Int. No. 382

By the Public Advocate (Mr. Williams) and Council Members Louis, Hudson and Hanif

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting unauthorized surveillance by a global positioning system or similar technology

Be it enacted by the Council as follows:

Section 1. Chapter one of title ten of the administrative code of the city of New York is amended by adding a new section 10-184 to read as follows:

§ 10-184 Unauthorized surveillance by global positioning system or similar technology. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Motor vehicle. The term "motor vehicle" has the same meaning ascribed in section one hundred twenty-five of the vehicle and traffic law.

Tracking device. The term “tracking device” means a global positioning system or similar technology that utilizes electronic frequencies or other signal to determine the location of an object.

b. Except as otherwise provided in the provisions of this section, it shall be unlawful for any person to intentionally utilize a tracking device to monitor or determine the location of a motor vehicle without the knowledge or consent of the authorized operator of such motor vehicle or intentionally place in or on a motor vehicle a tracking device and thereby monitor or determine the location of such motor vehicle under circumstances where such authorized operator has a reasonable expectation of the privacy of such information. Such unlawful action shall be a misdemeanor punishable by a fine of not more than $250, or imprisonment for not more than 30 days or both such fine and imprisonment. In addition to or as an alternative to such penalty, such driver shall also be subject to a civil penalty of not more than $250 recoverable before the environmental

control board. For purposes of this section, a "reasonable expectation of privacy" is not extinguished by the mere presence of a motor vehicle in a public place.

c. This section shall not apply to conduct by a law enforcement official pursuant to a warrant issued by an authorized court or that is authorized by lawful exception to the warrant requirement or to a person who is an owner of the vehicle in or on which the device was placed, when the operator of such vehicle is a minor.

d. It shall be an affirmative defense to subdivision b of this section that, under the circumstances, a person engaged in such conduct for a legitimate purpose and such authorized operator's reasonable expectation of privacy was minimal.

e. Nothing in this section shall be construed to diminish or enlarge any power of the courts, or any authority of law enforcement personnel engaged in the conduct of their authorized duties, with respect to the conduct described in this section.

§ 2. This local law takes effect 90 days after it becomes law.

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