

By the Committees on Rules; and Criminal Justice; and Senator Hukill

595-04161-15

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1 A bill to be entitled  
2 An act relating to tracking devices or tracking  
3 applications; creating s. 934.425, F.S.; defining  
4 terms; prohibiting the installation of a tracking  
5 device or tracking application without a person's  
6 consent; creating a presumption that consent is  
7 revoked upon initiation of specified proceedings;  
8 providing exceptions to the prohibition on  
9 installation of tracking devices or tracking  
10 applications; providing criminal penalties; amending  
11 s. 493.6118, F.S.; providing that violations of the  
12 prohibition on installation of tracking devices or  
13 tracking applications by private investigative,  
14 private security, and repossession services are  
15 grounds for disciplinary action, to which penalties  
16 apply; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Section 934.425, Florida Statutes, is created to  
21 read:

22 934.425 Installation of tracking devices or tracking  
23 applications; exceptions; penalties.-

24 (1) As used in this section, the term:

25 (a) "Business entity" means any form of corporation,  
26 partnership, association, cooperative, joint venture, business  
27 trust, or sole proprietorship that conducts business in this  
28 state.

29 (b) "Person" means an individual and does not mean a

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30 business entity.

31 (c) "Tracking application" means any software program whose  
32 primary purpose is to track or identify the location or movement  
33 of an individual.

34 (d) "Tracking device" means any device whose primary  
35 purpose is to reveal its location or movement by the  
36 transmission of electronic signals.

37 (2) Except as provided in subsection (4), a person may not  
38 knowingly install a tracking device or tracking application on  
39 another person's property without the other person's consent.

40 (3) For purposes of this section, a person's consent is  
41 presumed to be revoked if:

42 (a) The consenting person and the person to whom consent  
43 was given are lawfully married and one person files a petition  
44 for dissolution of marriage from the other; or

45 (b) The consenting person or the person to whom consent was  
46 given files an injunction for protection against the other  
47 person pursuant to s. 741.30, s. 741.315, s. 784.046, or s.  
48 784.0485.

49 (4) This section does not apply to:

50 (a) A law enforcement officer as defined in s. 943.10, or  
51 any local, state, federal, or military law enforcement agency,  
52 that lawfully installs a tracking device or tracking application  
53 on another person's property as part of a criminal  
54 investigation.

55 (b) A parent or legal guardian of a minor child that  
56 installs a tracking device or tracking application on the minor  
57 child's property if:

58 1. The parents or legal guardians are lawfully married to

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59 each other and are not separated or otherwise living apart, and  
60 either parent or legal guardian consents to the installation of  
61 the tracking device or tracking application;

62 2. The parent or legal guardian is the sole surviving  
63 parent or legal guardian of the minor child;

64 3. The parent or legal guardian has sole custody of the  
65 minor child; or

66 4. The parents or legal guardians are divorced, separated,  
67 or otherwise living apart and both consent to the installation  
68 of the tracking device or tracking application.

69 (c) A caregiver of an elderly person or disabled adult, as  
70 those terms are defined in s. 825.101, if the elderly person's  
71 or disabled adult's treating physician certifies that the  
72 installation of a tracking device or tracking application onto  
73 the elderly person's or disabled adult's property is necessary  
74 to ensure the safety of the elderly person or disabled adult.

75 (d) A person acting in good faith on behalf of a business  
76 entity for a legitimate business purpose. This paragraph does  
77 not apply to a person engaged in private investigation, as  
78 defined in s. 493.6101, on behalf of another person unless such  
79 activities would otherwise be exempt under this subsection if  
80 performed by the person engaging the private investigator.

81 (e) An owner or lessee of a motor vehicle that installs, or  
82 directs the installation of, a tracking device or tracking  
83 application on such vehicle during the period of ownership or  
84 lease, provided that:

85 1. The tracking device or tracking application is removed  
86 before the vehicle's title is transferred or the vehicle's lease  
87 expires;

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88       2. The new owner of the vehicle, in the case of a sale, or  
89 the lessor of the vehicle, in the case of an expired lease,  
90 consents in writing to the nonremoval of the tracking device or  
91 tracking application; or

92       3. The owner of the vehicle at the time of the installation  
93 of the tracking device or tracking application was the original  
94 manufacturer of the vehicle.

95       (5) A person who violates this section commits a  
96 noncriminal infraction, punishable by a \$250 fine, for a first  
97 violation. A person who commits a second or subsequent violation  
98 commits a misdemeanor of the second degree, punishable as  
99 provided in s. 775.082 or s. 775.083.

100       Section 2. Paragraph (y) is added to subsection (1) of  
101 section 493.6118, Florida Statutes, to read:

102       493.6118 Grounds for disciplinary action.—

103       (1) The following constitute grounds for which disciplinary  
104 action specified in subsection (2) may be taken by the  
105 department against any licensee, agency, or applicant regulated  
106 by this chapter, or any unlicensed person engaged in activities  
107 regulated under this chapter.

108       (y) Installation of a tracking device or tracking  
109 application in violation of s. 934.425.

110       Section 3. This act shall take effect October 1, 2015.