

A Bill for an Act Relating to Tracking Devices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Vehicle theft is a significant concern of Hawai'i residents. Every year thousands of vehicles are stolen. While some are used for joyriding and recovered relatively intact, others are destined for the chop shop and are never seen again.

One way in which car owners can protect their vehicles is by the installation of a global positional satellite tracking device. These devices allow a control center to accurately locate a car via satellite. A driver contacts the control center by cellular phone, which then directs the driver to the driver's desired location. It can also be used to locate a stolen car.

Police departments in other jurisdictions use "bait vehicles" to allow them to identify and apprehend car thieves. Formerly they used valuable staff hours to physically monitor the vehicle, but with a global positional satellite device installed, the control center does all the monitoring and notifies the department when the vehicle is moving. Several police departments have reported significant drops in car theft after it becomes known that these devices are in use.

Unfortunately, the installation of these devices on cars in Hawai'i is now a felony. Current law makes persons installing a "tracking device" without a search warrant a class C felony. In 1989, at the time this law was adopted, global positional satellite devices were neither widely known nor used. The only tracking devices that were used were radio transmitters placed in the suspect's car by police, and for which a warrant was appropriate. However, the unduly broad language of the statute now criminalizes behavior that should be permitted.

The purpose of this Act is to permit the consensual installation of tracking devices, and to allow the police to install them in bait vehicles.

SECTION 2. Section 803-41, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Bait vehicle" means any vehicle used by law enforcement to further an investigation of and deter unauthorized entry into a motor vehicle or unauthorized control of propelled vehicles."

SECTION 3. Section 803-41, Hawaii Revised Statutes, is amended by amending the definition of "tracking device" to read as follows:

"Tracking device" means an electronic or mechanical device which permits the tracking of the movement of a person or object[.], but does not include such a device when installed:

- (1) In a motor vehicle or other vehicle by or with the permission of the owner or person in lawful possession of the motor vehicle or other vehicle for the purpose of tracking the movement of such motor vehicle or other vehicle; or
- (2) By or at the request of a police department or law enforcement agency in a "bait vehicle"."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 26, 1998.)