

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 238*
Judiciary II Committee Substitute Adopted 4/15/15
Third Edition Engrossed 4/16/15
House Committee Substitute Favorable 6/24/15
House Committee Substitute #2 Favorable 7/28/15
Sixth Edition Engrossed 9/2/15

Short Title: Stalking by GPS/Criminal Offense.

(Public)

Sponsors:

Referred to:

March 11, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT A PERSON COMMITS THE OFFENSE OF
3 CYBERSTALKING IF THE PERSON KNOWINGLY INSTALLS OR PLACES A
4 TRACKING DEVICE WITHOUT CONSENT AND USES THE DEVICE TO TRACK
5 THE LOCATION OF AN INDIVIDUAL.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 14-196.3 reads as rewritten:

8 "**§ 14-196.3. Cyberstalking.**

9 (a) The following definitions apply in this section:

10 (1) Electronic communication. – Any transfer of signs, signals, writing, images,
11 sounds, data, or intelligence of any nature, transmitted in whole or in part by
12 a wire, radio, computer, electromagnetic, photoelectric, or photo-optical
13 system.

14 (2) Electronic mail. – The transmission of information or communication by the
15 use of the Internet, a computer, a facsimile machine, a pager, a cellular
16 telephone, a video recorder, or other electronic means sent to a person
17 identified by a unique address or address number and received by that
18 person.

19 (3) Electronic tracking device. – An electronic or mechanical device that
20 permits a person to remotely determine or track the position and movement
21 of another person.

22 (4) Fleet vehicle. – Any of the following: (i) one or more motor vehicles owned
23 by a single entity and operated by employees or agents of the entity for
24 business or government purposes, (ii) motor vehicles held for lease or rental
25 to the general public, or (iii) motor vehicles held for sale, or used as
26 demonstrators, test vehicles, or loaner vehicles, by motor vehicle dealers.

27 (b) It is unlawful for a person to:

28 (1) Use in electronic mail or electronic communication any words or language
29 threatening to inflict bodily harm to any person or to that person's child,
30 sibling, spouse, or dependent, or physical injury to the property of any
31 person, or for the purpose of extorting money or other things of value from
32 any person.



- 1 (2) Electronically mail or electronically communicate to another repeatedly,
2 whether or not conversation ensues, for the purpose of abusing, annoying,
3 threatening, terrifying, harassing, or embarrassing any person.
- 4 (3) Electronically mail or electronically communicate to another and to
5 knowingly make any false statement concerning death, injury, illness,
6 disfigurement, indecent conduct, or criminal conduct of the person
7 electronically mailed or of any member of the person's family or household
8 with the intent to abuse, annoy, threaten, terrify, harass, or embarrass.
- 9 (4) Knowingly permit an electronic communication device under the person's
10 control to be used for any purpose prohibited by this section.
- 11 (5) Knowingly install, place, or use an electronic tracking device without
12 consent, or cause an electronic tracking device to be installed, placed, or
13 used without consent, to track the location of any person. The provisions of
14 this subdivision do not apply to the installation, placement, or use of an
15 electronic tracking device by any of the following:
- 16 a. A law enforcement officer, judicial officer, probation or parole
17 officer, or employee of the Division of Corrections, Department of
18 Public Safety, when any such person is engaged in the lawful
19 performance of official duties and in accordance with State or federal
20 law.
- 21 b. The owner or lessee of any vehicle on which the owner or lessee
22 installs, places, or uses an electronic tracking device, unless the
23 owner or lessee is subject to (i) a domestic violence protective order
24 under Chapter 50B of the General Statutes or (ii) any court order that
25 orders the owner or lessee not to assault, threaten, harass, follow, or
26 contact a driver or occupant of the vehicle.
- 27 c. A legal guardian for a disabled adult, as defined in
28 G.S. 108A-101(d), or a legally authorized individual or organization
29 designated to provide protective services to a disabled adult pursuant
30 to G.S. 108A-105(c), when the electronic tracking device is installed,
31 placed, or used to track the location of the disabled adult for which
32 the person is a legal guardian or the individual or organization is
33 designated to provide protective services.
- 34 d. The owner of fleet vehicles, when tracking such vehicles.
- 35 e. A creditor or other secured party under a retail installment agreement
36 involving the sale of a motor vehicle or the lessor under a retail lease
37 of a motor vehicle, and any assignee or successor in interest to that
38 creditor, secured party, or lessor, when tracking a motor vehicle
39 identified as security under the retail installment sales agreement or
40 leased pursuant to a retail lease agreement, including the installation,
41 placement, or use of an electronic tracking device to locate and
42 remotely disable the motor vehicle, with the express written consent
43 of the purchaser, borrower, or lessee of the motor vehicle.
- 44 f. The installation, placement, or use of an electronic tracking device
45 authorized by an order of a State or federal court.
- 46 g. A motor vehicle manufacturer, its subsidiary, or its affiliate that
47 installs or uses an electronic tracking device in conjunction with
48 providing a vehicle subscription telematics service, provided that the
49 customer subscribes or consents to that service.
- 50 h. A parent or legal guardian of a minor when the electronic tracking
51 device is installed, placed, or used to track the location of that minor

1 unless the parent or legal guardian is subject to a domestic violence
2 protective order under Chapter 50B of the General Statutes or any
3 court order that orders the parent or legal guardian not to assault,
4 threaten, harass, follow, or contact that minor or that minor's parent,
5 legal guardian, custodian, or caretaker as defined in G.S. 7B-101.

6 i. An employer, when providing a communication device to an
7 employee or contractor for use in connection with his or her work for
8 the employer.

9 j. A business if the tracking is incident to the provision of a product or
10 service requested by the person, except as limited in sub-subdivision
11 k. of this subdivision.

12 k. A private detective or private investigator licensed under Chapter
13 74C of the General Statutes only for the purposes identified in
14 G.S. 74C-3(a)(8)a., c., or f.

15 (c) Any offense under this section committed by the use of electronic mail or electronic
16 communication may be deemed to have been committed where the electronic mail or electronic
17 communication was originally sent, originally received in this State, or first viewed by any
18 person in this State.

19 (d) Any person violating the provisions of this section shall be guilty of a Class 2
20 misdemeanor.

21 (e) This section does not apply to any peaceable, nonviolent, or nonthreatening activity
22 intended to express political views or to provide lawful information to others. This section shall
23 not be construed to impair any constitutionally protected activity, including speech, protest, or
24 assembly."

25 **SECTION 2.** This act becomes effective December 1, 2015, and applies to
26 offenses committed on or after that date.