

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40459-MWa-50

Short Title: Funds to Record & Store Highway Camera Video. (Public)

Sponsors: Representative Logan.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO FUND THE RECORDING AND STORAGE OF VIDEO FROM DEPARTMENT  
3 OF TRANSPORTATION HIGHWAY CAMERAS.

4 Whereas, the General Assembly is committed to ensuring the roads are safe for use  
5 by North Carolina citizens and visitors; and

6 Whereas, the recording and storage of video from Department of Transportation  
7 highway cameras can assist in the investigation of crimes such as theft and assaults on motorists  
8 and officers; and

9 Whereas, the recording and storage of video can deter unsafe driving, street racing,  
10 and other reckless driving; and

11 Whereas, the recording and storage of video can assist in locating missing persons  
12 and children; and

13 Whereas, the recording and storage of video can provide added safety to the motoring  
14 public in helping with motor vehicle collisions; Now, therefore,  
15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** Of the funds appropriated from the General Fund for the 2021-2022  
17 fiscal year, the sum of ten million dollars (\$10,000,000) in recurring funds is allocated to the  
18 Department of Transportation to be used by the Department to record and store video from the  
19 Department's highway cameras.

20 **SECTION 2.** G.S. 132-1.1 is amended by adding a new subsection to read:

21 "(i) Highway camera video records stored by the Department of Transportation may not  
22 be disclosed except as provided in G.S. 132-1.7B."

23 **SECTION 3.** Chapter 132 of the General Statutes is amended by adding a new  
24 section to read:

25 "**§ 132-1.7B. Highway camera video records.**

26 (a) Definitions. – The following definitions apply in this section:

27 (1) Disclose or disclosure. – To make a recording available for viewing or  
28 listening to by the person requesting disclosure, at a time and location chosen  
29 by the custodial law enforcement agency. This term does not include the  
30 release of a recording.

31 (2) Highway camera. – A Department of Transportation video or digital camera,  
32 located on highway right-of-way, for the purpose of monitoring vehicle  
33 traffic.

34 (3) Personal representative. – A parent, court-appointed guardian, spouse, or  
35 attorney of a person whose image or voice is in the recording. If a person  
36 whose image or voice is in the recording is deceased, the term also means the



1 personal representative of the estate of the deceased person; the deceased  
2 person's surviving spouse, parent, or adult child; the deceased person's  
3 attorney; or the parent or guardian of a surviving minor child of the deceased.

4 (4) Recording. – A visual, or visual and audio, recording captured by a highway  
5 camera.

6 (5) Release. – To provide a copy of a recording.

7 (b) Public Record Classification. – Recordings under this section are not public records  
8 as defined by G.S. 132-1.

9 (c) Disclosure; General. – Recordings shall be disclosed only as provided by this section.  
10 A person requesting disclosure of a recording must make a written request to the Department of  
11 Transportation. The request shall include the name of the person making the request, date and  
12 approximate time of the activity captured in the recording, or otherwise identify the activity with  
13 reasonable particularity sufficient to identify the recording to which the request refers. The  
14 Department may only disclose a recording to the following:

15 (1) A person whose image or voice is in the recording.

16 (2) A personal representative of an adult person whose image or voice is in the  
17 recording, if the adult person has consented to the disclosure.

18 (3) A personal representative of a minor or of an adult person under lawful  
19 guardianship whose image or voice is in the recording.

20 (4) A personal representative of a deceased person whose image or voice is in the  
21 recording.

22 (5) A personal representative of an adult person who is incapacitated and unable  
23 to provide consent to disclosure.

24 When disclosing the recording, the Department shall disclose only those portions of the  
25 recording that are relevant to the person's request. A person who receives disclosure pursuant to  
26 this subsection shall not record or copy the recording.

27 (d) Disclosure; Factors for Consideration. – Upon receipt of the written request for  
28 disclosure, as promptly as possible, the Department must either disclose the portion of the  
29 recording relevant to the person's request or notify the requestor of the decision not to disclose  
30 the recording to the requestor. The Department may consider any of the following factors in  
31 determining if a recording is disclosed:

32 (1) If the person requesting disclosure of the recording is a person authorized to  
33 receive disclosure pursuant to subsection (c) of this section.

34 (2) If the recording contains information that is otherwise confidential or exempt  
35 from disclosure or release under State or federal law.

36 (3) If disclosure would reveal information regarding a person that is of a highly  
37 sensitive personal nature.

38 (4) If disclosure may harm the reputation or jeopardize the safety of a person.

39 (5) If disclosure would create a serious threat to the fair, impartial, and orderly  
40 administration of justice.

41 (6) If confidentiality is necessary to protect either an active or inactive internal or  
42 criminal investigation or potential internal or criminal investigation.

43 (e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure  
44 pursuant to subsection (d) of this section, or has failed to provide disclosure more than three  
45 business days after the request for disclosure, the person seeking disclosure may apply to the  
46 superior court in any county where any portion of the recording was made for a review of the  
47 denial of disclosure. The court may conduct an in-camera review of the recording. The court may  
48 order the disclosure of the recording only if the court finds that the Department abused its  
49 discretion in denying the request for disclosure. The court may only order disclosure of those  
50 portions of the recording that are relevant to the person's request. A person who receives

1 disclosure pursuant to this subsection shall not record or copy the recording. An order issued  
2 pursuant to this subsection may not order the release of the recording.

3 In any proceeding pursuant to this subsection, the following persons shall be notified and  
4 those persons, or their designated representative, shall be given an opportunity to be heard at any  
5 proceeding: (i) the head of the Department, (ii) any law enforcement agency personnel whose  
6 image or voice is in the recording and the head of that person's employing law enforcement  
7 agency, and (iii) the district attorney. Actions brought pursuant to this subsection shall be set  
8 down for hearing as soon as practicable, and subsequent proceedings in such actions shall be  
9 accorded priority by the trial and appellate courts.

10 (f) Release of Recordings; General; Court Order Required. – Recordings shall only be  
11 released pursuant to court order. Any person requesting release of a recording may file an action  
12 in the superior court in any county where any portion of the recording was made for an order  
13 releasing the recording. The request for release must state the date and approximate time of the  
14 activity captured in the recording or otherwise identify the activity with reasonable particularity  
15 sufficient to identify the recording to which the action refers. The court may conduct an in-camera  
16 review of the recording. In determining whether to order the release of all or a portion of the  
17 recording, in addition to any other standards the court deems relevant, the court shall consider  
18 the applicability of all of the following standards:

- 19 (1) Release is necessary to advance a compelling public interest.
- 20 (2) The recording contains information that is otherwise confidential or exempt  
21 from disclosure or release under State or federal law.
- 22 (3) The person requesting release is seeking to obtain evidence to determine legal  
23 issues in a current or potential court proceeding.
- 24 (4) Release would reveal information regarding a person that is of a highly  
25 sensitive personal nature.
- 26 (5) Release may harm the reputation or jeopardize the safety of a person.
- 27 (6) Release would create a serious threat to the fair, impartial, and orderly  
28 administration of justice.
- 29 (7) Confidentiality is necessary to protect either an active or inactive internal or  
30 criminal investigation or potential internal or criminal investigation.
- 31 (8) There is good cause shown to release all portions of a recording.

32 The court shall release only those portions of the recording that are relevant to the person's  
33 request and may place any conditions or restrictions on the release of the recording that the court,  
34 in its discretion, deems appropriate.

35 In any proceeding pursuant to this subsection, the following persons shall be notified and  
36 those persons, or their designated representative, shall be given an opportunity to be heard at any  
37 proceeding: (i) the head of the Department, (ii) any law enforcement agency personnel whose  
38 image or voice is in the recording and the head of that person's employing law enforcement  
39 agency, and (iii) the district attorney. Actions brought pursuant to this subsection shall be set  
40 down for hearing as soon as practicable, and subsequent proceedings in such actions shall be  
41 accorded priority by the trial and appellate courts.

42 (g) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the  
43 requirements of subsections (c), (f), and (g) of this section, the Department shall disclose or  
44 release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order  
45 to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal  
46 proceedings in district court, or (iv) for any other law enforcement purpose and may disclose or  
47 release a recording for suspect identification or apprehension or to locate a missing or abducted  
48 person.

49 (h) Retention of Recordings. – The Department shall not be required to retain any  
50 recording subject to the provisions of this section for more than 30 days, unless a court of  
51 competent jurisdiction orders otherwise.

1        (i) No civil liability shall arise from compliance with the provisions of this section,  
2 provided that the acts or omissions are made in good faith and do not constitute gross negligence,  
3 willful or wanton misconduct, or intentional wrongdoing.

4        (j) Fee for Copies. – The Department may charge a fee to offset the cost incurred by it  
5 to make a copy of a recording for release. The fee shall not exceed the actual cost of making the  
6 copy.

7        (k) Attorneys' Fees. – The court may not award attorneys' fees to any party in any action  
8 brought pursuant to this section.

9        (l) Use of Recordings. – Recordings subject to this section may not be used for fines or  
10 private investigation.

11        (m) Elected Official. – No elected official may review recordings subject to this section,  
12 unless they meet the criteria in subsection (c) of this section. This subsection does not apply to a  
13 county sheriff or district attorney if review of the recordings is within the scope of a criminal  
14 investigation."

15                **SECTION 4.** This act becomes effective July 1, 2021.