

SENATE BILL 1905

By Herron

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 6 and Title 40, Chapter 6, Part 1, relative to the use of electronic tracking devices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 6, Part 1, is amended by adding the following as a new section:

§ 40-6-108.

(a) Attaching a tracking device, including but not limited to, a global positioning system (GPS), to the vehicle of a person suspected of a criminal offense by a law enforcement officer, agent of a law enforcement officer, or other person acting on behalf of a law enforcement officer for the purpose of conducting surveillance on such person constitutes a search within the meaning of the Fourth Amendment to the United States constitution and Article I, Section 7, of the Tennessee constitution.

(b) Unless a recognized exception to the requirement for a search warrant exists, to attach a tracking device to a suspect's vehicle, the law enforcement officer, agent of a law enforcement officer, or other person acting on behalf of a law enforcement officer must have probable cause to believe that a search will disclose contraband or evidence of a crime and a search warrant issued pursuant to this part.

SECTION 2. Tennessee Code Annotated, Section 39-13-606, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) Except as provided in subsection (b), it is an offense for a person to knowingly install, conceal or otherwise place an electronic tracking device, including but not limited to, a global positioning system (GPS), in or on a motor vehicle without the consent of all owners of the vehicle for the purpose of monitoring or following an occupant or occupants of the vehicle.

(2) It is an offense for a person to knowingly conceal, hide or otherwise place an electronic tracking device, including but not limited to, a global positioning system (GPS), on the person, clothing, or personal effects of another without the consent of such other person for the purpose of monitoring or following the person.

(3) As used in this section, "person" does not include the manufacturer of the motor vehicle.

(b) It is not a violation of this section if:

(1) The installing, concealing or placing of an electronic tracking device in or on a motor vehicle, person, clothing or personal effects of another is by, or at the direction of, a law enforcement officer in furtherance of a criminal investigation and the law enforcement officer has a search warrant for installing the device in accordance with § 40-6-108, or an exception to the warrant requirement as provided by law;

(2) The installing, concealing or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a parent or legal guardian who owns or leases the vehicle, and if the device is used solely for the purpose of monitoring the minor child of the parent or legal guardian when the child is an occupant of the vehicle, then the installation, concealment or placement of the

device in or on the vehicle without the consent of any or all occupants in the vehicle shall not be a violation;

(3) The installing, concealing or placing of an electronic tracking device in or on a motor vehicle is for the purpose of tracking the location of stolen goods being transported in the vehicle or for the purpose of tracking the location of the vehicle if it is stolen; or

(4) The installing, whether concealed or otherwise, of an electronic tracking device is by the employer in vehicles owned or leased by the employer and for the purpose of locating the vehicle and ensuring that the vehicle is being used only for authorized purposes.

(c) This section shall not apply to a tracking system installed by the manufacturer of a motor vehicle.

(d) A violation of this section is a Class B misdemeanor.

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.