

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 238*
Judiciary II Committee Substitute Adopted 4/15/15

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.
- 33 (2) Electronically mail or electronically communicate to another repeatedly,
34 whether or not conversation ensues, for the purpose of abusing, annoying,
35 threatening, terrifying, harassing, or embarrassing any person.



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1 (3) Electronically mail or electronically communicate to another and to
2 knowingly make any false statement concerning death, injury, illness,
3 disfigurement, indecent conduct, or criminal conduct of the person
4 electronically mailed or of any member of the person's family or household
5 with the intent to abuse, annoy, threaten, terrify, harass, or embarrass.

6 (4) Knowingly permit an electronic communication device under the person's
7 control to be used for any purpose prohibited by this section.

8 (5) Knowingly install or place an electronic tracking device without consent, or
9 to cause an electronic tracking device to be installed without consent, and
10 use the device to track the location of any person. The provisions of this
11 subdivision do not apply to the installation, placement, or use of an
12 electronic tracking device by any of the following:

13 a. A law enforcement officer, judicial officer, probation or parole
14 officer, or employee of the Division of Corrections, Department of
15 Public Safety, when any such person is engaged in the lawful
16 performance of official duties and in accordance with State or federal
17 law.

18 b. The parent or legal guardian of a minor on any vehicle owned or
19 leased by that parent or legal guardian of the minor and operated by
20 the minor. However, this exception does not apply if the parent or
21 legal guardian is subject to a domestic violence protective order
22 under Chapter 50B of the General Statutes unless the parent or legal
23 guardian subject to the order has custody of the minor.

24 c. A legally authorized representative of a disabled adult, as defined in
25 G.S. 108A-101(d).

26 d. The owner of fleet vehicles, when tracking such vehicles.

27 e. The creditor of a motor vehicle dealer or seller as defined in
28 G.S. 20-286 and G.S. 25A-6, when tracking such motor vehicles,
29 including the installation, placement, or use of an electronic tracking
30 device to locate and remotely disable a motor vehicle in connection
31 with the sale, loan, or lease of the motor vehicle with the express
32 written consent of the purchaser, borrower, or lessee of the motor
33 vehicle.

34 f. The installation, placement, or use of an electronic tracking device
35 authorized by an order of a State or federal court.

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

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

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

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