

SB0199/518478/1

BY: Judicial Proceedings Committee

SUBSTITUTE AMENDMENTS TO SENATE BILL 199
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “Pugh,” insert “Ready”.

AMENDMENT NO. 2

On page 1, strike beginning with “requiring” in line 4 down through “service;” in line 11 and substitute “prohibiting the Maryland Transit Administration, on certain transit service vehicles equipped with an audio recording device, from activating the audio recording device, except under certain circumstances; prohibiting a county or municipality, on certain transportation service vehicles equipped with an audio recording device, from activating the audio recording device, except under certain circumstances; authorizing the Administration and a county or municipality to activate a certain audio recording device if the audio recording device meets certain requirements; providing that a certain audio recording may be made available only for certain purposes;”; and strike beginning with “requiring” in line 12 down through “regulations;” in line 15 and substitute “prohibiting a person from disclosing or disseminating a certain audio recording for any purpose other than a purpose described in a certain provision of the Act; imposing certain civil penalties; requiring the Administration and certain counties and municipalities to make certain reports to the Governor and the General Assembly on or before a certain date each year;”.

AMENDMENT NO. 3

On pages 2 through 5, strike in their entirety the lines beginning with line 19 on page 2 through line 25 on page 5, inclusive, and substitute:

“7-705.1.

(Over)

(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.

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

(4) 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.

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

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

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

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

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

7-802.

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

(B) (1) A COUNTY OR MUNICIPALITY 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 A COUNTY OR MUNICIPALITY 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 COUNTY OR MUNICIPALITY 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.

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

(4) THE COUNTY OR MUNICIPALITY 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 COUNTY OR MUNICIPALITY UNDER THIS SECTION.

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

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

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

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

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