

SENATE BILL 199

R2
SB 800/15 – JPR

6lr1571

By: **Senators Brochin, Muse, Pinsky, Pugh, Ready, and Zirkin**

Introduced and read first time: January 20, 2016

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2016

CHAPTER _____

1 AN ACT concerning

2 **Transit and Transportation Service – Audio Recordings – Requirements and**
3 **Limitations**

4 FOR the purpose of ~~requiring an audio recording device on a vehicle used by the Maryland~~
5 ~~Transit Administration to provide certain transit service or by a county or~~
6 ~~municipality to provide transportation service to comply with certain requirements~~
7 ~~and to be activated only under certain circumstances; requiring the Administration~~
8 ~~and a county or municipality to post a certain notice on each vehicle equipped with~~
9 ~~an audio recording device; limiting, to certain persons and only for certain purposes,~~
10 ~~access to any audio recording that is made on a vehicle used to provide transit or~~
11 ~~transportation service; prohibiting the Maryland Transit Administration, on certain~~
12 transit service vehicles equipped with an audio recording device, from activating the
13 audio recording device, except under certain circumstances; prohibiting a county or
14 municipality, on certain transportation service vehicles equipped with an audio
15 recording device, from activating the audio recording device, except under certain
16 circumstances; authorizing the Administration and a county or municipality to
17 activate a certain audio recording device if the audio recording device meets certain
18 requirements; providing that a certain audio recording may be made available only
19 for certain purposes; requiring the Administration and a county or municipality to
20 keep a certain log; requiring the Administration, in consultation with the Office of
21 the Attorney General, to adopt certain regulations; requiring a county or
22 municipality, in consultation with the Administration and the Office of the Attorney
23 General, to adopt certain regulations; prohibiting a person from disclosing or
24 disseminating a certain audio recording for any purpose other than a purpose
25 described in a certain provision of the Act; imposing certain civil penalties; requiring

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 the Administration and certain counties and municipalities to make certain reports
 2 to the Governor and the General Assembly on or before a certain date each year; and
 3 generally relating to audio recording devices on vehicles used by the Maryland
 4 Transit Administration to provide transit service or by a county or municipality to
 5 provide transportation service.

6 BY repealing and reenacting, without amendments,
 7 Article – Transportation
 8 Section 7–101(a), (l), and (n)
 9 Annotated Code of Maryland
 10 (2015 Replacement Volume and 2015 Supplement)

11 BY adding to
 12 Article – Transportation
 13 Section 7–705.1 and 7–802
 14 Annotated Code of Maryland
 15 (2015 Replacement Volume and 2015 Supplement)

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

18 **Article – Transportation**

19 7–101.

20 (a) In this title the following words have the meanings indicated.

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

27 (n) (1) “Transit service” means the transportation of persons and their
 28 packages and baggage and of newspapers, express, and mail in regular route, special, or
 29 charter service by means of transit facilities between points within the District.

30 (2) “Transit service” does not include any:

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

34 ~~7–705.1.~~

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

4 ~~(1) INSTALLED NEAR THE VEHICLE OPERATOR'S SEAT;~~

5 ~~(2) UNDER THE EXCLUSIVE CONTROL OF THE VEHICLE OPERATOR;~~

6 ~~AND~~

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

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

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

12 ~~AND~~

13 ~~(2) THE AUDIO RECORDING DEVICE MAY BE ACTIVATED BY THE~~
14 ~~OPERATOR IN THE EVENT OF AN INCIDENT INVOLVING PUBLIC SAFETY THAT~~
15 ~~REQUIRES DOCUMENTATION.~~

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

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

22 ~~(2) TO:~~

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

25 ~~(ii) AN INDIVIDUAL WHOSE CONVERSATION IS RECORDED;~~

26 ~~(iii) THE LEGAL REPRESENTATIVE OF AN INDIVIDUAL~~
27 ~~DESCRIBED IN ITEM (ii) OF THIS ITEM OR WHO IS THE SUBJECT OF AN~~
28 ~~INVESTIGATION FOR WHICH INTERCEPTION OF ORAL COMMUNICATION IS~~
29 ~~AUTHORIZED UNDER § 10-402 OF THE COURTS ARTICLE;~~

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

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

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

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

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

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

18 ~~7-802.~~

19 ~~(A) IF A VEHICLE USED BY A COUNTY OR MUNICIPALITY TO PROVIDE~~
20 ~~TRANSPORTATION SERVICE IS EQUIPPED WITH AN AUDIO RECORDING DEVICE, THE~~
21 ~~AUDIO RECORDING DEVICE SHALL BE:~~

22 ~~(1) INSTALLED NEAR THE VEHICLE OPERATOR'S SEAT;~~

23 ~~(2) UNDER THE EXCLUSIVE CONTROL OF THE VEHICLE OPERATOR;~~

24 ~~AND~~

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

27 ~~(B) THE COUNTY OR MUNICIPALITY SHALL POST ON EACH VEHICLE~~
28 ~~EQUIPPED WITH AN AUDIO RECORDING DEVICE A CLEARLY VISIBLE NOTICE~~
29 ~~STATING THAT:~~

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

31 ~~AND~~

1 ~~(2) THE AUDIO RECORDING DEVICE MAY BE ACTIVATED BY THE~~
2 ~~OPERATOR IN THE EVENT OF AN INCIDENT INVOLVING PUBLIC SAFETY THAT~~
3 ~~REQUIRES DOCUMENTATION.~~

4 ~~(C) AN AUDIO RECORDING MADE AND RETAINED BY THE COUNTY OR~~
5 ~~MUNICIPALITY UNDER THIS SECTION MAY BE MADE AVAILABLE ONLY:~~

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

10 ~~(2) To:~~

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

13 ~~(II) AN INDIVIDUAL WHOSE CONVERSATION IS RECORDED;~~

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

18 ~~(IV) A COUNTY OR MUNICIPAL OFFICIAL WHEN INVESTIGATING~~
19 ~~A COMPLAINT INVOLVING THE CONDUCT OF AN EMPLOYEE OF THE COUNTY OR~~
20 ~~MUNICIPALITY OR OF A PASSENGER OF A VEHICLE USED TO PROVIDE~~
21 ~~TRANSPORTATION SERVICE.~~

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

26 ~~(E) AN AUDIO RECORDING MADE AND RETAINED BY THE COUNTY OR~~
27 ~~MUNICIPALITY UNDER THIS SECTION MAY NOT BE USED FOR PURPOSES OF DATA~~
28 ~~MINING.~~

29 ~~(F) THE COUNTY OR MUNICIPALITY SHALL KEEP A LOG OF THE NAME,~~
30 ~~ADDRESS, AND AFFILIATION OF EACH PERSON THAT IS GRANTED ACCESS TO AN~~
31 ~~AUDIO RECORDING MADE AND RETAINED BY THE COUNTY OR MUNICIPALITY UNDER~~
32 ~~THIS SECTION.~~

~~(G) THE COUNTY OR MUNICIPALITY, IN CONSULTATION WITH THE ADMINISTRATION AND THE OFFICE OF THE ATTORNEY GENERAL, SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

7-705.1.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF A VEHICLE USED BY THE ADMINISTRATION TO PROVIDE TRANSIT SERVICE IS EQUIPPED WITH AN AUDIO RECORDING DEVICE CAPABLE OF RECORDING ORAL COMMUNICATIONS OF THE VEHICLE OPERATOR AND THE VEHICLE'S PASSENGERS, THE ADMINISTRATION MAY NOT ACTIVATE THE AUDIO RECORDING DEVICE.

(B) (1) THE ADMINISTRATION MAY ACTIVATE AN AUDIO RECORDING DEVICE DESCRIBED IN SUBSECTION (A) OF THIS SECTION IF THE AUDIO RECORDING DEVICE IS:

(I) LOCATED NO MORE THAN 5 FEET AWAY FROM THE VEHICLE OPERATOR AND INTENDED ONLY TO RECORD ACTIVITY OCCURRING WITHIN THE IMMEDIATE VICINITY OF THE OPERATOR;

(II) UNDER THE EXCLUSIVE CONTROL OF THE VEHICLE OPERATOR AND ACTIVATED BY THE OPERATOR ONLY IN THE EVENT OF AN ACCIDENT OR OTHER INCIDENT INVOLVING PUBLIC SAFETY THAT REQUIRES DOCUMENTATION; OR

(III) ACTIVATED AUTOMATICALLY IN THE EVENT OF AN ACCIDENT OR OTHER INCIDENT INVOLVING PUBLIC SAFETY THAT REQUIRES DOCUMENTATION.

(2) AN AUDIO RECORDING MADE AND RETAINED BY THE ADMINISTRATION UNDER THIS SUBSECTION MAY BE MADE AVAILABLE ONLY IN CONNECTION WITH:

(I) A SPECIFIC CRIME FOR WHICH THERE IS PROBABLE CAUSE FOR INVESTIGATION OR PROSECUTION;

(II) AN ACCIDENT INVOLVING A VEHICLE USED BY THE ADMINISTRATION TO PROVIDE TRANSPORTATION SERVICE; OR

(III) SOME OTHER INCIDENT IN WHICH ACCESS TO THE AUDIO RECORDING IS NECESSARY FOR PURPOSES OF LITIGATION OR CIVIL OR ADMINISTRATIVE PENALTY.

1 **(3) ACCESS TO AN AUDIO RECORDING UNDER PARAGRAPH (2) OF**
2 **THIS SUBSECTION SHALL BE LIMITED TO THAT PORTION OF THE AUDIO RECORDING**
3 **THAT IS PERTINENT TO THE CRIME, ACCIDENT, OR INCIDENT THAT IS THE SUBJECT**
4 **OF THE INVESTIGATION.**

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

9 **(C) (1) A PERSON MAY NOT DISCLOSE OR DISSEMINATE AN AUDIO**
10 **RECORDING MADE AND RETAINED BY THE ADMINISTRATION UNDER SUBSECTION**
11 **(B) OF THIS SECTION FOR ANY PURPOSE OTHER THAN THE PURPOSES DESCRIBED IN**
12 **SUBSECTION (B)(2) OF THIS SECTION.**

13 **(2) A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A**
14 **CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.**

15 **(D) ON OR BEFORE DECEMBER 31 EACH YEAR, THE ADMINISTRATION**
16 **SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE**
17 **STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:**

18 **(1) THE NUMBER AND TYPE OF VEHICLES USED BY THE**
19 **ADMINISTRATION TO PROVIDE TRANSIT SERVICE THAT ARE EQUIPPED WITH AUDIO**
20 **RECORDING DEVICES; AND**

21 **(2) EACH CRIME, ACCIDENT, OR INCIDENT FOR WHICH THE**
22 **ADMINISTRATION RETAINED AN AUDIO RECORDING UNDER THIS SECTION DURING**
23 **THE PRECEDING YEAR.**

24 **7-802.**

25 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF A**
26 **VEHICLE USED BY A COUNTY OR MUNICIPALITY TO PROVIDE TRANSPORTATION**
27 **SERVICE IS EQUIPPED WITH AN AUDIO RECORDING DEVICE CAPABLE OF RECORDING**
28 **ORAL COMMUNICATIONS OF THE VEHICLE OPERATOR AND THE VEHICLE'S**
29 **PASSENGERS, THE COUNTY OR MUNICIPALITY MAY NOT ACTIVATE THE AUDIO**
30 **RECORDING DEVICE.**

31 **(B) (1) A COUNTY OR MUNICIPALITY MAY ACTIVATE AN AUDIO**
32 **RECORDING DEVICE DESCRIBED IN SUBSECTION (A) OF THIS SECTION IF THE AUDIO**
33 **RECORDING DEVICE IS:**

1 (I) LOCATED NO MORE THAN 5 FEET AWAY FROM THE VEHICLE
2 OPERATOR AND INTENDED ONLY TO RECORD ACTIVITY OCCURRING WITHIN THE
3 IMMEDIATE VICINITY OF THE OPERATOR;

4 (II) UNDER THE EXCLUSIVE CONTROL OF THE VEHICLE
5 OPERATOR AND ACTIVATED BY THE OPERATOR ONLY IN THE EVENT OF AN ACCIDENT
6 OR OTHER INCIDENT INVOLVING PUBLIC SAFETY THAT REQUIRES DOCUMENTATION;
7 OR

8 (III) ACTIVATED AUTOMATICALLY IN THE EVENT OF AN
9 ACCIDENT OR OTHER INCIDENT INVOLVING PUBLIC SAFETY THAT REQUIRES
10 DOCUMENTATION.

11 (2) AN AUDIO RECORDING MADE AND RETAINED BY A COUNTY OR
12 MUNICIPALITY UNDER THIS SUBSECTION MAY BE MADE AVAILABLE ONLY IN
13 CONNECTION WITH:

14 (I) A SPECIFIC CRIME FOR WHICH THERE IS PROBABLE CAUSE
15 FOR INVESTIGATION OR PROSECUTION;

16 (II) AN ACCIDENT INVOLVING A VEHICLE USED BY THE COUNTY
17 OR MUNICIPALITY TO PROVIDE TRANSPORTATION SERVICE; OR

18 (III) SOME OTHER INCIDENT IN WHICH ACCESS TO THE AUDIO
19 RECORDING IS NECESSARY FOR PURPOSES OF LITIGATION OR CIVIL OR
20 ADMINISTRATIVE PENALTY.

21 (3) ACCESS TO AN AUDIO RECORDING UNDER PARAGRAPH (2) OF
22 THIS SUBSECTION SHALL BE LIMITED TO THAT PORTION OF THE AUDIO RECORDING
23 THAT IS PERTINENT TO THE CRIME, ACCIDENT, OR INCIDENT THAT IS THE SUBJECT
24 OF THE INVESTIGATION.

25 (4) THE COUNTY OR MUNICIPALITY SHALL KEEP A LOG OF THE NAME,
26 ADDRESS, AND AFFILIATION OF EACH PERSON THAT IS GRANTED ACCESS TO AN
27 AUDIO RECORDING MADE AND RETAINED BY THE COUNTY OR MUNICIPALITY UNDER
28 THIS SECTION.

29 (C) (1) A PERSON MAY NOT DISCLOSE OR DISSEMINATE AN AUDIO
30 RECORDING MADE AND RETAINED BY A COUNTY OR MUNICIPALITY UNDER
31 SUBSECTION (B) OF THIS SECTION FOR ANY PURPOSE OTHER THAN THE PURPOSES
32 DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION.

33 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A
34 CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

1 (D) ON OR BEFORE DECEMBER 31 EACH YEAR, EACH COUNTY AND
2 MUNICIPALITY THAT MAKES AND RETAINS AUDIO RECORDINGS IN ACCORDANCE
3 WITH THIS SECTION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH
4 § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

5 (1) THE NUMBER AND TYPE OF VEHICLES USED BY THE COUNTY OR
6 MUNICIPALITY TO PROVIDE TRANSPORTATION SERVICE THAT ARE EQUIPPED WITH
7 AUDIO RECORDING DEVICES; AND

8 (2) EACH CRIME, ACCIDENT, OR INCIDENT FOR WHICH THE COUNTY
9 OR MUNICIPALITY RETAINED AN AUDIO RECORDING UNDER THIS SECTION DURING
10 THE PRECEDING YEAR.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.