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Senate Bill 325 (as introduced 3-4-09)
Sponsor: Senator Raymond E. Basham
Committee: Judiciary

Date Completed: 5-21-09

CONTENT

The bill would amend the Michigan Penal Code to prohibit and prescribe a criminal penalty for installing or placing a tracking device on a motor vehicle without the knowledge and consent of the owner or lessee of the vehicle, and for tracking the location of a motor vehicle with a tracking device without the knowledge and consent of the owner or lessee or an authorized driver. The bill also would make exceptions to these prohibitions.

Under the bill, a person could not do either of the following:

- Install or place a tracking device, or cause a tracking device to be installed or placed, in or on a motor vehicle without the knowledge and consent of the vehicle's owner or, in the case of a leased vehicle, the lessee.
- Track the location of a motor vehicle with a tracking device without the knowledge and consent of either the owner or the authorized operator of that vehicle or, in the case of a leased vehicle, the lessee or authorized operator.

A violation would be a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both.

The prohibitions would not apply to any of the following:

- The use of any device that provided vehicle tracking only for purposes of providing mechanical, directional, weather, or traffic information to the vehicle's operator.
- The use of any device for providing emergency assistance to the vehicle's operator or passengers through a subscription service, including any trial period of that service.
- The use of any device only for providing stolen vehicle assistance for the benefit of the vehicle's owner under terms and conditions of a subscription service, including any trial period.
- 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 any trial period.
- A police officer, while performing his or her duties as a police officer.
- A person licensed under the Professional Investigator Licensure Act, while performing his or her duties as a professional investigator.
- A person lawfully performing his or her duties as a bail agent or an employee or contractor of that bail agent.

The exemption for a licensed professional investigator would not apply if the investigator were working on behalf of a person who was the subject of a court order for the protection of another person, and knew of the existence of the order or failed to use due diligence to

determine whether the order existed, and the investigator's services were to provide information to the person who was the subject of the protection order about the location of any other person named in the order.

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

Proposed MCL 750.539I

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of unlawfully installing or using a motor vehicle tracking device. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander