35-31.5-2-310.5 IS ADDED TO THE INDIANA  
5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2019]: **Sec. 310.5. "Starter interrupter  
7 device", for purposes of IC 35-46-8.2, has the meaning set forth in  
8 IC 35-46-8.2-5.**

9 SECTION 7. IC 35-46-8.2 IS ADDED TO THE INDIANA CODE  
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2019]:

12 **Chapter 8.2. GPS Devices and Starter Interrupter Devices**

13 **Sec. 1. This chapter does not apply to the following:**

14 (1) A motor vehicle manufacturer or a person, acting within  
15 the scope of the person's employment, who installs an  
16 in-vehicle communication or telematics system.

17 (2) A person who installs, places, or attaches at the request of  
18 the owner of a motor vehicle subject to a lien:

19 (A) a GPS device; or

20 (B) a starter interrupter device;

21 in, on, or to the motor vehicle.

22 (3) A law enforcement officer acting in the officer's official  
23 capacity.

24 (4) A parent or guardian who:

25 (A) installs, places, or attaches a GPS device in, on, or to a  
26 motor vehicle in order to track the location of the parent's  
27 or guardian's minor child; or

28 (B) obtains GPS device information concerning the  
29 location of the parent's or guardian's minor child.

30 (5) An employer or business owner tracking the movement or  
31 location of a motor vehicle owned, leased, or assigned for use  
32 by the employer or business owner.

33 **Sec. 2. As used in this chapter, "GPS device" means an  
34 electronic device or software program that permits the tracking of  
35 a person or object by means of global positioning system  
36 coordinates.**

37 **Sec. 3. (a) As used in this chapter, "lienholder", with respect to  
38 a motor vehicle, means a person that has an interest in the motor  
39 vehicle, which interest secures the payment or performance of an  
40 obligation owed to the person by the owner of the motor vehicle.**

41 (b) The term includes an agent of the lienholder.

42 **Sec. 4. As used in this chapter, "motor vehicle" means a private**



1 passenger motor vehicle primarily designed for transporting  
 2 passengers. The term includes passenger vans and minivans that  
 3 are primarily designed for transporting passengers.

4 Sec. 5. As used in this chapter, "starter interrupter device"  
 5 means a mechanism that:

- 6 (1) is installed in a motor vehicle; and
- 7 (2) when activated by remote control will prevent the motor  
 8 vehicle from starting.

9 Sec. 6. A person:

- 10 (1) who is a lienholder with respect to a motor vehicle; and
- 11 (2) who:
  - 12 (A) acting to track the location of the motor vehicle in  
 13 connection with the potential or actual:
    - 14 (i) enforcement of the lienholder's interest in the motor  
 15 vehicle; or
    - 16 (ii) repossession of the motor vehicle; and
  - 17 (B) without the written and signed consent of the owner of  
 18 the motor vehicle;

19 knowingly or intentionally installs, places, or attaches (or  
 20 causes the installation, placement, or attachment of) a GPS  
 21 device in, on, or to the motor vehicle;

22 commits lienholder vehicular stalking, a Class A misdemeanor.

23 Sec. 7. A person:

- 24 (1) who is a lienholder with respect to a motor vehicle; and
- 25 (2) who:
  - 26 (A) acting in connection with the potential or actual:
    - 27 (i) enforcement of the lienholder's interest in the motor  
 28 vehicle; or
    - 29 (ii) repossession of the motor vehicle; and
  - 30 (B) without the written and signed consent of the owner of  
 31 the motor vehicle;

32 knowingly or intentionally installs, places, or attaches (or  
 33 causes the installation, placement, or attachment of) a starter  
 34 interrupter device in, on, or to the motor vehicle;

35 commits lienholder vehicular disablement, a Class A misdemeanor.

36 Sec. 8. A person who:

- 37 (1) knowingly or intentionally obtains information concerning  
 38 a motor vehicle's movement or location through the use of a  
 39 GPS device; and
- 40 (2) knows that the GPS device or has been installed, placed, or  
 41 attached in, on, or to the motor vehicle in violation of section  
 42 6 of this chapter;



1 **commits unlawful vehicular tracking, a Class A misdemeanor.**

