

CHAPTER 2015-137

Committee Substitute for Committee Substitute for House Bill No. 197

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

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

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

934.425 Installation of tracking devices or tracking applications; exceptions; penalties.—

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

(a) “Business entity” means any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state.

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

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

(d) “Person” means an individual but does not include a business entity.

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

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

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

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

(4) This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

493.6118 Grounds for disciplinary action.—

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

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

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

Approved by the Governor June 11, 2015.

Filed in Office Secretary of State June 11, 2015.