

AirTag and Anti-tracking Legislation

AirTag helps users track their personal items, such as keys, wallets, purses, backpacks, luggage, and more. In February 2022, Apple released a statement regarding AirTag and unwanted tracking. AirTag was designed to help people find their personal belongings, but Apple’s statement addressed “reports of bad actors attempting to misuse AirTag for malicious or criminal purposes.”¹

When AirTag was released last year, there were already concerns about the misuse of the devices. The director of cybersecurity at the Electronic Frontier Foundation, Eva Galperin, revealed she had safety concerns before the product even launched.² Galperin told NPR that she was concerned as soon as she learned how AirTag works. Shortly after the AirTag launch, she was contacted by people being stalked by the devices.³

State lawmakers have acknowledged that laws need to keep up as technology advances. Though there have been reports of people finding AirTags taped under their cars, there are not laws in place to explicitly make non-consensual placement a criminal act.⁴ Surprisingly, non-consensual GPS tracking did not fall under previously established anti-stalking laws either. Furthermore, general stalking laws are prone to loopholes that are often exploited.⁵ In response to reports of such stalking, several states have proposed bills with specific language to establish stricter anti-tracking laws.⁶

In January of this year, Pennsylvania was the first state to propose a bill that prohibits AirTags from “being used outside of their intended use as a locator for misplaced personal items.”⁷ A few months later, Ohio and New Jersey also proposed new legislation to prohibit non-consensual tracking of individuals. The new bills include some exceptions for select law enforcement cases, as well as exemptions for the guardians of minors and the elderly.⁸ While these bills raise many questions regarding GPS tracking and the law, they seem likely to be passed after receiving bipartisan support. Apple AirTag is not the only device sought to be prohibited from being used to track an unsuspecting person’s location. The proposed bills prohibit the misuse of all remote GPS devices regardless of their complexity or manufacturer.⁹

¹ *An update on AirTag and unwanted tracking*, APPLE NEWSROOM (Feb. 10, 2022), <https://www.apple.com/newsroom/2022/02/an-update-on-airtag-and-unwanted-tracking/> [https://perma.cc/JS6X-STJN].

² Michael Levitt, *AirTags are being used to track people and cars. Here's what is being done about it*, NAT’L PUB. RADIO (Feb. 18, 2022), <https://www.npr.org/2022/02/18/1080944193/apple-airtags-theft-stalking-privacy-tech> [https://perma.cc/3DV3-75UZ].

³ *Id.*

⁴ Morgan Trau, *Using devices like AirTags to track someone without consent isn't a crime in Ohio, yet*, OHIO CRIMINAL J. (May 18, 2022), <https://ohiocapitaljournal.com/2022/05/18/using-devices-like-airtags-to-track-someone-without-consent-isnt-a-crime-in-ohio-yet/> [https://perma.cc/367B-PA92].

⁵ Peter Hunt Szpytek, *3 states propose legislation in response to AirTag stalking*, DIGITAL TRENDS (May 17, 2022), <https://www.digitaltrends.com/mobile/airtag-legislation-pennsylvania-ohio-new-jersey/> [https://perma.cc/LS3X-E2DL].

⁶ Trau, *supra* note 4.

⁷ Hunt, *supra* note 5.

⁸ *Id.*

⁹ *Id.*

Apple has also been working with law enforcement on the AirTag-related requests they have received. Since every AirTag has a unique serial number that is paired with an associated Apple ID, “Apple can provide the paired account details in response to a subpoena or valid request from law enforcement.”¹⁰ As a result of this partnership, information has been provided to track AirTags back to their perpetrators, who have been apprehended and charged.¹¹ Additionally, Apple has shared that they have “identified additional improvements [they] can make in the information [they] share and the educational resources [they] provide,” and they also plan to make updates to their law enforcement documentation.¹²

Check out Apple’s full statement: [*An update on AirTag and unwanted tracking*](#)

¹⁰ APPLE NEWSROOM, *supra* note 1.

¹¹ *Id.*

¹² *Id.*