

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 129-FN, prohibiting the installation or use of electronic tracking software.

Hearing Date: April 27, 2021

Time Opened: 1:34 p.m.

Time Closed: 1:55 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill

Sponsors:

Rep. Testerman

Who supports the bill: Alvin See; Alexandra Mennella; Eric Pauer

Who opposes the bill: Maura Weston, The New England Cable and Telecommunications Association; Lisa McCabe, CTIA; Paula Minnehan, NH Hospital Association; Chief David Goldstein; Katherine Cooper, NH Association of Criminal Defense Lawyers; Michael Bagan; Robert Krieger; John Simonds, Sullivan County; Edward Garone; Chief Tara Laurent, Greenland Police Department; Chief Joseph Hoebeke, Hollis Police Department; Brendan LaFlamme, Hollis Police Department; James Maloney, Hollis Police Department; Domenic Richardi; David Croft; Sheriff Mark Brave; Christopher Connelly; Gary Fisher; Charles Pelton; Steven Russo; Joe Mahoney; Benjamin Sargent; Elizabeth Sargent, NH Association of Chiefs of Police; Stephani Cassioppini, US Cellular; Teresa Rosenberger, NH Health Care Association/NH Brain Injury Association; T Rosenberger, Pennichuck Water Works; Anthony Bean Burpee; Patrick Sullivan; Charles Reynolds; Emily Cobb; John Parsons; Timothy Carpenter; Bradley Osgood; Gregory Patten; David Noyes; Michael Bilodeau; Scott Lester; Gerald Lewis; Timothy Crowley; Bob Dunn, NH Catholic Charities; Christopher Gilrein, TechNet; Peter Morency; William Wright

Who is neutral on the bill: Lt. Brian Strong, NH State Police

Summary of testimony presented in support:

None

Summary of testimony presented in opposition:

Representative Horrigan

- Online privacy, especially location data, is something people are concerned about, but it is a fundamental aspect of the Internet.
- Companies use, buy, and sell personal data to provide services to consumers.
- Any type of crowd sourcing apps, like Google Maps, Waze or dating apps would be impacted by this.
- Many of these apps are essential and they are provided for free.
- There are false claims going around regarding Covid-19 tracking software being involuntarily installed.
- There are a lot of privacy protections built into these apps and people should take personal responsibility for their devices.
- Senator Kahn asked if the House committee received information from transportation or communications companies that use tracking.
 - Got a lot of information on similar bills. Is not on the Criminal Justice Committee where this bill was.

Paula Minnehan (NH Hospital Association)

- Hospitals obtain consent prior to placing an electronic device on a person.
- The proposed language would cause issues in these cases.
- A weighted detecting device can be used on a hospital bed to alert personnel if a patient falls out of bed.
- A central monitoring station, as referenced in the bill, could be a nurse's station to monitor those devices attached to beds.
- This bill would prohibit a monitoring station such as that.
- Requests language to explicitly exempt healthcare facilities and providers from this bill.

Lisa McCabe (CTIA)

- This bill would add to further fragmentation of consumer privacy laws and raise concerns as it is technology and sector specific.
- Consumer privacy protections should apply consistently across all sectors and protections should be consistent for any type of information.
- This bill only applies to location information.
- This is something consumers are unlikely to expect or understand.
- The bill could unintentionally affect reasonable uses, such as a company that uses a device to track a package for legitimate purposes, like fresh fish in order to ensure it is safe to eat upon delivery.
- This could also impede an employer's legitimate need to track fleet vehicles.
- Privacy issues are better approached with a holistic effort across the board in order to lessen any unintended consequences and provide consistent consumer protections.

Maura Weston (New England Cable and Television Association)

- As written, this bill would criminalize common applications and software use in virtually all modern devices, while impeding companies' abilities to provide services that are critical to executing legitimate functions that are core to business operations.

- Badge access systems used to enter and exit buildings would be impacted by this by suggesting consent can be withdrawn or withheld, which is inappropriate and could pose safety and security threats.
- Location data related applications are important to consumer experience.
- Comcast offers a tool on their customer app to allow customers to know where a technician is and what they look like before they arrive at the customer's home.
- Technologies allow for enhanced consumer experiences and efficiency.
- The bill would prohibit the use of this technology even on a person's own property.
- NECTA member companies would be prohibited from placing tracking technology on their own vehicles or own equipment in their own buildings without consent.

Chief David Goldstein (Association of Chiefs of Police)

- Looking for an exception for law enforcement similar to the language proposed on HB384.
- Spoke with the prime sponsor and was given the impression that he does not object to adding the exception.
- Requesting an exemption for law enforcement and other emergency services.

Neutral Information Presented:

Lt. Brian Strong (NH State Police)

- There is a lack of law enforcement caveat or exception in this bill.
- Concerned that court order GPS trackers on vehicles or the activation of a vehicles GPS system to locate a driver would no longer be tools law enforcement can utilize under this bill.
- Senator Gannon asked if the exception language from HB384 would address the concerns.
 - Yes.