

HOUSE BILL 1238

M1, P3

1lr2585

By: **Delegates Smigiel, Eckardt, Glass, Haddaway–Riccio, Hershey, Jacobs, McDermott, and Otto**

Introduced and read first time: February 21, 2011

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Natural Resources – Tracking Device on Vessel – Prohibition**
3 **Without Court Order**

4 FOR the purpose of prohibiting the Secretary of Natural Resources or a Natural
5 Resources police officer from placing or installing a tracking device on a vessel
6 without first obtaining a certain court order; authorizing the Secretary or a
7 Natural Resources police officer to apply for a certain court order in a certain
8 manner; requiring a court to enter a certain order under certain circumstances;
9 authorizing extensions of a certain order under certain circumstances; requiring
10 certain persons to furnish certain assistance to a Natural Resources police
11 officer under certain circumstances; providing for the construction of this Act;
12 establishing a complete defense against certain civil or criminal actions;
13 defining a certain term; and generally relating to the placement or installation
14 of tracking devices by Natural Resources police officers.

15 BY repealing and reenacting, without amendments,
16 Article – Natural Resources
17 Section 1–204
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2010 Supplement)

20 BY adding to
21 Article – Natural Resources
22 Section 1–204.1
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2010 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Natural Resources**

2 1–204.

3 (a) In addition to any other powers conferred by this title, the Secretary and
4 every Natural Resources police officer shall have all the powers conferred upon police
5 officers of the State. These powers may be exercised anywhere within the State. The
6 Natural Resources Police Force specifically is charged with enforcing the natural
7 resource and conservation laws of the State.

8 (b) Every Natural Resources police officer appointed under § 1–203 of this
9 subtitle shall perform duties the Secretary designates.

10 (c) Any law enforcement employee of the Department of Natural Resources
11 who works overtime for any reason, whether or not the employee receives monetary
12 payment for that overtime work, shall be considered to be employed by this State
13 during those hours for purposes of all other employee entitlements.

14 **1–204.1.**

15 (A) IN THIS SECTION, “TRACKING DEVICE” MEANS AN ELECTRONIC OR A
16 MECHANICAL DEVICE THAT, WHEN PLACED OR INSTALLED ON A VESSEL,
17 ALLOWS ONE OR MORE INDIVIDUALS TO REMOTELY DETERMINE OR TRACK THE
18 LOCATION AND MOVEMENT OF THE VESSEL ON WHICH THE DEVICE IS PLACED
19 OR INSTALLED.

20 (B) THE SECRETARY OR A NATURAL RESOURCES POLICE OFFICER MAY
21 NOT PLACE OR INSTALL A TRACKING DEVICE ON A VESSEL WITHOUT FIRST
22 OBTAINING A COURT ORDER UNDER SUBSECTION (D) OF THIS SECTION.

23 (C) (1) THE SECRETARY OR A NATURAL RESOURCES POLICE
24 OFFICER MAY APPLY TO A COURT OF ANY COUNTY FOR AN ORDER OR AN
25 EXTENSION OF AN ORDER UNDER SUBSECTION (D) OF THIS SECTION
26 AUTHORIZING THE PLACEMENT OR INSTALLATION OF A TRACKING DEVICE ON A
27 VESSEL.

28 (2) AN APPLICATION UNDER PARAGRAPH (1) OF THIS
29 SUBSECTION SHALL BE IN WRITING AND SIGNED AND SWORN TO BY THE
30 APPLICANT AND SHALL INCLUDE:

31 (I) A PARTICULAR DESCRIPTION OF THE VESSEL ON WHICH
32 THE TRACKING DEVICE WILL BE PLACED OR INSTALLED; AND

1 **(II) A STATEMENT BY THE APPLICANT THAT THE**
2 **INFORMATION LIKELY TO BE OBTAINED IS RELEVANT TO AN ONGOING CRIMINAL**
3 **INVESTIGATION.**

4 **(D) (1) ON AN APPLICATION MADE UNDER SUBSECTION (C) OF THIS**
5 **SECTION, A COURT SHALL ISSUE AN EX PARTE ORDER AUTHORIZING THE**
6 **PLACEMENT OR INSTALLATION OF A TRACKING DEVICE ON A VESSEL WITHIN**
7 **THE JURISDICTION OF THE COURT IF THE COURT FINDS THAT THE**
8 **INFORMATION LIKELY TO BE OBTAINED BY THE PLACEMENT OR INSTALLATION**
9 **OF THE TRACKING DEVICE IS RELEVANT TO AN ONGOING CRIMINAL**
10 **INVESTIGATION.**

11 **(2) AN ORDER ISSUED UNDER THIS SECTION SHALL:**

12 **(I) SPECIFY THE IDENTITY, IF KNOWN, OF THE OWNER OF**
13 **THE VESSEL ON WHICH THE TRACKING DEVICE WILL BE PLACED OR INSTALLED;**

14 **(II) SPECIFY THE IDENTITY, IF KNOWN, OF THE PERSON**
15 **WHO IS THE SUBJECT OF THE CRIMINAL INVESTIGATION;**

16 **(III) SPECIFY THE GEOGRAPHIC LIMITS OF THE TRACKING**
17 **DEVICE;**

18 **(IV) CONTAIN A DESCRIPTION OF THE OFFENSE TO WHICH**
19 **THE INFORMATION LIKELY TO BE OBTAINED BY THE TRACKING DEVICE**
20 **RELATES; AND**

21 **(V) DIRECT, ON THE REQUEST OF THE APPLICANT, THE**
22 **FURNISHING OF INFORMATION AND TECHNICAL ASSISTANCE NECESSARY TO**
23 **ACCOMPLISH THE PLACEMENT OR INSTALLATION OF THE TRACKING DEVICE**
24 **UNDER SUBSECTION (E) OF THIS SECTION.**

25 **(3) (I) AN ORDER ISSUED UNDER THIS SECTION SHALL**
26 **AUTHORIZE THE PLACEMENT OR INSTALLATION OF A TRACKING DEVICE FOR A**
27 **PERIOD NOT TO EXCEED 60 DAYS.**

28 **(II) EXTENSIONS OF AN ORDER ISSUED UNDER THIS**
29 **SECTION MAY BE GRANTED UPON A NEW APPLICATION FOR AN ORDER UNDER**
30 **SUBSECTION (C) OF THIS SECTION AND UPON THE JUDICIAL FINDING REQUIRED**
31 **UNDER SUBSECTION (D)(1) OF THIS SECTION.**

32 **(III) AN EXTENSION MAY NOT EXCEED 60 DAYS.**

1 **(4) AN ORDER AUTHORIZING THE PLACEMENT OR INSTALLATION**
2 **OF A TRACKING DEVICE SHALL DIRECT THAT:**

3 **(I) THE ORDER BE SEALED UNTIL FURTHER ORDER OF THE**
4 **COURT; AND**

5 **(II) A PERSON OWNING THE VESSEL TO WHICH THE**
6 **TRACKING DEVICE IS ATTACHED, OR WHO IS OBLIGATED BY THE ORDER TO**
7 **PROVIDE ASSISTANCE TO THE APPLICANT, NOT DISCLOSE THE EXISTENCE OF**
8 **THE TRACKING DEVICE OR THE EXISTENCE OF THE INVESTIGATION TO ANY**
9 **PERSON, UNLESS OR UNTIL OTHERWISE ORDERED BY THE COURT.**

10 **(E) (1) ON THE REQUEST OF A NATURAL RESOURCES POLICE**
11 **OFFICER AUTHORIZED TO PLACE OR INSTALL A TRACKING DEVICE ON A VESSEL**
12 **UNDER THIS SECTION, A VESSEL OWNER, OR OTHER PERSON, SHALL FURNISH**
13 **ALL INFORMATION, FACILITIES, AND TECHNICAL ASSISTANCE NECESSARY TO**
14 **ACCOMPLISH THE PLACEMENT OR INSTALLATION OF THE TRACKING DEVICE**
15 **UNOBTRUSIVELY AND WITH MINIMUM INTERFERENCE WITH SERVICES, IF SUCH**
16 **ASSISTANCE IS DIRECTED BY A COURT ORDER UNDER SUBSECTION (D)(2)(V) OF**
17 **THIS SECTION.**

18 **(2) (I) ON THE REQUEST OF A NATURAL RESOURCES POLICE**
19 **OFFICER AUTHORIZED TO RECEIVE THE RESULTS OF A TRACKING DEVICE**
20 **UNDER THIS SECTION, A VESSEL OWNER, OR OTHER PERSON, SHALL PLACE OR**
21 **INSTALL THE DEVICE IN THE APPROPRIATE LOCATION, UNOBTRUSIVELY AND**
22 **WITH MINIMUM INTERFERENCE WITH SERVICES, AND SHALL FURNISH ALL**
23 **ADDITIONAL INFORMATION, FACILITIES, AND TECHNICAL ASSISTANCE**
24 **NECESSARY, IF THE PLACEMENT OR INSTALLATION AND ASSISTANCE IS**
25 **DIRECTED BY A COURT ORDER UNDER SUBSECTION (D)(2)(V) OF THIS SECTION.**

26 **(II) UNLESS OTHERWISE ORDERED BY THE COURT, THE**
27 **RESULTS OF THE TRACKING DEVICE SHALL BE FURNISHED TO THE POLICE**
28 **OFFICER DESIGNATED IN THE COURT ORDER AT REASONABLE INTERVALS**
29 **DURING REGULAR BUSINESS HOURS FOR THE DURATION OF THE ORDER.**

30 **(3) A VESSEL OWNER OR ANY OTHER PERSON WHO FURNISHES**
31 **FACILITIES OR TECHNICAL ASSISTANCE UNDER THIS SECTION SHALL BE**
32 **COMPENSATED FOR REASONABLE EXPENSES INCURRED IN PROVIDING THE**
33 **FACILITIES AND ASSISTANCE.**

34 **(4) NOTHING IN THIS SECTION MAY BE CONSTRUED AS CREATING**
35 **A CAUSE OF ACTION AGAINST ANY PERSON FOR PROVIDING INFORMATION,**
36 **FACILITIES, OR ASSISTANCE IN ACCORDANCE WITH THE TERMS OF A COURT**
37 **ORDER UNDER THIS SECTION.**

1 **(5) A GOOD FAITH RELIANCE ON A COURT ORDER, A LEGISLATIVE**
2 **AUTHORIZATION, OR A STATUTORY AUTHORIZATION IS A COMPLETE DEFENSE**
3 **AGAINST ANY CIVIL OR CRIMINAL ACTION BROUGHT UNDER THIS SECTION OR**
4 **UNDER ANY OTHER LAW.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2011.