

By: King of Parker

H.B. No. 1659

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to creating an exception to the offense of unlawful  
3 installation of a tracking device.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 16.06, Penal Code, is amended by  
6 amending Subsection (d) and adding Subsection (e) to read as  
7 follows:

8 (d) It is an affirmative defense to prosecution under this  
9 section that the person:

10 (1) obtained the effective consent of the owner or  
11 lessee of the motor vehicle before the electronic or mechanical  
12 tracking device was installed;

13 ~~(2) [was a peace officer who installed the device in~~  
14 ~~the course of a criminal investigation or pursuant to an order of a~~  
15 ~~court to gather information for a law enforcement agency];~~

16 ~~[(3)]~~ assisted another whom the person reasonably  
17 believed to be a peace officer authorized to install the device in  
18 the course of a criminal investigation or pursuant to an order of a  
19 court to gather information for a law enforcement agency; or

20 (3) ~~[(4)]~~ was a private investigator licensed under  
21 Chapter 1702, Occupations Code, who installed the device:

22 (A) with written consent:

23 (i) to install the device given by the owner  
24 or lessee of the motor vehicle; and

1                   (ii) to enter private residential property,  
2 if that entry was necessary to install the device, given by the  
3 owner or lessee of the property; or

4                   (B) pursuant to an order of or other  
5 authorization from a court to gather information.

6           (e) It is an exception to the application of this section  
7 that the actor was a peace officer who installed the device in the  
8 course of a criminal investigation or pursuant to an order of a  
9 court to gather information for a law enforcement agency.

10           SECTION 2. The change in law made by this Act applies only  
11 to an offense committed on or after the effective date of this Act.  
12 An offense committed before the effective date of this Act is  
13 governed by the law in effect at the time the offense was committed,  
14 and the former law is continued in effect for that purpose. For  
15 purposes of this section, an offense was committed before the  
16 effective date of this Act if any element of the offense occurred  
17 before that date.

18           SECTION 3. This Act takes effect September 1, 2009.