

2018 -- H 7222

LC003601

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - SURVEILLANCE DEVICES

Introduced By: Representatives Edwards, Filippi, Casey, Kennedy, and Coughlin

Date Introduced: January 18, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 153.1

4 ROADWAY VIDEO SURVEILLANCE

5 **42-153.1-1. Roadway surveillance prohibited.**

6 (a) For the purpose of this section, "surveillance" means the act of determining the
7 ownership of a motor vehicle or the identity of a motor vehicle's occupants on the public
8 roadways of the state or its political subdivisions through the use of a camera or other imaging
9 device, or any other device, including, but not limited to, a transponder, cellular telephone, global
10 positioning satellite, EZ-Pass, automated license plate recognition systems or radio frequency
11 identification device, that by itself or in conjunction with other devices or information can be
12 used to determine the ownership of a motor vehicle, the identity of a motor vehicle's occupants or
13 the mileage, locations, speed of travel and routes traveled by the motor vehicle.

14 (b) For the purposes of this section "data" means the GPS coordinates, date, time,
15 photograph, license plate number, and any other information captured by or derived from any
16 surveillance system.

17 (c) "Government entity" shall have the same meaning as in § 37-2-7.

18 (d) Neither the state of Rhode Island, nor its political subdivisions, shall:

19 (1) Engage in surveillance of any public roadways of the state or its political

1 subdivisions; or

2 (2) Purchase, receive, or review data from a private entity that has engaged in
3 surveillance in a manner that would violate this chapter if undertaken by the state or its political
4 subdivisions.

5 (e) The prohibition set forth in § 42-153.1-(d)(1) shall not apply where surveillance:

6 (1) Is specifically authorized by statute;

7 (2) Is undertaken by law enforcement in the investigation of a particular violation,
8 misdemeanor, or felony pursuant to a warrant or court order based on probable cause;

9 (3) Is a result of exigent circumstances that justify use without first obtaining a warrant;

10 (4) Is undertaken for the purposes of identifying a vehicle associated with a missing
11 person; and

12 (5) Is undertaken to produce images or data that:

13 (i) Are viewed only at the transportation management center of the department of
14 transportation in connection with a particular incident occurring on a public roadway; and

15 (ii) Are not recorded.

16 **42-153.1-2. Confidentiality of information.**

17 (a) Any information collected or stored in any database under the provisions of § 42-
18 153.1-(e)(1) shall be deemed private and shall not be subject to freedom of information or access
19 to public records requirements except by court order, provided that aggregate data not containing
20 personal identifying information may be released. Entities contracted by the state to provide
21 surveillance pursuant to § 42-153.1-1(e)(1) shall not sell, trade, or exchange captured plate data
22 for any other purpose.

23 (b) Information obtained pursuant to subsection (a) of this section may be accessed by
24 employees of the state for the purpose of providing customer service or for statistical,
25 administrative or legal activities necessary to perform their duties.

26 (c) All data that does not identify a violation of law shall be destroyed within seventy-two
27 (72) hours of the time the image was recorded, unless otherwise ordered by a court of competent
28 jurisdiction.

29 (d) All data that identifies a violation of the law shall be destroyed within one year after
30 the citation is resolved by administrative payment, trial, or other final disposition, unless ordered
31 by a court of competent jurisdiction.

32 (e) Any entity that uses a surveillance device associated with an external database shall
33 update the systems from the databases every twenty-four (24) hours if such updates are available,
34 or as soon as practicable thereafter.

1 (f) No roadway surveillance operated pursuant to this section shall engage, in any
2 manner, in the enforcement or assistance in the enforcement of any traffic laws in effect except as
3 specifically authorized in §§ 42-13.1-11 and 42-13.1-12.

4 **42-153.1-3. Reporting.**

5 Any governmental entity that uses surveillance pursuant to this chapter shall report
6 annually its surveillance practices and usage to the state or local agency that governs the entity.
7 The report shall also be conspicuously posted on the entity's Internet website and shall include:

8 (1) The names of databases, if any, against which data was checked, and the number of
9 confirmed matches; and

10 (2) The number of matches that resulted in citation, arrest or prosecution.

11 **42-153.1-4. Use of evidence in civil cases.**

12 Any evidence obtained as a result of surveillance use prohibited by this chapter shall be
13 inadmissible in any civil action, except as evidence of a violation of this section. Nothing
14 contained herein shall be construed to preclude any investigation otherwise based upon any
15 legally sufficient cause.

16 **42-153.1-5. Penalties.**

17 In any civil action alleging a violation of this chapter, the court may:

18 (1) Award to a prevailing plaintiff punitive damages in addition to any award of actual
19 damages, and reasonable attorneys' fees; and

20 (2) Award injunctive relief against any individual or entity who commits or proposes to
21 commit a violation of this chapter.

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would prohibit surveillance on any public roadway in the state unless
2 specifically authorized by statute or court order. This act would also provide for the
3 confidentiality of information collected or stored.

4 This act would take effect upon passage.

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