

1-1 By: King of Parker (Senate Sponsor - Patrick) H.B. No. 1659
1-2 (In the Senate - Received from the House April 29, 2009;
1-3 May 4, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 23, 2009, reported favorably, as amended, by the
1-5 following vote: Yeas 6, Nays 0; May 23, 2009, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Ellis

1-7 Amend H.B. 1659 by adding the following:
1-8 On page 1, line 41, before "installed" and following "who"
1-9 insert "legally".

1-10 A BILL TO BE ENTITLED
1-11 AN ACT

1-12 relating to creating an exception to the offense of unlawful
1-13 installation of a tracking device.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 16.06, Penal Code, is amended by
1-16 amending Subsection (d) and adding Subsection (e) to read as
1-17 follows:

1-18 (d) It is an affirmative defense to prosecution under this
1-19 section that the person:

1-20 (1) obtained the effective consent of the owner or
1-21 lessee of the motor vehicle before the electronic or mechanical
1-22 tracking device was installed;

1-23 (2) ~~[was a peace officer who installed the device in
1-24 the course of a criminal investigation or pursuant to an order of a
1-25 court to gather information for a law enforcement agency;~~

1-26 ~~[(3)]~~ assisted another whom the person reasonably
1-27 believed to be a peace officer authorized to install the device in
1-28 the course of a criminal investigation or pursuant to an order of a
1-29 court to gather information for a law enforcement agency; or

1-30 (3) ~~[(4)]~~ was a private investigator licensed under
1-31 Chapter 1702, Occupations Code, who installed the device:

1-32 (A) with written consent:

1-33 (i) to install the device given by the owner
1-34 or lessee of the motor vehicle; and

1-35 (ii) to enter private residential property,
1-36 if that entry was necessary to install the device, given by the
1-37 owner or lessee of the property; or

1-38 (B) pursuant to an order of or other
1-39 authorization from a court to gather information.

1-40 (e) This section does not apply to a peace officer who
1-41 installed the device in the course of a criminal investigation or
1-42 pursuant to an order of a court to gather information for a law
1-43 enforcement agency.

1-44 SECTION 2. The change in law made by this Act applies only
1-45 to an offense committed on or after the effective date of this Act.
1-46 An offense committed before the effective date of this Act is
1-47 governed by the law in effect at the time the offense was committed,
1-48 and the former law is continued in effect for that purpose. For
1-49 purposes of this section, an offense was committed before the
1-50 effective date of this Act if any element of the offense occurred
1-51 before that date.

1-52 SECTION 3. This Act takes effect September 1, 2009.

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