

1 **UNLAWFUL INSTALLATION OF A TRACKING DEVICE**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Marie H. Poulson**

5 Senate Sponsor: Kirk A. Cullimore

7 **LONG TITLE**

8 **General Description:**

9 This bill imposes criminal penalties for installing a tracking device without proper
10 authorization.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ makes it a class A misdemeanor for a person to unlawfully install a tracking device;

15 and

- 16 ▶ describes the circumstances under which a peace officer is not governed under the
17 provisions of this bill.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 ENACTS:

24 **76-9-408**, Utah Code Annotated 1953

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **76-9-408** is enacted to read:

28 **76-9-408. Unlawful installation of a tracking device.**

29 (1) As used in this section:

30 (a) "Motor vehicle" means the same as that term is defined in Subsection
31 41-12a-103(4).

32 (b) "Private investigator" means an individual who is:

33 (i) licensed as a private investigator under Title 53, Chapter 9, Private Investigator
34 Regulation Act; and

35 (ii) acting in the capacity of a private investigator.

36 (c) "Protective order" means a protective order, stalking injunction, or restraining order
37 issued by a court of any jurisdiction.

38 (d) (i) "Tracking device" means a device used for the primary purpose of revealing the
39 device's location or movement by the transmission or recording of an electronic signal.

40 (ii) "Tracking device" does not include location technology installed on a vehicle by
41 the vehicle manufacturer or a commercial vehicle dealer that transmits electronic signals for the
42 purpose of data collection, if the data collection is anonymized.

43 (2) Except as provided in Subsection (3), a person is guilty of unlawful installation of a
44 tracking device if the person knowingly installs, or directs another to install, a tracking device
45 on a motor vehicle owned or leased by another person, without the permission of the owner or
46 lessee of the vehicle.

47 (3) A person is not guilty of unlawful installation of a tracking device if the person:

48 (a) (i) is a licensed private investigator installing the tracking device for a legitimate
49 business purpose; and

50 (ii) installs the tracking device on a motor vehicle that is not:

51 (A) owned or leased by an individual under the protection of a protective order; or

52 (B) operated by an individual under the protection of a protective order who resides
53 with, or is an immediate family member of, the owner or lessee of the motor vehicle; or

54 (b) installs the tracking device pursuant to a court order.

55 (4) Unlawful installation of a tracking device is a class A misdemeanor.

56 (5) This section does not apply to a peace officer, acting in the peace officer's official
57 capacity, who installs a tracking device on a motor vehicle in the course of a criminal

58 investigation or pursuant to a court order.

59 (6) Before installing a tracking device on a motor vehicle under Subsection (3), a
60 private investigator shall request confirmation from a state entity with access to updated
61 protective order records, that:

62 (a) the owner or lessee of the vehicle is not under the protection of a protective order;
63 and

64 (b) an individual who resides with, or is an immediate family member of, the owner or
65 lessee of the motor vehicle is not under the protection of a protective order.

66 (7) On request from a licensed private investigator, a state entity, including a law
67 enforcement agency, with access to protective order records shall confirm or deny the existence
68 of a protective order, disclosing only whether an individual named by the private investigator is
69 under the protection of a protective order issued in any jurisdiction.

70 (8) A private investigator may not disclose the information obtained under Subsection
71 (7) to any person, except as permitted by law.

72 (9) On request from the Bureau of Criminal Identification, a private investigator who
73 installs a tracking device on a motor vehicle shall disclose the purpose of the tracking device to
74 the Bureau of Criminal Identification.