

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 29, 2009

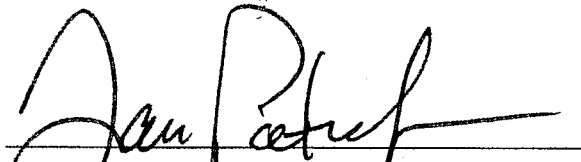
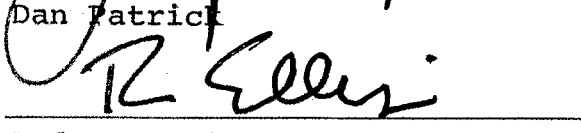
Date


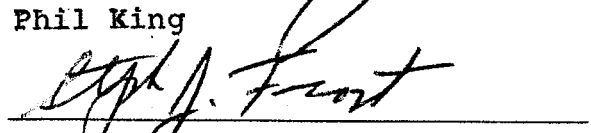
Honorable David Dewhurst  
President of the Senate

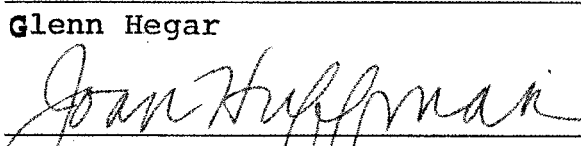
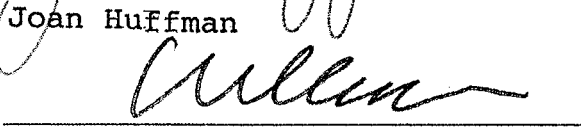
Honorable Joe Straus  
Speaker of the House of Representatives

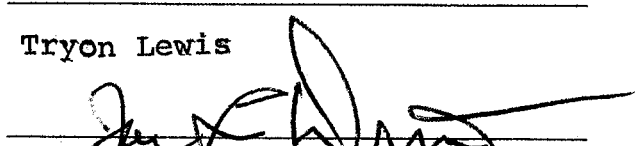
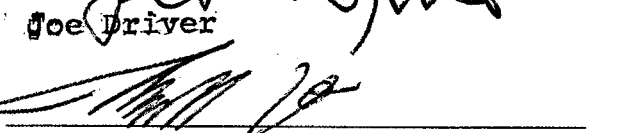
Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1659 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

  
Dan Patrick  
  
Rodney Ellis

  
Phil King  
  
Stephen Frost

Glenn Hegar  
  
Joan Huffman  
  
On the part of the Senate  
Tommy Williams

Tryon Lewis  
  
Joe Driver  
  
On the part of the House  
Hubert Vo

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 1659

A BILL TO BE ENTITLED

1 AN ACT

2 relating to creating an exception to the offense of unlawful  
3 installation of a tracking device.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 16.06, Penal Code, is amended by  
6 amending Subsection (d) and adding Subsection (e) to read as  
7 follows:

8 (d) It is an affirmative defense to prosecution under this  
9 section that the person:

10 (1) obtained the effective consent of the owner or  
11 lessee of the motor vehicle before the electronic or mechanical  
12 tracking device was installed;

13 ~~(2) [was a peace officer who installed the device in~~  
14 ~~the course of a criminal investigation or pursuant to an order of a~~  
15 ~~court to gather information for a law enforcement agency];~~

16 ~~[(3)]~~ assisted another whom the person reasonably  
17 believed to be a peace officer authorized to install the device in  
18 the course of a criminal investigation or pursuant to an order of a  
19 court to gather information for a law enforcement agency; or

20 (3) ~~[(4)]~~ was a private investigator licensed under  
21 Chapter 1702, Occupations Code, who installed the device:

22 (A) with written consent:

23 (i) to install the device given by the owner  
24 or lessee of the motor vehicle; and

1 (ii) to enter private residential property,  
2 if that entry was necessary to install the device, given by the  
3 owner or lessee of the property; or

4 (B) pursuant to an order of or other  
5 authorization from a court to gather information.

6 (e) This section does not apply to a peace officer who  
7 installed the device in the course of a criminal investigation or  
8 pursuant to an order of a court to gather information for a law  
9 enforcement agency.

10 SECTION 2. The change in law made by this Act applies only  
11 to an offense committed on or after the effective date of this Act.  
12 An offense committed before the effective date of this Act is  
13 governed by the law in effect at the time the offense was committed,  
14 and the former law is continued in effect for that purpose. For  
15 purposes of this section, an offense was committed before the  
16 effective date of this Act if any element of the offense occurred  
17 before that date.

18 SECTION 3. This Act takes effect September 1, 2009.

**House Bill 1659**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 16.06, Penal Code, is amended by amending Subsection (d) and adding Subsection (e). Among other provisions, Subsection (e) establishes that provisions relating to an offense for the unlawful installation of a tracking device do not apply to a peace officer who installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency.

SECTION 2. Saving provision.

SECTION 3. Effective date.

SENATE VERSION

SECTION 1. Same as House version except Subsection (e) establishes that the provisions do not apply to a peace officer who *legally* installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

CONFERENCE

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 30, 2009**

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB1659** by King, Phil (Relating to creating an exception to the offense of unlawful installation of a tracking device. ), **Conference Committee Report**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

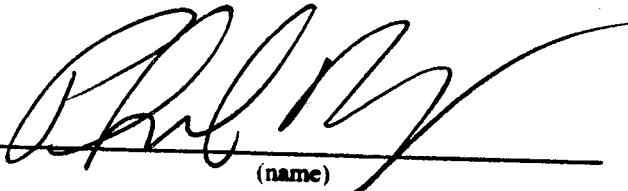
**Source Agencies:**

**LBB Staff:** JOB, ESi, DB

## Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 1659 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

  
\_\_\_\_\_  
(name)

5/30/09  
\_\_\_\_\_  
(date)