

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend the Code of Virginia by adding in Article 6 of Chapter 4 of Title 18.2 a section  
2 numbered 18.2-60.5, relating to unauthorized placement of electronic tracking devices in motor  
3 vehicles; penalty.

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

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

7 § 18.2-60.5. Unauthorized installation or placement of electronic tracking device in motor  
8 vehicle.

9 A. It shall be unlawful for any person, with malicious intent to track the location of a motor  
10 vehicle or individual, to install or place an electronic tracking device, or cause an electronic tracking  
11 device to be installed or placed, in or on a motor vehicle without authority. Any person who violates  
12 this section shall be guilty of a Class 4 misdemeanor.

13 B. This provision of this section shall not apply to the installation of an electronic tracking  
14 device by:

15 1. The original manufacturer of the motor vehicle for the use of the owner or lessee of the motor  
16 vehicle;

17 2. A law-enforcement officer, judicial officer, probation or parole officer, or employee of the  
18 Department of Corrections in the lawful performance of his official duties;

19 3. A bail bondsman or bail enforcement agent licensed by the Department of Criminal Justice  
20 Services acting in the course of his legitimate business; or

21 4. The parent or legal guardian of a minor under the age of 18 in a vehicle driven by the minor.

22 C. For the purposes of this section:

23 "Electronic Tracking Device" means an electronic or mechanical device which, when placed on  
24 or installed in a motor vehicle, permits other persons to remotely determine or track the position and  
25 movement of such motor vehicle.

26 ["Motor vehicle" has the same meaning set forth in § 46.2-100.](#)

27 [A person is "without authority" when he knows or reasonably should know that he has no right,](#)  
28 [agreement, or permission or acts in a manner knowingly exceeding such right, agreement, or permission.](#)

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32 NOTES:

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34 Line 9 -- adds "malicious" to modify "intent." This means that to be guilty under this section, a  
35 person would not just have to intend to place a tracking device...but would intend to do it for a "bad"  
36 reason. This addition raises a few questions:

37 1. It will be harder for a prosecutor to prove that a crime was committed. So should the  
38 penalty stay as a Class 4 misdemeanor, or be something greater?

39 2. Are exemptions/exceptions necessary if "malicious" is left in? Presumably, we would  
40 still want to prosecute a law-enforcement officer, parent, vehicle manufacturer who acted maliciously.  
41 Clearly, if the standard is simply "intent" we need exceptions...but adding the element of maliciousness  
42 seems to eliminate (or at least lessen) the need for exceptions. I have left in some exceptions for  
43 discussion purposes. If the committee decides to not include a "malicious" standard, then we will need  
44 to talk at length about what exceptions are necessary.

45 3. I have removed the term "knowingly" from the original draft...I think the term  
46 malicious implicitly indicates an element of knowing.

47 Line 23 -- adds a definition of electronic tracking device. This definition is my first effort, but  
48 this is definitely a definition that the committee will want to closely examine to make it sure it includes  
49 what you want it to include -- but doesn't include too much so that there are severe unintended  
50 consequences.

51 Line 11/Line 27 -- I tried a different approach in this draft than in the bill that was introduced last  
52 year. Instead of referencing "consent" -- which can be difficult (is affirmative consent required? in

**53** writing? is there implied consent?), I tried an approach used in the computer crimes act where a person  
**54** is guilty if they act "without authority." There might be unintended consequences to this, and I will  
**55** continue to think about this before the meeting. But I tried this approach as "food for thought" since the  
**56** issue of consent was a major topic of discussion at the September meeting.