

HOUSE BILL 866

E4, D3, R2

5lr2014

By: **Delegates McComas, Jalisi, Kittleman, Smith, and B. Wilson**

Introduced and read first time: February 13, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Wiretapping and Electronic Surveillance – Law Enforcement and Public**
3 **Transportation – One-Party Consent for Interception of Oral Communications**

4 FOR the purpose of establishing that it is lawful under a certain provision of law for a
5 certain law enforcement officer to intercept a certain oral communication under
6 certain circumstances; establishing that it is lawful under a certain provision of law
7 for the Maryland Transportation Administration or other operator of a public transit
8 service to intercept a certain oral communication under certain circumstances; and
9 generally relating to the interception of oral communications.

10 BY adding to

11 Article – Courts and Judicial Proceedings
12 Section 10–402(c)(11) and (12)
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2014 Supplement)

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

17 **Article – Courts and Judicial Proceedings**

18 10–402.

19 (c) (11) (I) IN THIS PARAGRAPH, “BODY-WORN CAMERA” MEANS A
20 CAMERA WORN ON THE PERSON OF A LAW ENFORCEMENT OFFICER THAT IS
21 CAPABLE OF RECORDING VIDEO AND INTERCEPTING ORAL COMMUNICATIONS.

22 (II) IT IS LAWFUL UNDER THIS SUBTITLE FOR A LAW
23 ENFORCEMENT OFFICER IN THE COURSE OF THE OFFICER’S REGULAR DUTY TO
24 INTERCEPT AN ORAL COMMUNICATION WITH A BODY-WORN CAMERA IF:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1. **THE LAW ENFORCEMENT OFFICER IS A PARTY TO THE**
2 **ORAL COMMUNICATION;**

3 2. **THE LAW ENFORCEMENT OFFICER HAS MADE A**
4 **REASONABLE EFFORT UNDER THE CIRCUMSTANCES TO BE IDENTIFIED AS A LAW**
5 **ENFORCEMENT OFFICER TO THE OTHER PARTIES TO THE ORAL COMMUNICATION**
6 **BEFORE ANY INTERCEPTION;**

7 3. **THE LAW ENFORCEMENT OFFICER HAS MADE A**
8 **REASONABLE EFFORT UNDER THE CIRCUMSTANCES TO INFORM ALL OTHER**
9 **PARTIES TO THE COMMUNICATION OF THE INTERCEPTION AT THE BEGINNING OF**
10 **THE COMMUNICATION; AND**

11 4. **THE ORAL INTERCEPTION IS BEING MADE AS PART OF**
12 **A VIDEO TAPE OR DIGITAL RECORDING.**

13 **(12) IT IS LAWFUL UNDER THIS SUBTITLE FOR THE MARYLAND**
14 **TRANSPORTATION ADMINISTRATION OR OTHER OPERATOR OF A PUBLIC TRANSIT**
15 **SERVICE, AS DEFINED IN § 7-101 OF THE TRANSPORTATION ARTICLE, TO MAKE AN**
16 **AUDIO RECORDING OF AN ORAL COMMUNICATION IN OR ON THE TRANSIT SERVICE**
17 **IF:**

18 **(i) THE RECORDING DEVICE IS UNDER THE EXCLUSIVE**
19 **CONTROL OF THE VEHICLE OPERATOR;**

20 **(ii) THE RECORDING DEVICE IS ACTIVATED BY THE OPERATOR**
21 **ONLY IN THE EVENT OF AN INCIDENT INVOLVING PUBLIC SAFETY THAT REQUIRES**
22 **DOCUMENTATION; AND**

23 **(iii) NOTICE IS POSTED ON THE VEHICLE STATING THAT:**

24 1. **THE VEHICLE IS EQUIPPED WITH AN AUDIO**
25 **RECORDING DEVICE THAT MAY BE ACTIVATED BY THE OPERATOR IN THE EVENT OF**
26 **AN INCIDENT INVOLVING PUBLIC SAFETY THAT REQUIRES DOCUMENTATION; AND**

27 2. **BY BOARDING THE VEHICLE, A PASSENGER**
28 **CONSENTS TO HAVING THE PASSENGER'S CONVERSATION RECORDED IN THE EVENT**
29 **THAT THE OPERATOR DEEMS IT NECESSARY TO ACTIVATE THE AUDIO RECORDING**
30 **DEVICE IN ACCORDANCE WITH THIS PARAGRAPH.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2015.