

2013 DRAFTING REQUEST

Bill

Received: **10/7/2013**
 Wanted: **As time permits**
 For: **Adam Neylon (608) 266-5120**
 May Contact:
 Subject: **Criminal Law - miscellaneous**

Received By: **phurley**
 Same as LRB:
 By/Representing: **Joe**
 Drafter: **phurley**
 Addl. Drafters:
 Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Neylon@legis.wi.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Unlawful use of a global positioning device

Instructions:

ASA1 to 2009 ab 171 - d note what this contains and what it does not contain (aa1 to asa 1)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 10/7/2013	scalvin 10/15/2013	rschluet 10/15/2013	_____			
/1	phurley 2/5/2014			_____	sbasford 10/15/2013	lparisi 11/4/2013	State S&L Crime
/2		scalvin 2/6/2014	rschluet 2/7/2014	_____	sbasford 2/7/2014	sbasford 2/7/2014	State S&L Crime

FE Sent For:

02-07-2013
(12")

<END>

Wants fiscal
policy for
hearing on
2-12-17

per Joe
in Neylon's
office

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/?	phurley 10/7/2013	scalvin 10/15/2013	rschluet 10/15/2013	_____			
/1		/2 sac 02/06/2014	/2 sac 02/06/2014		sbasford 10/15/2013	lparisi 11/4/2013	State S&L Crime

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/1				_____	sbasford 10/15/2013		State S&L Crime

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/? phurley

/1 sac

10/15/2013

Handwritten notes: A circled 'C' with a checkmark, '10/15/13', and 'JF' with a checkmark.

FE Sent For:

<END>



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa2290/1
PJH:nwn:rs

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 171**

April 15, 2010 - Offered by Representatives GUNDRUM and KRAMER.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 11: delete "and pursuant to a warrant issued under".

3 **2.** Page 1, line 12: delete "s. 968.365," and substitute "who has a reasonable
suspicion that the operator of the vehicle has committed a crime or is in the process
of committing a crime, or that placing the global positioning device on the vehicle will
lead to evidence of a crime,".

4 **3.** Page 2, line 10: delete the material beginning with that line and ending with
page 4, line 5.

5 (END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs 108/2
PJH/jld

2013 Bill

SAC

3369/11
rnr

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 171

Handwritten notes: "54 10-10 2011" and "note" circled.

October 15, 2009 - Offered by COMMITTEE ON PERSONAL PRIVACY.

Handwritten note: "Insert analysis"

Handwritten note: "repen"

1 AN ACT to create 940.315, 968.355 and 968.365 of the statutes; relating to:
2 unlawful use of a global positioning device and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 940.315 of the statutes is created to read:

4 **940.315 Global positioning devices.** (1) Whoever places a global
5 positioning device on a vehicle owned by another person without that person's
6 knowledge and consent or intentionally obtains information regarding another
7 person's movement or location generated by a global positioning device without that
8 person's knowledge or consent is guilty of a Class A misdemeanor. This section does

9 not apply to a person, acting within the scope of his or her employment, who installs
10 a subscription-based communication or navigation system, to a law enforcement
11 officer acting in his or her official capacity and pursuant to a warrant issued under
12 s. 968.365, or to an employer, as defined in s. 343.245 (1) (b), acting to track the

Handwritten note: "Insert before 2/19/11" written vertically.

Handwritten circled number: "3"

Handwritten note: "an order"



1 movement or location of a commercial motor vehicle owned, leased, or assigned for
2 use by the employer during business hours.

3 (2) Whoever places a global positioning device on a vehicle used primarily by
4 his or her spouse after a petition for an annulment, divorce, or legal separation has
5 been filed without that person's knowledge and consent is guilty of a Class A
6 misdemeanor. This subsection does not apply to a law enforcement officer acting in
7 his or her official capacity or to an employer, as defined in s. 323.245 (1) (b), acting
8 to track the movement or location of a commercial vehicle owned, leased, or assigned
9 for use by the employer during business hours.

10 SECTION 2. 968.355 of the statutes is created to read:

11 **968.355 Application for an order for global positioning device.** (1) The
12 attorney general or a district attorney may make application for an order or an
13 extension of an order under s. 968.365 authorizing or approving the installation and
14 use of a global positioning device, in writing under oath or equivalent affirmation,
15 to a circuit court for the county where the device is to be located.

16 (2) An application under sub. (1) shall include all of the following:

17 (a) The identity of the person making the application and the identity of the law
18 enforcement agency conducting the investigation.

19 (b) A full and complete statement of the facts and circumstances relied upon
20 by the applicant, to justify the applicant's belief that an order should be issued or
21 extended, including:

22 1. Details of the particular offense that the applicant has probable cause to
23 believe has been, is being, or is about to be committed by the person who owns the
24 vehicle to which the global positioning device is to be attached.

Inset
from
cont.

Inset
from p. 1

1 2. A certification by the applicant that the information likely to be obtained is
2 relevant to the ongoing criminal investigation being conducted by that agency.

3 **SECTION 3.** 968.365 of the statutes is created to read:

4 **968.365 Issuance of an order for a global positioning device.** (1) Upon
5 an application made under s. 968.355, the court shall enter an ex parte order
6 authorizing the installation and use of a global positioning device within the
7 jurisdiction of the court if the court finds that the applicant has proved to the court
8 that there is probable cause to believe that the person who owns the vehicle to which
9 the global positioning device is to be attached has ^{committed} ~~is~~ ^{committing} or will commit an offense and
10 that the applicant has certified to the court that the information likely to be obtained
11 by the installation and use is relevant to an ongoing criminal investigation.

12 (2) An order issued under this section shall do all of the following:

13 (a) Specify the identity, if known, of the person who owns the vehicle to which
14 the global positioning device is to be attached.

15 (b) Specify the identity, if known, of the person who is the subject of the criminal
16 investigation.

17 (c) Specify, if known, the registration plate numbers and the color, make, model,
18 and year of any motor vehicle to which the global positioning device is to be attached.

19 (d) Provide a statement of the offense to which the information likely to be
20 obtained by the global positioning device relates.

21 (3) An order issued under this section shall authorize the installation and use
22 of a global positioning device for a period not to exceed 60 days.

23 (4) Extensions of the order may be granted, but only upon an application for
24 an order under s. 968.355 and upon the judicial finding required by sub. (1). The
25 period of extension shall be for a period not to exceed 60 days.

INSERT ANALYSIS:

Analysis by the Legislative Reference Bureau

Under this bill, a person who uses a global positioning device (GPS) to obtain information regarding another person's movement or location without that person's knowledge or consent, or who places a GPS on a vehicle another person owns or uses without that person's knowledge or consent is guilty of a class A misdemeanor. The bill creates exceptions for a person who installs a subscription-based communication or navigation system, ^{for} to an employer who places a GPS to track, during business hours, commercial motor vehicles used for his or her business, or ^{to} a law enforcement officer who obtains a warrant to use a GPS.

^{Court order} The bill sets forth a procedure for the attorney general or a district attorney to apply for a warrant that would allow a law enforcement officer to place a GPS. Under the bill, if a circuit court finds that there is probable cause to believe that the person who owns the vehicle to which the GPS will be attached has ^{committed} is, or will commit an offense, and that the information likely to be obtained by the GPS is relevant to an ongoing criminal investigation, the court is required to issue an order authorizing the installation ^{and} of use of a GPS for no more than 60 days. The bill allows the court to extend the order for another 60 days if he or she makes the same findings required for the initial approval of the warrant application. ^{committing}

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3369/?dn

Att. Sec.

-date-

Joe,

Please review this draft to ensure that it is consistent with your intent. Please note that this draft contains all of the provisions in ASA1 to 2009 AB 171. Although ASA1 to 2009 AB 171 was amended by AA1 to ASA 1 to 2009 AB 171, this draft does not contain any of the provisions of that amendment. If you have any questions or would like any changes to this draft, please let me know.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3369/1dn
PJH:sac:rs

October 15, 2013

Joe,

Please review this draft to ensure that it is consistent with your intent. Please note that this draft contains all of the provisions in ASA1 to 2009 AB 171. Although ASA1 to 2009 AB 171 was amended by AA1 to ASA 1 to 2009 AB 171, this draft does not contain any of the provisions of that amendment. If you have any questions or would like any changes to this draft, please let me know.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

Rose, Stefanie

From: Zapf, Joe
Sent: Monday, November 04, 2013 10:02 AM
To: LRB.Legal
Subject: Draft Review: LRB -3369/1 Topic: Unlawful use of a global positioning device

Please Jacket LRB -3369/1 for the ASSEMBLY.

Hurley, Peggy

From: Zapf, Joe
Sent: Tuesday, February 04, 2014 2:31 PM
To: Hurley, Peggy
Subject: Revision for LRB 3369
Attachments: 13-3369_1.pdf

My boss is looking to remove language from the bill draft that has anything to do with law enforcement. In the draft it reads that there is an exception for law enforcement officers who obtain a court order to use a GPS, please remove language pertaining to this in the bill draft. This includes the language RE a procedure set forth for the AG or DA to apply for a court order that will allow law enforcement officers to place a GPS.

The other exceptions are good to say. If you have questions, give me a call at the office, I'm happy to explain.

Thank you for your help!

Best,

Joe Zapf
Office of Rep. Adam Neylon
(608) 266-5120



2
mr

2013 BILL

2-5-14

By Fri. a.m.

repen

1 AN ACT to create 940.315, 968.355 and 968.365 of the statutes; relating to:
2 unlawful use of a global positioning device and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, a person who uses a global positioning device (GPS) to obtain information regarding another person's movement or location without that person's knowledge or consent, or who places a GPS on a vehicle another person owns or uses without that person's knowledge or consent is guilty of a class A misdemeanor. The bill creates exceptions for a person who installs a subscription-based communication or navigation system, for an employer who places a GPS to track, during business hours, commercial motor vehicles used for his or her business, or for a law enforcement officer who obtains a court order to use a GPS.

The bill sets forth a procedure for the attorney general or a district attorney to apply for a court order that would allow a law enforcement officer to place a GPS. Under the bill, if a circuit court finds that there is probable cause to believe that the person who owns the vehicle to which the GPS will be attached has committed, is committing, or will commit an offense, and that the information likely to be obtained by the GPS is relevant to an ongoing criminal investigation, the court is required to issue an order authorizing the installation and use of a GPS for no more than 60 days. The bill allows the court to extend the order for another 60 days if he or she makes the same findings required for the initial approval of the warrant application.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

Insert analysis

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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2 **940.315 Global positioning devices.** (1) Whoever places a global
3 positioning device on a vehicle owned by another person without that person's
4 knowledge and consent or intentionally obtains information regarding another
5 person's movement or location generated by a global positioning device without that
6 person's knowledge and consent is guilty of a Class A misdemeanor.

7 (2) Whoever places a global positioning device on a vehicle used primarily by
8 his or her spouse without that person's knowledge and consent after a petition for an
9 annulment, divorce, or legal separation has been filed is guilty of a Class A
10 misdemeanor.

11 (3) This section does not apply to a person, acting within the scope of his or her
12 employment, who installs a subscription-based communication or navigation
13 system, to a law enforcement officer acting in his or her official capacity and pursuant
14 to an order issued under s. 968.365, or to an employer, as defined in s. 343.245 (1) (b),
15 acting to track the movement or location during business hours of a commercial
16 motor vehicle owned, leased, or assigned for use by the employer.

17 SECTION 2. 968.355 of the statutes is created to read:

18 **968.355 Application for an order for global positioning device.** (1) The
19 attorney general or a district attorney may make application for an order or an
20 extension of an order under s. 968.365 authorizing or approving the installation and

BILL

1 use of a global positioning device, in writing under oath or equivalent affirmation,
2 to a circuit court for the county where the device is to be located.

3 (2) An application under sub. (1) shall include all of the following:

4 (a) The identity of the person making the application and the identity of the law
5 enforcement agency conducting the investigation.

6 (b) A full and complete statement of the facts and circumstances relied upon
7 by the applicant, to justify the applicant's belief that an order should be issued or
8 extended, including:

9 1. Details of the particular offense that the applicant has probable cause to
10 believe has been, is being, or is about to be committed by the person who owns the
11 vehicle to which the global positioning device is to be attached.

12 2. A certification by the applicant that the information likely to be obtained is
13 relevant to the ongoing criminal investigation being conducted by that agency.

14 **SECTION 3.** 968.365 of the statutes is created to read:

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16 an application made under s. 968.355, the court shall enter an ex parte order
17 authorizing the installation and use of a global positioning device within the
18 jurisdiction of the court if the court finds that the applicant has proved to the court
19 that there is probable cause to believe that the person who owns the vehicle to which
20 the global positioning device is to be attached has committed, is committing, or will
21 commit an offense and that the applicant has certified to the court that the
22 information likely to be obtained by the installation and use is relevant to an ongoing
23 criminal investigation.

24 (2) An order issued under this section shall do all of the following:

BILL

1 (a) Specify the identity, if known, of the person who owns the vehicle to which
2 the global positioning device is to be attached.

3 (b) Specify the identity, if known, of the person who is the subject of the criminal
4 investigation.

5 (c) Specify, if known, the registration plate numbers and the color, make, model,
6 and year of any motor vehicle to which the global positioning device is to be attached.

7 (d) Provide a statement of the offense to which the information likely to be
8 obtained by the global positioning device relates.

9 (3) An order issued under this section shall authorize the installation and use
10 of a global positioning device for a period not to exceed 60 days.

11 (4) Extensions of the order may be granted, but only upon an application for
12 an order under s. 968.355 and upon the judicial finding required by sub. (1). The
13 period of extension shall be for a period not to exceed 60 days.

14 (5) An order authorizing or approving the installation and use of a global
15 positioning device shall direct that the order be sealed until otherwise ordered by the
16 court.

17 (6) Evidence obtained by placing a global positioning device on a vehicle in
18 contravention of this section or of s. 940.315 may not be introduced in a criminal trial.

19 (END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3369/lins
PJH:sac:rs

INSERT ANALYSIS:

This bill prohibits certain uses of a global positioning device (GPS). Under the bill, a person who places a GPS on a vehicle owned by another person without that person's knowledge or who intentionally obtains information regarding another person's movement or location generated by a GPS without that person's knowledge is guilty of a Class A misdemeanor. Additionally, under the bill a person who places a GPS on a vehicle used primarily by his or her spouse without the spouse's knowledge after a petition for an annulment, divorce, or legal separation has been filed is guilty of a Class A misdemeanor.

The bill creates exceptions for a person who installs a subscription-based communication or navigation system, for an employer who places a GPS to track, during business hours, commercial motor vehicles used for his or her business, and for a law enforcement officer acting in his or her official capacity.

Memo

To: Representative

Neylon

(The Draft's Requester)

Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.

LRB Number: LRB-3369

Version: " /2 " (original)

Fiscal Estimate Prepared By: (agency abbr.) DA

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

* * * * *

Entered In Computer And Copy Sent To Requester Via E-Mail: 02 / 11 / 2013

To: **LRB - Legal Section PA's**

Subject: *Fiscal Estimate Received For An Un-introduced Draft*

- > **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file "guts" ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.
- > **If introduced** ... please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

THIS DRAFT WAS INTRODUCED AS: 2013 AB 767

Barman, Mike

From: Barman, Mike
Sent: Tuesday, February 11, 2014 10:02 AM
To: Rep. Neylon
Cc: Zapf, Joe
Subject: LRB-3369/2 (un-introduced) (FE by DA - attached - for your review)



FE-3369_DA.pdf

Drafter: PJH
Subject: Criminal Law – miscellaneous

Mike Barman (Lead Program Assistant)
State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

Memo

To: Representative

Neylon

(The Draft's Requester)

Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.

LRB Number: LRB-3369

Version: " /2 " (original)

Fiscal Estimate Prepared By: (agency abbr.) SPD

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

* * * * *

Entered In Computer And Copy Sent To Requester Via E-Mail: 02 / 13 / 2013

To: LRB - Legal Section PA's

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THIS DRAFT WAS INTRODUCED AS: 2013 AB 767

Barman, Mike

From: Barman, Mike
Sent: Thursday, February 13, 2014 8:41 AM
To: Rep.Neylon
Cc: Zapf, Joe
Subject: LRB-3369/2 (un-introduced) (FE by SPD - attached - for your review)



FE-3369_SPD.pdf

Drafter: PJH
Subject: Criminal Law - miscellaneous

Mike Barman (Lead Program Assistant)
State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov