

House Bill 1659
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

(A) with written consent:

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

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

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

(e) This section does not apply to a peace officer who installed the device in the course of a criminal

SENATE VERSION

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

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

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

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

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

(A) with written consent:

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

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

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

(e) This section does not apply to a peace officer who **legally** installed the device in the course of a criminal

CONFERENCE

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investigation or pursuant to an order of a court to gather information for a law enforcement agency.

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

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

SENATE VERSION

investigation or pursuant to an order of a court to gather information for a law enforcement agency.

Same as House version.

Same as House version.

CONFERENCE