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**HOUSE BILL NO. 53****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice  
on February 3, 2010)

(Patron Prior to Substitute—Delegate Cole)

A *BILL to amend the Code of Virginia by adding a section numbered 38.2-608.1 and by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:4, relating to the unlawful implantation of human tracking devices.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 38.2-608.1 and by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:4 as follows:**

*§ 38.2-608.1. Unlawful implantation or use of human tracking devices by insurer.*

*A. As used in this section:*

*"Identification/tracking device or mark" means any item, application, device, marking, or other technology capable of storing or passively or actively transmitting an individual's identity, characteristics, status, group membership, travel history, or location, or capable of storing or transmitting a number, symbol, signal, pattern, or other identifier that could be linked with any such information.*

*"Track" means to locate, follow or monitor.*

*B. It is unlawful for an insurer to require his insured as a condition of obtaining insurance or remaining insured, to have an identification/tracking device or mark implanted or permanently or semi-permanently incorporated into the body, skin, teeth, hair, or nails of such person to track, or to aid in tracking such person. A civil penalty of \$500, payable to the Literary Fund, shall be imposed for each violation of this section.*

*§ 40.1-28.7:4. Unlawful implantation or use of human tracking devices by employer.*

*A. As used in this section:*

*"Identification/tracking device or mark" means any item, application, device, marking, or other technology capable of storing or passively or actively transmitting an individual's identity, characteristics, status, group membership, travel history, or location, or capable of storing or transmitting a number, symbol, signal, pattern, or other identifier that could be linked with any such information.*

*"Track" means to locate, follow or monitor.*

*B. It is unlawful for an employer to require his employee as a condition of employment to have an identification/tracking device or mark implanted or permanently or semi-permanently incorporated into the body, skin, teeth, hair, or nails of such person to track, or to aid in tracking such person. A civil penalty of \$500, payable to the Literary Fund, shall be imposed for each violation of this section.*