

ENROLLED

CS/CS/HB 197

2015 Legislature

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

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 934.425, Florida Statutes, is created
 19 to read:

20 934.425 Installation of tracking devices or tracking
 21 applications; exceptions; penalties.-

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

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

ENROLLED

CS/CS/HB 197

2015 Legislature

27 (b) "Tracking application" means any software program
 28 whose primary purpose is to track or identify the location or
 29 movement of an individual.

30 (c) "Tracking device" means any device whose primary
 31 purpose is to reveal its location or movement by the
 32 transmission of electronic signals.

33 (d) "Person" means an individual but does not include a
 34 business entity.

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

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

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

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

47 (4) This section does not apply to:

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

ENROLLED

CS/CS/HB 197

2015 Legislature

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

56 1. The parents or legal guardians are lawfully married to
57 each other and are not separated or otherwise living apart, and
58 either parent or legal guardian consents to the installation of
59 the tracking device or tracking application;

60 2. The parent or legal guardian is the sole surviving
61 parent or legal guardian of the minor child;

62 3. The parent or legal guardian has sole custody of the
63 minor child; or

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

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

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

ENROLLED

CS/CS/HB 197

2015 Legislature

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

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

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

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

93 (5) A person who violates this section commits a
 94 misdemeanor of the second degree, punishable as provided in s.
 95 775.082 or s. 775.083.

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

98 493.6118 Grounds for disciplinary action.—

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

104 (y) Installation of a tracking device or tracking

ENROLLED

CS/CS/HB 197

2015 Legislature

105 | application in violation of s. 934.425.

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