



AN ACT PROVIDING THAT A GOVERNMENT ENTITY MUST OBTAIN A SEARCH WARRANT PRIOR TO OBTAINING LOCATION INFORMATION OF AN ELECTRONIC DEVICE; AND PROVIDING EXCEPTIONS, DEFINITIONS, AND A CIVIL PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Location information privacy -- civil penalty. (1) Except as provided in subsection (2), a government entity may not obtain the location information of an electronic device without a search warrant issued by a duly authorized court.

(2) A government entity may obtain location information of an electronic device under any of the following circumstances:

- (a) the device is reported stolen by the owner;
- (b) in order to respond to the user's call for emergency services;
- (c) with the informed, affirmative consent of the owner or user of the electronic device; or
- (d) there exists a possible life-threatening situation.

(3) Any evidence obtained in violation of this section is not admissible in a civil, criminal, or administrative proceeding and may not be used in an affidavit of probable cause in an effort to obtain a search warrant.

(4) A violation of this section will result in a civil fine not to exceed \$50.

Section 2. Definitions. As used in [section 1] and this section, the following definitions apply:

(1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.

(2) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.

(3) "Government entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission or an

individual acting or purporting to act for or on behalf of a state or local agency.

(4) "Location information" means information concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device.

(5) "Location information service" means the provision of a global positioning service or other mapping, locational, or directional information service.

(6) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 46, chapter 5, and the provisions of Title 46, chapter 5, apply to [sections 1 and 2].

- END -

I hereby certify that the within bill,
HB 0603, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2013.

President of the Senate

Signed this _____ day
of _____, 2013.

HOUSE BILL NO. 603
INTRODUCED BY ZOLNIKOV

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