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Did You Know?

- Mobile tracking devices use GPS satellites to track and record the location of the devices. They vary in size, with some designed as a small pendant or a wristband, and can be battery operated or plugged into a car battery.
- GPS is a constellation of about 24 satellites flying 20,350 km above the Earth. Each one circles the planet twice a day in one of six orbits to provide continuous, worldwide coverage.
- The market for personal GPS tracking devices is expected to grow at least 40 percent per year, according to ABI Research, reaching over \$1 billion in 2017.

Private Use of Mobile Tracking Devices

By Pam Greenberg

Mobile tracking devices used to be the bailiwick of private investigators, spies and law enforcement. Today, anyone can easily purchase them online and in stores. The devices can be worn or attached to a car or other object, and the location information they collect can be monitored from afar on a purchaser's computer.

The market for personal mobile tracking devices is growing. Parents use them to keep tabs on teenagers, caregivers can feel more confident when watching over family members or nursing home residents with dementia, and employers can manage their workforce more efficiently and effectively.

However, mobile tracking devices also are being used in surreptitious ways that could be considered an invasion of privacy, and criminals find that they can make it much easier to commit crimes against persons or property.

Tracking devices also have made it easier for law enforcement to investigate and prevent crimes, even in light of a 2012 U.S. Supreme Court case, *United States v. Jones*, which ruled that law enforcement agencies must have a warrant before using a GPS device to track a vehicle. Neither the Supreme Court nor Congress, however, have addressed whether a warrant is required for law enforcement to access location information, nor have they addressed the issue of businesses or individuals tracking another person's movements.

State legislatures, however, *are* addressing these questions—including by enacting laws that require consent to track a person's geographic location.

State Action

Private Citizens

At least 18 state legislatures have addressed privacy concerns raised when individuals track the movements of others without their knowledge. For example, [Delaware](#), [Illinois](#), [Michigan](#), [Rhode Island](#), [Tennessee](#), [Texas](#) and [Wisconsin](#) prohibit installing a location tracking device on a motor vehicle without the consent of the vehicle owner.

Seven other states—[California](#), [Hawaii](#), [Louisiana](#), [Minnesota](#), [New Hampshire](#), [North Carolina](#) and [Virginia](#)—more broadly prohibit the use of electronic tracking devices, not just on vehicles, but when they are used to determine the location or movement of a person without consent.

Most of these laws include various exceptions, such as those allowing for:

- lawful use by law enforcement (all states)

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- use by employers in connection with an employee's work (Illinois, Rhode Island, Virginia)
- use by a parent or guardian on a minor child's vehicle (Delaware, Michigan, New Hampshire, North Carolina, Tennessee)
- use by private investigators (Texas, Virginia)
- use by a legally authorized representative of an incapacitated adult (Virginia)
- use by commercial motor carriers, car manufacturers, fleet vehicle owners or telematics services (Illinois, Louisiana, North Carolina, Rhode Island, Tennessee, Wisconsin)

Penalties for violation of these laws range from civil remedies and fines to misdemeanor punishments or fines.

Employers

Although most states have not directly addressed in statute the issue of employer use of electronic tracking devices, several court decisions have found monitoring by employers in the context of the employee-employer relationship to be legal, within limits. [Connecticut](#), however, requires employers to provide prior notice of electronic monitoring to employees. The Connecticut law does not mention GPS devices specifically, but defines "electronic monitoring" by employers as the collection of employee activities or communications "by any means other than direct observation, including the use of a computer, telephone, wire, radio, camera, electro-magnetic, photoelectronic or photo-optical systems."

Stalking

At least five states, including [Arizona](#), [Connecticut](#), [Illinois](#), [New York](#) and [North Dakota](#), have expanded stalking statutes specifically to prohibit the use of a GPS or other location monitoring device when used to stalk or harm a person.

Other Types of Laws

In states without specific laws related to mobile tracking devices, other general stalking, harassment or invasion of privacy laws could potentially apply, depending on how the devices are used or subject to court interpretations. For example, in a Colorado case, a husband who was under a restraining order secretly installed an electronic surveillance device on his estranged wife's car. The court determined that his actions fell under the state's definition of criminal stalking. In a New Jersey case, a wife who secretly placed a GPS device in the glove box of her husband's car was found not guilty of invasion of privacy, since her husband traveled on public roads where he could be seen or tracked by anyone.

The use of GPS and electronic tracking technologies raises many privacy, ethical and legal questions. State lawmakers will likely continue to be first in addressing these issues as wearable technologies and connected devices proliferate.

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Vehicle Technologies

Several states exempt vehicle manufacturers and telematics services from mobile device tracking laws. New technologies and services are now available in vehicles that can enhance safety, call for emergency assistance, detect and prevent vehicle theft, and deliver navigation and other information services. The Alliance of Automobile Manufacturers, the Association of Global Automakers and their members have issued [privacy principles](#). These principles offer guidelines for collecting, using and sharing information obtained from vehicle technologies and services on cars and light trucks sold or leased to individual consumers in the U.S.