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HOUSE BILL NO. 807**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Science and Technology
on February 8, 2012)

(Patron Prior to Substitute—Delegate May)

A *BILL to amend the Code of Virginia by adding in Article 6 of Chapter 4 of Title 18.2 a section numbered 18.2-60.5, relating to the use of electronic tracking devices; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 6 of Chapter 4 of Title 18.2 a section numbered 18.2-60.5 as follows:

§ 18.2-60.5. Unauthorized use of electronic tracking device; penalty.

A. Any person who installs, places, or uses an electronic tracking device through intentionally deceptive means and without consent, or causes an electronic tracking device to be installed, placed, or used through intentionally deceptive means and without consent, to track the location of any person is guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to the installation, placement, or use of an electronic tracking device by:

1. A law-enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Corrections when any such person is engaged in the lawful performance of official duties and in accordance with other state or federal law;

2. The parent or legal guardian of a minor when tracking (i) the minor or (ii) any person authorized by the parent or legal guardian as a caretaker of the minor at any time when the minor is under the person's sole care;

3. A legally authorized representative of an incapacitated adult, as defined in § 18.2-369;

4. The owner of fleet vehicles, when tracking such vehicles; or

5. An electronic communications provider to the extent that such installation, placement or use is disclosed in the provider's terms of use, privacy policy or similar document made available to the customer.

C. For the purposes of this section:

"Electronic tracking device" means an electronic or mechanical device that permits a person to remotely determine or track the position and movement of another person.

"Fleet vehicle" means (i) one or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes, (ii) motor vehicles held for lease or rental to the general public, or (iii) motor vehicles held for sale by motor vehicle dealers.