

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 91 (Chairman, Environmental Matters Committee)
(By Request – Departmental – Transportation)

Environmental Matters

Public Records - Motor Vehicles - Electronic Screening

This departmental bill authorizes a custodian to deny inspection of all photographs, videotapes, or electronically recorded images of vehicles or vehicle movement records that were created by State agencies in connection with the electronic screening of motor vehicles. However, a custodian must permit inspection of these records by: (1) the vehicle owner or lessee and his or her attorney; (2) an authorized employee or agent of the owner or lessee; and (3) an employee of a federal, State, or local government, including a law enforcement agency or a court. The bill authorizes a custodian to release data in studies and reports compiled from the images if the details of movement records of specific drivers or vehicles or their owners or lessees are not identified.

Fiscal Summary

State Effect: None. The bill is procedural in nature and would not affect State finances.

Local Effect: None.

Small Business Effect: The Maryland Department of Transportation (MDOT) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: With limited exceptions, a custodian of public records must permit a person or governmental unit to inspect any public record at any reasonable time. A custodian must generally deny inspection of a public record or part of a record if it is privileged or confidential by law or if inspection would be contrary to a State or federal statute, rules adopted by the Court of Appeals, or an order of a court of record. The Public Information Act requires a custodian to deny inspection of recorded images produced by a red light camera except by a person issued a citation for a red light violation, the person's attorney, or an employee or agent of a law enforcement agency pursuant to a red light violation investigation.

Other examples of public records for which a custodian may deny public inspection include:

- trade secrets and confidential commercial, financial, geological, or geophysical information;
- certain licensing records;
- records of investigations conducted by the Attorney General; and
- inventions owned by State public institutions of higher education (for four years).

And, under Chapter 357 of 2002, the Maryland Port Administration (MPA) can deny public access to proprietary and commercial contract information belonging to it or to any private operating company that MPA creates, such as rates or proposed rates for stevedoring and terminal services contracts and research or analysis compiled for MPA to evaluate its competitive position.

Background: As part of a national program called the Commercial Vehicle Information Systems and Networks (CVISN), Maryland has implemented an electronic screening system that allows commercial vehicles to bypass State weight and inspection stations if the vehicle meets certain requirements. The vehicle must be equipped with a transponder, which electronically identifies it to a roadside computer to check if the vehicle's weight, height, and safety rating are in compliance and the owner's registration and tax obligations are current. If the vehicle complies, the vehicle transponder is activated notifying the driver that entry to the weight and inspection station is not required.

MDOT advises that motor carriers have been reluctant to participate in the voluntary program and cited concerns that competitors could obtain access to information collected by the system, such as vehicle load and date and time of passage. It further advises that

electronic screening will improve the efficiency of safety and weigh inspections because of the limited number of personnel and weight stations that are now available.

According to a 2001 survey by the U.S. Census Bureau, there are approximately 1,604 freight trucking establishments in Maryland, including general and specialized freight. Another 4,857 general and special freight trucking establishments are run by one individual.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Department of State Police, The Johns Hopkins University Applied Physics Laboratory, Department of Legislative Services

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ncs/jr

Analysis by: Ann Marie Maloney

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