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HOUSE BILL NO. 1044

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 18.2-60.5 of the Code of Virginia, relating to unauthorized use of electronic tracking device; penalty.

 Patron—Krizek

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-60.5 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-60.5. Unauthorized use of electronic tracking device; penalty.**

A. Any person who installs or places an electronic tracking device through intentionally deceptive means and without consent, or causes an electronic tracking device to be installed or placed through intentionally deceptive means and without consent, and uses such device 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;

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; or

6. A registered private investigator, as defined in § 9.1-138, who is regulated in accordance with § 9.1-139 and is acting in the normal course of his business and with the consent of the owner of the property upon which the electronic tracking device is installed and placed. However, such exception shall not apply if the private investigator is working on behalf of a client who is subject to a protective order under § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, or 19.2-152.10; or subsection B of § 20-103, or if the private investigator knows or should reasonably know that the client seeks the private investigator's services to aid in the commission of a crime.

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.

INTRODUCED

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