



ENACTMENT SUMMARY

Senate Bill 100 **Tracking device prohibition; OVI oral fluid testing; selling tobacco to minors** Effective March 20, 2025

On December 19, 2024, Governor DeWine signed into law Senate Bill 100 (Sen. Manning and Sen. Antonio) which enacts new prohibitions pertaining to the use of personal tracking devices. The bill also authorizes the use of oral fluid testing in OVI offenses, and modifies penalties for selling tobacco to minors.

Illegal use of a tracking device or application

The bill establishes the new offense of “illegal use of a tracking device or application” at R.C. 2903.216. The new offense prohibits a person from either: 1) knowingly installing a tracking device or application on another person’s property without the other person’s consent, or cause a tracking device or application to track the position or movement of another person or another person’s property without consent; or 2) if another person had installed a tracking device or application on another person with that person’s consent, and the person subsequently revokes that consent, knowingly failing to remove or ensure the removal of the device or application.

If a person had given consent to the use of a tracking device, that consent is presumed to be revoked if the individuals were married and one of them files for divorce from the other, and also if the previously consenting party obtains a protection order against the person to whom consent had previously been given.

The bill establishes a list of exceptions to the prohibition, including:

- Law enforcement using a tracking device as part of a criminal investigation, or a probation or parole officer, or an employee of DRC, a halfway house, or CBCF when engaged in the lawful performance of the employee’s official duties
- A parent or legal guardian who uses a device to track a minor child (with some exceptions for shared custody arrangements)
- A caregiver of an elderly person or disabled adult, if the person’s physician certifies that the tracking is necessary to ensure the person’s safety
- A person acting in good faith on behalf of a business entity for a legitimate business purpose
- A private investigator or other person licensed under R.C. 4749.03, who is acting in the normal course of the investigator’s business, and who has the consent of the owner of the property on whom the device or application is installed, for the purpose of obtaining specific information that is described further in the bill

- The owner or lessee of a motor vehicle who installs or directs the installation of a tracking device on the vehicle during the period of ownership or lease, under certain circumstances
- A person who installs a tracking device on property in which the person has an ownership or contractual interest, unless the person is subject to a protection order and the property is likely to be used by the person who obtained the protection order
- A person who installs the device on a fixed wing aircraft or rotorcraft operated or managed by the person or a business entity pursuant to 14 CFR, part 91 or part 135, to track the position or movement of the aircraft
- A surety or bail bond agent, or their employee or contractor, who uses the device to track another person as a part of the agent's official responsibilities or duties.

A violation of this new prohibition is a 1st degree misdemeanor. The offense is a felony of the 4th degree if any of the following apply:

- The person previously had been convicted of a violation of this section
- At the time of the violation, the person was the subject of a protection order, regardless of whether the victim of the offense was the person to be protected under the order
- Prior to the offense, the person had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
- The offender has a history of violence or other violent acts towards the victim.

OVI oral fluid testing

The bill authorizes the use of oral fluid testing to be used as evidence to establish that a person operated a vehicle while intoxicated, to be treated similarly as other types of chemical testing under existing law.

Selling tobacco products to minors

The bill additionally modifies the penalties for giving, selling, or distributing tobacco products to any person under the age of 21 or without first verifying proof of age (R.C. 2927.02 (B)(1)). Specifically, the bill imposes mandatory fines as follows:

- On a first offense, a fine of not more than \$250
- If the offender has one prior offense, a fine of not more than \$500
- If the offender has two or more prior offenses, a fine of \$500
- If the offender has three or more prior offenses, a fine of \$1000
- If the offender has four or more prior offenses, a fine of \$1500

The bill also provides that an establishment with a pattern of continuous or repeated violations of this offense can be declared a nuisance under R.C. 3767.01.

The bill passed the Ohio Senate by a vote of 31-0 on June 7, 2023 and the Ohio House of Representatives by a vote of 89-0 on December 10, 2024. The Senate voted on December 11, 2024 to concur on House amendments, by a vote of 30-1. It was signed into law on December 19, 2024 and becomes effective on March 20, 2025.