

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 482
Judiciary

(Delegate Haynes, *et al.*)

Vehicle Laws - Law Enforcement Transport Vehicles - Recording Equipment

This bill requires that an emergency vehicle purchased or leased by the State, a county, or a municipal corporation and operated by a law enforcement agency to transport arrestees or other passengers, be equipped with audio and video recording equipment in any area of the vehicle that may be lawfully occupied by a passenger.

Fiscal Summary

State Effect: Several State agencies must purchase and install the required equipment in vehicles. Thus, Transportation Trust Fund (TTF), nonbudgeted, general fund, and higher education expenditures increase minimally in FY 2017 only, as discussed below. Calibration and ongoing maintenance in the out-years can likely be handled with existing budgeted resources. Revenues are not materially affected due to imposition of any penalties under the Maryland Vehicle Law.

Local Effect: While a few local law enforcement agencies may have a policy to only transport in the front passenger seat of a vehicle, others indicate that they must incur significant expenditures to equip vehicles that do not meet the bill's requirements. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: The audio and video recording equipment must be calibrated and tested to ensure proper function before any shift during which an emergency vehicle may be used to transport arrestees or other passengers. If the audio and video equipment does not

properly function, the vehicle may not be used to transport arrestees or other passengers. The bill's provisions do not apply to the front passenger seat of a vehicle. A violation is a misdemeanor, subject to a maximum fine of \$500.

Current Law: No Maryland statute specifically requires equipment for audio or visual recording inside of an emergency vehicle.

Emergency Vehicles and Equipment

Under the Maryland Vehicle Law, an “emergency vehicle” means any of the following vehicles that are designated by the Motor Vehicle Administration as entitled to the exemptions and privileges specified in the Maryland Vehicle Law that apply to such vehicles:

- vehicles of federal, State, or local law enforcement agencies;
- vehicles of volunteer fire companies, rescue squads and fire departments, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Fire and Rescue Institute;
- State vehicles that are used to respond to hazardous materials spills;
- State vehicles designated for emergency use by the Commissioner of Correction;
- ambulances; and
- special vehicles funded or provided by federal, State, or local government and used for emergency or rescue purposes in Maryland.

Emergency vehicles are required to be equipped with certain visible markings, audible signals, and light signals, and they are required to use the audible and light signals in an emergency in order to:

- park or stand without regard to other provisions of transportation law;
- pass a red or stop signal, a stop sign, or a yield sign;
- exceed any maximum speed limit;
- disregard any traffic control device or regulation governing direction of movement or turning in a specified direction; or
- travel through any local jurisdiction in the State as necessary to perform and return from motorcade or escort duty.

Maryland Wiretapping and Electronic Surveillance Act (Wiretap Act)

Under Maryland's Wiretap Act, it is unlawful to willfully intercept any wire, oral, or electronic communication. Under the Act, “intercept” is defined, in part, as “the... acquisition of the contents of any... oral communication through the use of any... device.”

Therefore, the Wiretap Act does not regulate a video recording that does not contain an audio component. The statute does authorize the interception of an oral communication if all participants have given prior consent (sometimes called “two-party consent”). Maryland is 1 of 12 two-party consent states, most of which spell out clearly that the consent is required only in circumstances where there is a “reasonable expectation of privacy.”

The Act does provide specified exceptions, including one for a law enforcement officer who intercepts an oral communication in the regular course of the officer’s duty, so long as the officer (1) initially lawfully detained a vehicle during a criminal investigation or for a traffic violation; (2) is a party to the oral communication; (3) has been identified as a law enforcement officer to the other parties to the communication prior to any interception; (4) informs all other parties to the communication of the interception at the beginning of the communication; and (5) makes the interception as part of a videotape recording. In addition, the interception of an oral communication by a law enforcement officer is lawful if (1) the officer is in uniform or prominently displaying the officer’s badge or other insignia; (2) the officer is making reasonable efforts to conform to standards for the use of either type of device capable of recording video and oral communications; (3) the officer is a party to the oral communication; (4) the officer notifies, as soon as practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and (5) the oral interception is being made as part of a videotape or digital recording.

Each interception in violation of the Wiretap Act may be prosecuted as a felony, punishable by up to five years imprisonment, and/or a \$10,000 fine. A person who is the victim of a violation of the Wiretap Act has a civil cause of action against the wiretapper for damages, attorney’s fees, and litigation costs.

General Vehicle Equipment

A person may not drive and the owner may not cause or knowingly permit to be driven on any highway any vehicle or combination of vehicles that:

- is in such unsafe condition as to endanger any person;
- does not contain those parts or is not at all times equipped with lamps or other equipment in proper condition and adjustment as required under statute; or
- is equipped in any manner in violation of specified State law.

A person may not do any act forbidden or fail to do any act required under the Maryland Vehicle Law generally governing vehicle equipment.

State Expenditures: Some State agencies with law enforcement units have indicated that the bill's requirements result in fiscal and operational impacts. However, the Department of State Police and the Natural Resources Police within the Department of Natural Resources indicate that it is the policy of the agency that all officers within the agencies are trained to only transport arrestees in the front passenger seat of the vehicle. As a result, neither agency anticipates a significant impact on agency operations or expenditures as a result of the bill's requirements. Even so, in situations where more than one arrestee is being transported, the bill may present operational difficulties for these agencies.

The Department of Public Safety and Correctional Services advises that the bill does not have a fiscal or operational impact. The Division of Correction states that it does not own or lease "emergency vehicles" as defined by the Maryland Vehicle Law.

Higher education expenditures increase by \$9,000 in fiscal 2017 only for Baltimore City Community College. Baltimore City Community College reports that it has two patrol vehicles that require retrofitting with the technology required in the bill at a cost of \$9,000. The Department of Legislative Services (DLS) advises that calibration and maintenance of equipment in out-years can likely be handled with existing resources.

The University System of Maryland reports that, in fiscal 2017 only, higher education expenditures increase to install and maintain the equipment required by the bill; however, an estimate of expenditures was not provided for inclusion in this fiscal and policy note.

General fund expenditures increase minimally in fiscal 2017 only for the Department of General Services to comply with the bill's requirements. The Maryland Capital Police unit within the Department of General Services advises that the agency has 11 patrol vehicles that require equipment installation. The fiscal impact could be as low as \$6,600 or as high as \$55,000 for purchase and installation of equipment for all of the vehicles. DLS advises that equipment maintenance and calibration in out-years can likely be handled with existing resources.

TTF expenditures increase by \$11,000 in fiscal 2017 only, to install the equipment required by the bill for emergency vehicles used by the Maryland Transit Administration. The Maryland Transit Administration advises that it has two vehicles that require equipment purchase at an estimated total cost of \$10,000, and an additional \$1,000 is required for installation.

Nonbudgeted expenditures increase by \$8,000 in fiscal 2017 only for the Maryland Transportation Authority (MDTA). MDTA reports that the agency has one vehicle used to transport passengers without the required equipment. MDTA estimates that purchase of the equipment costs \$7,000, and installation adds another \$1,000. DLS advises that

calibration and maintenance of equipment in the out-years can likely be handled with existing resources.

Local Expenditures: All local jurisdictions surveyed advised that they would incur significant expenditures to meet the bill's requirements. Baltimore City estimates the costs in fiscal 2017 to be \$2.4 million for hardware, maintenance, and storage associated with equipping all Baltimore City Police Department vehicles with audio and video recording capability. Harford County estimates the costs for the county to be \$800,000 for all of its vehicles that do not currently have the equipment that would be necessary. Montgomery County estimates the total cost to the county to be \$6,144,975 to equip the 1,468 vehicles currently in the county police department fleet. Talbot County advises that complying with the bill costs approximately \$5,000 per vehicle (the total estimated cost was not submitted). The costs provided by these agencies do not reflect any costs associated with calibration and testing prior to each shift or the operational impact of not being able to use certain vehicles because they must be placed out of service.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Harford, Montgomery, and Talbot counties; Baltimore City Community College; University System of Maryland; Department of General Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2016
kb/kdm

Analysis by: Shirleen M. E. Pilgrim
and Jennifer L. Young

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