



SENATE BILL 238: Stalking by GPS/Criminal Offense

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-282

Date:

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Staff Attorney

SUMMARY: *S.L. 2015-282 provides that a person commits the offense of cyberstalking if the person knowingly installs or places a tracking device without consent and uses the device to track an individual's location, unless one of 11 exceptions are met.*

This act became effective December 1, 2015, and applies to offenses committed on or after that date.

BILL ANALYSIS:

Section 1 of this act makes it cyberstalking (a Class 2 misdemeanor) to do the following: "Knowingly install or place an electronic tracking device without consent, or to cause an electronic tracking device to be installed without consent, and use the device to track the location of any person."

It does not constitute cyberstalking for any of the following persons to install, place, or use an electronic tracking device:

- A law enforcement officer, judicial officer, probation or parole officer, or employee of the Division of Corrections, Department of Public Safety, who is lawfully performing official duties.
- The owner or lessee of any vehicle on which the owner or lessee installs, places or uses an electronic tracking device.
 - This exception does not apply if the owner or lessee is subject to a 50B domestic violence protective order or any court order that orders the owner or lessee not to assault, threaten, harass, follow, or contact a driver or occupant of the vehicle.
- A legal guardian or legally authorized representative of a disabled adult, when installed to track the disabled adult.
- The owner of fleet vehicles, when tracking such vehicles.
- The creditor of a motor vehicle dealer or seller when tracking those motor vehicles under the specified circumstances.
- Any person installing, placing or using an electronic tracking device as authorized by an order of a State or federal court.
- A motor vehicle manufacturer, its subsidiary, or its affiliate that installs or uses an electronic tracking device in conjunction with providing a vehicle subscription telematics service, provided that the customer subscribes or consents to that service.
- A parent or legal guardian of a minor when used to track the minor's location unless the parent or legal guardian is subject to a 50B order or other order that orders the parent or legal guardian not to assault, threaten, harass, follow, or contact that minor or that minor's parent, legal guardian, custodian, or caretaker.
- An employer, when providing a communication device to an employee or contractor for use in connection with his or her work for the employer.
- A business, if the tracking is incident to the provision of a product or service requested by the person.



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- A private detective or private investigator licensed under Chapter 74C when the tracking is pursuant to authority under G.S. 74C-3(a)(8) and is not otherwise contrary to law.
 - This exception does not apply if the person being tracked is under the protection of a 50B domestic violence protective order or any court order that protects against assault, threat, harassment, following, or contact.

EFFECTIVE DATE: This act became effective December 1, 2015, and applies to offenses occurring on or after that date.