

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 123

(Delegate Stukes, *et al.*)

Environmental Matters

**Maryland Transit Administration - Audio and Video Recording Devices on
Vehicles Used for Transit Service**

This bill requires the Maryland Transit Administration (MTA) to (1) activate existing audio recording devices on MTA vehicles used for transit service; and (2) install and activate audio recording devices on MTA vehicles used for transit service that are procured on or after October 1, 2011. The audio recording device must be capable of recording oral communications of the vehicle's operator and passengers. The bill requires MTA to post a specified notice on MTA vehicles with audio recording devices. Audio recordings made and retained by MTA may be reviewed only by specified individuals and under specified circumstances. MTA, in cooperation with the Office of the Attorney General, must adopt implementing regulations. MTA must ensure that video recording devices on MTA vehicles used for transit service are focused directly on the vehicle operator when passengers are being transported.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$389,400 in FY 2012 to install and activate audio recording systems and post signs on MTA vehicles. Future year expenditures reflect audio recording system installation and signage costs. Revenues are not directly affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	389,400	212,200	377,300	427,500	2,000
Net Effect	(\$389,400)	(\$212,200)	(\$377,300)	(\$427,500)	(\$2,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: Audio recordings from MTA vehicles may be reviewed only by:

- an investigative or law enforcement officer acting under interception of communications provisions in the Courts and Judicial Proceedings Article;
- an individual whose conversation was recorded;
- the legal representative of an individual whose conversation was recorded or who is the subject of an investigation related to the recorded conversation; and
- the MTA Administrator, or a designee, when investigating a complaint involving the conduct of an MTA employee or a passenger of a transit vehicle.

Current Law: Except as otherwise specified in statute, it is unlawful for a person to:

- willfully intercept, endeavor to intercept, or procure any other person to intercept a wire, oral, or electronic communication;
- willfully disclose, or endeavor to disclose, to any other person the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept; and
- willfully use, or endeavor to use, the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept.

However, it is lawful for law enforcement officers and persons acting with the prior direction and under the supervision of law enforcement officials to intercept communications as part of a criminal investigation to provide evidence of the commission of specified crimes, including murder, kidnapping, rape, gambling, robbery, dealing in a controlled dangerous substance, manufacture or possession of a destructive device, and obstruction of justice.

Wiretapping is also authorized if a person has created a barricade situation and there is probable cause to believe a hostage or hostages may be involved. There are specified exceptions for lawful acts performed by such individuals as (1) a switchboard operator or wire or electronic communication service employee; (2) an investigative or law enforcement officer acting in a criminal investigation or other specified circumstances; (3) a person who is a party to the intercepted communication, where all of the parties have given prior consent; (4) an employee of a governmental emergency communications center; and (5) a person intercepting an electronic communication that is readily

HB 123/ Page 2

accessible to the general public. Law enforcement may place a device within a vehicle to intercept communication to provide evidence of vehicle theft.

“Transit service” is the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the metropolitan transit district. Transit service does not include taxicab service, vanpool operation, or railroad service. A “transit vehicle” is a mobile device used in rendering transit service.

Background: MTA operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services such as the light rail, metro subway, commuter buses, Maryland Area Regional Commuter (MARC) trains, and mobility/paratransit vehicles.

- *Buses* – MTA has begun to install video and audio surveillance equipment in its vehicles, in part, to serve as an after-the-fact investigative tool in the event of a criminal incident or crash. At this time, 265 of the 709 buses are equipped with new audio and video surveillance equipment with the audio function turned off. MTA’s remaining buses are equipped with older video-only (VHS) surveillance equipment that records to a unit onboard the bus. MTA plans to procure 305 new buses at a cost of \$202.0 million during the fiscal 2012 through 2016 period. MTA advises that audio and visual camera systems now come standard on new buses and any associated costs are already assumed in MTA’s budget for future bus procurements.
- *Metro and Light Rail Cars* – MTA’s 100 metro cars and 53 light rail cars are equipped with cameras, without audio capability, that record video to a unit in the vehicle. At this time, MTA does not have any plans to procure new metro or light rail cars during the fiscal 2012 through 2016 period. However, MTA advises that it hopes to add camera systems with audio recording capability to the existing light rail fleet in the near future.
- *Mobility Vehicles* – MTA’s 476 mobility vehicles (304 cutaway vans and 172 sedans) are not equipped with any video or audio recording systems. Currently, 107 cutaway vans operated by MV Transportation, Inc., have camera systems, without audio capability, that record activity in front of the vehicle for risk management purposes. MTA plans to procure 71 new vans in fiscal 2012 and 202 new vans during the fiscal 2013 through 2016 period.
- *Commuter Buses* – MTA’s 60 commuter buses are not equipped with any video or audio recording systems, and MTA does not plan to procure new commuter buses during the fiscal 2012 through 2016 period.

- *MARC* – MARC trains do not have video or audio recording systems at this time.

The Maryland Department of Transportation's Fiscal 2011-2016 *Consolidated Transportation Plan* (CTP) includes funding for a variety of projects that involve video and audio upgrades, including \$2.7 million for agency-wide closed circuit television (CCTV) improvements at stations and facilities; \$10.2 million for bus CCTV retrofits; and \$2.4 million for CCTV enhancements at metro stations and facilities.

State Expenditures: MTA's TTF expenditures increase by \$389,360 in fiscal 2012 to install, activate, and create signs about audio recording systems on MTA vehicles used for transit service. This MTA estimate assumes:

- existing audio recording systems on 265 buses are activated at a cost of \$100 per bus;
- audio recording systems are installed and activated on 71 new cutaway mobility vans at a cost of \$5,000 per van;
- mobility sedans and MARC trains are exempt from the bill's requirements, since they provide taxicab and railroad service, which are excluded from the definition of transit service; and
- 322 buses (existing and new) and 71 new cutaway vans are each equipped with two informational signs, at a cost of \$10 per sign.

Future year expenditures reflect the costs of installing audio recording systems on new mobility cutaway vans and posting signs on vehicles with audio recording systems. As noted above, the CTP already assumes audio recording systems are a standard component of any future bus procurement, consistent with the bill's requirements.

This estimate assumes the Judiciary can absorb any costs associated with additional cases that may be filed as a result of audio recording evidence.

Additional Information

Prior Introductions: HB 529 of 2010, which addressed the same issue in a different way, received an unfavorable report by the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Frederick, and Montgomery counties; City of Havre de Grace; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public

Defender; State's Attorneys' Association; Maryland Department of Transportation;
Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2011
mlm/lgc

Analysis by: Amanda Mock

Direct Inquiries to:
(410) 946-5510
(301) 970-5510