

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 166 (Delegate Stukes, *et al.*)
 Environmental Matters

Maryland Transit Administration - Audio and Video Recording Devices on
 Vehicles Used for Transit Service

This bill requires the Maryland Transit Administration (MTA) to activate existing audio recording devices on MTA vehicles used for transit service. The audio recording device must be capable of recording oral communications of the vehicle’s operator and passengers. The bill requires MTA to post a specified notice on MTA vehicles with audio recording devices. Audio recordings made and retained by MTA may be reviewed only by specified individuals and under specified circumstances. MTA, in cooperation with the Office of the Attorney General, must adopt implementing regulations.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$41,400 in FY 2013 to activate audio recording systems and post signs on MTA buses. Future year expenditures reflect signage costs. Revenues are not directly affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	41,400	1,500	1,100	1,200	1,300
Net Effect	(\$41,400)	(\$1,500)	(\$1,100)	(\$1,200)	(\$1,300)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: Audio recordings from MTA vehicles may be reviewed only by:

- an investigative or law enforcement officer acting under interception of communications provisions in the Courts and Judicial Proceedings Article;
- an individual whose conversation was recorded;
- the legal representative of an individual whose conversation was recorded or who is the subject of an investigation related to the recorded conversation; and
- the MTA Administrator, or a designee, when investigating a complaint involving the conduct of an MTA employee or a passenger of a transit vehicle.

Current Law: Except as otherwise specified in statute, it is unlawful for a person to:

- willfully intercept, endeavor to intercept, or procure any other person to intercept a wire, oral, or electronic communication;
- willfully disclose, or endeavor to disclose, to any other person the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept; and
- willfully use, or endeavor to use, the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept.

However, it is lawful for law enforcement officers and persons acting with the prior direction and under the supervision of law enforcement officials to intercept communications as part of a criminal investigation to provide evidence of the commission of specified crimes, including murder, kidnapping, rape, gambling, robbery, dealing in a controlled dangerous substance, manufacture or possession of a destructive device, and obstruction of justice.

Wiretapping is also authorized if a person has created a barricade situation and there is probable cause to believe a hostage or hostages may be involved. There are specified exceptions for lawful acts performed by such individuals as (1) a switchboard operator or wire or electronic communication service employee; (2) an investigative or law enforcement officer acting in a criminal investigation or other specified circumstances; (3) a person who is a party to the intercepted communication, where all of the parties have given prior consent; and (4) an employee of a governmental emergency communications center. Law enforcement may place a device within a vehicle to intercept communication to provide evidence of vehicle theft.

“Transit service” is the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the metropolitan transit district. Transit service does not include taxicab service, vanpool operation, or railroad service. A “transit vehicle” is a mobile device used in rendering transit service.

Background: MTA operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services such as the light rail, metro subway, commuter buses, Maryland Area Regional Commuter (MARC) trains, and mobility/paratransit vehicles.

MTA has begun to install video and audio surveillance equipment in its vehicles, in part, to serve as an after-the-fact investigative tool in the event of a criminal incident or crash. At this time, 334 of MTA’s 712 buses are equipped with new audio and video surveillance equipment with the audio function turned off. MTA’s remaining buses are equipped with older video-only (VHS) surveillance equipment that records to a unit onboard the bus. MTA plans to procure a total of 322 new buses during the fiscal 2013 through 2017 period: 67 in fiscal 2013, 77 in fiscal 2014, 53 in fiscal 2015, 60 in fiscal 2016, and 65 in fiscal 2017. MTA advises that audio and visual camera systems now come standard on new buses and any activation costs for new buses could be absorbed in the future.

MTA’s metro cars and light rail cars are equipped with cameras, without audio capability, that record video to a unit in the vehicle. At this time, MTA does not have any plans to add audio surveillance equipment to metro cars. However, MTA advises that it hopes to add audio surveillance equipment to the existing light rail fleet in the near future; however, it is not clear when this will occur.

At this time, MTA does not have, nor does it plan to install, audio surveillance equipment in mobility vehicles, MARC trains, or commuter buses.

State Expenditures: MTA’s TTF expenditures increase by \$41,420 in fiscal 2013 to activate and create signs about audio recording systems on MTA buses used for transit service. This estimate assumes that (1) audio recording systems on the existing 334 buses are activated at a cost of \$100 per bus; and (2) 401 buses (334 existing and 67 new) are each equipped with two informational signs, at a cost of \$10 per sign. Future year expenditures reflect the costs of posting signs on new buses with activated audio surveillance equipment.

This estimate assumes the Judiciary can absorb any costs associated with additional cases that may be filed as a result of audio recording evidence.

Additional Information

Prior Introductions: HB 123 of 2011 and HB 529 of 2010, which addressed the same issue in different ways, both received unfavorable reports from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Baltimore City, Caroline and Howard counties, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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mc/lgc

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