

# SENATE BILL 239

R2

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By: **Senators Brochin, Muse, Raskin, and Shank**

Introduced and read first time: January 16, 2014

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

AN ACT concerning

### **Maryland Transit Administration – Audio Recordings – Requirements and Limitations**

FOR the purpose of requiring an audio recording device on a vehicle used by the Maryland Transit Administration to provide certain transit service to comply with certain requirements and to be activated only under certain circumstances; requiring the Administration to post a certain notice on each vehicle equipped with an audio recording device; limiting, to certain persons and only for certain purposes, access to any audio recording that is made on a vehicle used to provide transit service; requiring the Administration to keep a certain log; requiring the Administration, in consultation with the Office of the Attorney General, to adopt certain regulations; and generally relating to audio recording devices on vehicles used by the Maryland Transit Administration to provide transit service.

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 7–101(l) and (n)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2013 Supplement)

BY adding to  
Article – Transportation  
Section 7–705.1  
Annotated Code of Maryland  
(2008 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article – Transportation**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



7-101.

(l) "Transit facility" includes any one or more or combination of tracks, rights-of-way, bridges, tunnels, subways, rolling stock, stations, terminals, ports, parking areas, equipment, fixtures, buildings, structures, other real or personal property, and services incidental to or useful or designed for use in connection with the rendering of transit service by any means, including rail, bus, motor vehicle, or other mode of transportation, but does not include any railroad facility.

(n) (1) "Transit service" means 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 District.

(2) "Transit service" does not include any:

- (i) Taxicab service;
- (ii) Vanpool operation; or
- (iii) Railroad service.

**7-705.1.**

**(A) IF A VEHICLE USED BY THE ADMINISTRATION TO PROVIDE TRANSIT SERVICE IS EQUIPPED WITH AN AUDIO RECORDING DEVICE, THE AUDIO RECORDING DEVICE SHALL BE:**

**(1) CAPABLE OF RECORDING ORAL COMMUNICATIONS OF THE VEHICLE OPERATOR AND THE VEHICLE'S PASSENGERS;**

**(2) UNDER THE EXCLUSIVE CONTROL OF THE VEHICLE OPERATOR; AND**

**(3) ACTIVATED BY THE OPERATOR ONLY IN THE EVENT OF AN INCIDENT INVOLVING PUBLIC SAFETY THAT REQUIRES DOCUMENTATION.**

**(B) THE ADMINISTRATION SHALL POST ON EACH VEHICLE EQUIPPED WITH AN AUDIO RECORDING DEVICE A CLEARLY VISIBLE NOTICE STATING THAT:**

**(1) THE VEHICLE IS EQUIPPED WITH AN AUDIO RECORDING DEVICE;**

(2) THE AUDIO RECORDING DEVICE MAY BE ACTIVATED BY THE OPERATOR IN THE EVENT OF AN INCIDENT INVOLVING PUBLIC SAFETY THAT REQUIRES DOCUMENTATION; AND

(3) BY BOARDING THE VEHICLE, A PASSENGER CONSENTS TO HAVING THE PASSENGER'S CONVERSATION RECORDED IN THE EVENT THAT THE OPERATOR DEEMS IT NECESSARY TO ACTIVATE THE AUDIO RECORDING DEVICE IN ACCORDANCE WITH THIS SECTION.

(C) AN AUDIO RECORDING MADE AND RETAINED BY THE ADMINISTRATION UNDER THIS SECTION MAY BE MADE AVAILABLE ONLY:

(1) IN CONNECTION WITH A SPECIFIC CRIME FOR WHICH THERE IS PROBABLE CAUSE FOR INVESTIGATION OR PROSECUTION OR IN CONNECTION WITH SOME OTHER INCIDENT IN WHICH ACCESS TO THE AUDIO RECORDING IS NECESSARY FOR PURPOSES OF CIVIL OR ADMINISTRATIVE PENALTY; AND

(2) To:

(I) AN INVESTIGATIVE OR A LAW ENFORCEMENT OFFICER ACTING UNDER § 10-402 OF THE COURTS ARTICLE;

(II) AN INDIVIDUAL WHOSE CONVERSATION IS RECORDED;

(III) THE LEGAL REPRESENTATIVE OF AN INDIVIDUAL DESCRIBED IN ITEM (II) OF THIS ITEM OR WHO IS THE SUBJECT OF AN INVESTIGATION FOR WHICH INTERCEPTION OF ORAL COMMUNICATION IS AUTHORIZED UNDER § 10-402 OF THE COURTS ARTICLE;

(IV) THE ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE ACTING UNDER § 7-204 OF THIS TITLE; OR

(V) THE ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE WHEN INVESTIGATING A COMPLAINT INVOLVING THE CONDUCT OF AN EMPLOYEE OF THE ADMINISTRATION OR A PASSENGER OF A VEHICLE USED TO PROVIDE TRANSIT SERVICE.

(D) ACCESS TO AN AUDIO RECORDING UNDER SUBSECTION (C) OF THIS SECTION SHALL BE LIMITED TO THAT PORTION OF THE AUDIO RECORDING THAT IS PERTINENT TO THE CRIME OR INCIDENT THAT IS THE SUBJECT OF THE INVESTIGATION.

**(E) AN AUDIO RECORDING MADE AND RETAINED BY THE ADMINISTRATION UNDER THIS SECTION MAY NOT BE USED FOR PURPOSES OF DATA MINING.**

**(F) THE ADMINISTRATION SHALL KEEP A LOG OF THE NAME, ADDRESS, AND AFFILIATION OF EACH PERSON THAT IS GRANTED ACCESS TO AN AUDIO RECORDING MADE AND RETAINED BY THE ADMINISTRATION UNDER THIS SECTION.**

**(G) THE ADMINISTRATION, IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL, SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.