

Legislative Analysis



MOTOR VEHICLE TRACKING DEVICE

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 325 (Substitute S-3)

Sponsor: Sen. Raymond E. Basham

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 3-15-10

A SUMMARY OF SENATE BILL 325 AS PASSED BY THE SENATE 1-27-10

The bill would make it a crime to install or place a tracking device on a person's vehicle without that person's knowledge and consent, provide exceptions to the prohibition, and prescribe penalties for a violation.

House Bill 325 would add a new section to the Michigan Penal Code (MCL 750.539I). Doing either of the following would be a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not more than \$1,000:

- Installing or placing a tracking device, or causing one to be installed or placed, in or on a motor vehicle without the knowledge and consent of the owner (or the lessee if the vehicle were rented).
- Tracking the location of a motor vehicle with a tracking device without the knowledge and consent of either the owner or the authorized operator (or either the lessee or authorized operator if the vehicle were a rental).

"Motor vehicle" would mean that term as defined in Section 412. (The term includes "all vehicles impelled on the public highways of this state by mechanical power, except traction engines, road rollers and such vehicles as run only upon rails or tracks.")

"Tracking device" would mean any electronic device designed or intended to be used to track the location of a motor vehicle on a street or highway of the state regardless of whether that information were recorded.

Exceptions. The bill would not apply to any of the following:

- ** The use of any device providing vehicle tracking only for purposes of providing mechanical, operational, directional, navigation, weather, or traffic information to the operator of the vehicle.
- ** The use of any device for providing emergency assistance to the operator or passengers under the terms and conditions of a subscription service, including a trial period of that service.

** The use of any device only for providing missing vehicle assistance for the benefit of the owner of the vehicle.

** The use of any device only to provide diagnostic services regarding the mechanical operation of a vehicle under the terms and conditions of a subscription service, including during a trial period of the service.

** The use of any device or service providing the occupants with clear notice that the vehicle may be tracked.

** A police officer while performing duties as a police officer.

** A person lawfully performing duties as a bail agent as authorized under Section 167b or as an employee or contractor of the bail agent.

** A licensed professional investigator of this state (or his or her employee) while performing duties as a professional investigator (or employee). This exemption would not apply if the investigator or employee was working on behalf of a person who was the subject of a PPO for the protection of another person, the investigator or employee knew of the PPO's existence or failed to use due diligence in determining whether a PPO existed, and the services to be provided by the investigator or employee were to provide information to the person who was the subject of the PPO about the location of the person being protected by the PPO.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on local units of government, which would depend upon the extent to which persons were convicted of the unlawfully installing or using motor vehicle tracking devices. No data is available on the potential number of convictions. Local governments could incur increase costs related to misdemeanor probation and incarceration in local jails. These costs vary across counties. Any additional penal fine revenue generated under the bill would benefit public libraries.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Bob Schneider

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.