

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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HOUSE BILL 395

Short Title:	Body and Dashboard Cameras/Law Enforcement.	(Public)
Sponsors:	Representatives Alexander, Brockman, Floyd, and Hanes (Primary Sponsors). <i>For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.</i>	
Referred to:	Appropriations.	

March 31, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE MOST LAW ENFORCEMENT OFFICERS TO WEAR AND ACTIVATE BODY-WORN CAMERAS DURING CERTAIN INTERACTIONS WITH THE PUBLIC, TO ESTABLISH A USE POLICY FOR BODY-WORN CAMERAS AND DASHBOARD CAMERAS, AND TO ESTABLISH AN ACCESS POLICY FOR RECORDINGS CAPTURED BY BODY-WORN CAMERAS AND DASHBOARD CAMERAS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 7.

"Body-Worn Cameras and Dashboard Cameras.

"§ 15A-201. Definitions.

The following definitions apply in this Article:

- (1) Body-worn camera. – An operational video camera provided by a law enforcement agency and affixed to a law enforcement officer's uniform and positioned in a way that allows the video camera to capture interactions the law enforcement officer has with the public. The video camera shall include a microphone or other mechanism for allowing audio capture. This term does not include cameras privately owned and provided by a law enforcement officer.
- (2) Dashboard camera. – A device or system installed or used in a law enforcement vehicle that electronically records images depicting activities that take place during a traffic stop, vehicle pursuit, vehicle search, and other interaction with the public that is within the range of the camera. This term does not include body-worn cameras.
- (3) Law enforcement agency. – Any duly accredited State or local government agency possessing authority to enforce the criminal laws of the State. For purposes of this Article, this term does not include local law enforcement agencies located in a county with a population of less than 200,000, as determined by the most recent decennial federal census.
- (4) Law enforcement officer. – Any employee of a law enforcement agency who (i) is actively serving in a position with primary duties and responsibilities for the prevention and detection of crime or the general enforcement of the criminal laws of the State, (ii) possesses the power of arrest by virtue of an oath administered

under the authority of the State, and (iii) is primarily assigned to patrol duties. For purposes of this Article, this term also includes on-duty State correctional officers.

(5) Law enforcement vehicle. – A motor vehicle owned, operated, or otherwise controlled by a law enforcement agency, the State, or a political subdivision of the State, and used primarily for traffic stops. This term does not include law enforcement vehicles used primarily for surveillance or undercover operations.

(6) Recordable interaction. – An interaction between a law enforcement officer, in his or her official capacity, and a member or members of the public, including an inmate or inmates of a State correctional facility. This term includes traffic stops; arrests; searches; interrogations not covered under G.S. 15A-211; interviews with victims and witnesses; and pursuits.

(7) Recording. – A visual and audio recording captured by a body-worn camera.

"§ 15A-202. Body-worn cameras required for law enforcement officers.

(a) Requirement. – Except as otherwise provided in subsection (b) of this section, a law enforcement officer shall wear and activate a body-worn camera during any recordable interaction. Except when doing so would be unsafe, impracticable, or impossible, a law enforcement officer shall inform the person or people the law enforcement officer is interacting with that the interaction is being recorded. A law enforcement officer shall not deactivate a body-worn camera until (i) the conclusion of the recordable interaction, (ii) the law enforcement officer has left the scene, (iii) a supervisor, while being recorded, authorizes the law enforcement officer to deactivate the body-worn camera, or (iv) an exception listed in subsection (b) of this section authorizes deactivation. Prior to deactivating a body-worn camera, a law enforcement officer shall announce that he or she is deactivating the body-worn camera and the reason why he or she is deactivating the body-worn camera. A law enforcement officer shall note in any incident report prepared after a recordable interaction that a recording was made.

(b) Exceptions. – A law enforcement officer shall not be required to activate a body-worn camera in any of the following places or situations:

(1) Interactions with confidential informants and undercover officers.

(2) During routine, non-law enforcement related activities, including when a law enforcement officer is engaged in a personal conversation, when a law enforcement officer is using a rest room or bathroom, or when a law enforcement officer is dressing or undressing in a locker room or dressing room.

(4) When a law enforcement officer is providing training or making a presentation to the public.

(5) When entering a private residence under nonexigent circumstances, unless written or on-camera consent is given by the owner or the occupier of the residence.

(6) When a law enforcement officer is conducting a strip search, unless written or on-camera consent is given by the person being strip searched.

(7) Interactions with a victim or witness, unless written or on-camera consent is given by the victim or witness.

(c) Waiver. – A law enforcement officer shall read, agree to, and sign a written waiver that consists of a consent by the law enforcement officer to be recorded by a body-worn camera and an acknowledgment of the requirements of this section and the related policies established under subsection (i) of this section by the law enforcement agency employing the law enforcement officer.

(d) Evidence. – If otherwise admissible, a recording captured by a body-worn camera pursuant to this section may be used as evidence in any relevant administrative, civil, or criminal proceeding.

(e) Public Access. – Notwithstanding G.S. 132-1.4, 153A-98, 160A-168, or any other provision of law to the contrary, a law enforcement agency may disclose or provide a copy of any

recording captured by a body-worn camera under this section to any person who submits a written request to the law enforcement agency. Prior to disclosing or providing a copy of a recording captured by a body-worn camera under this section, a law enforcement agency may redact any portion of the recording that (i) a law enforcement officer is not required to record under subsection (b) of this section or (ii) is otherwise prohibited by law from being disclosed. A law enforcement agency shall provide a written statement to the person who requested access to the recording explaining why portions of a recording are redacted or why the law enforcement agency is declining to disclose or provide a copy of the recording. Nothing in this subsection shall be construed to alter or supersede the requirement in subsection (f) of this section that a law enforcement agency retain an original, unredacted recording.

Any person who is denied access to a recording under this subsection, or an unredacted recording under this subsection, may apply to the appropriate division of the General Court of Justice for an order compelling disclosure or copying, and the court shall have jurisdiction to issue the order. An action brought pursuant to this subsection shall be set down for immediate hearing, and subsequent proceedings in the action shall be accorded priority by the trial and appellate courts. Unless otherwise prohibited by law, and upon a showing of good cause by the person seeking access, the court may issue an order compelling disclosure or copying of portions or all of a recording captured by a body-worn camera under this section.

(f) Retention. – A law enforcement agency shall retain an original, unredacted recording captured by a body-worn camera pursuant to this section for the later of (i) 60 days from the date of the recording, (ii) the period specified in a court order, or (iii) 10 days from the date an administrative, civil, or criminal proceeding in which the recording was used as evidence concludes.

(g) Remedies for Noncompliance. – Failure to comply with subsections (a) or (f) of this section shall be admissible as evidence to support claims made by a defendant in a criminal action or a party opposing the law enforcement officer or law enforcement agency in a civil action.

(h) Training. – A law enforcement agency shall provide training to a law enforcement officer on how to operate a body-worn camera prior to the law enforcement officer wearing and activating a body-worn camera.

(i) Policy. – The Department of Justice shall develop a model policy or policies for law enforcement agencies to use in implementing the provisions of this section. A policy developed pursuant to this subsection shall include disciplinary action for failing to activate a body-worn camera as required by subsection (a) of this section, up to and including immediate dismissal from employment. A policy developed pursuant to this subsection may include standards more stringent than the standards required under this section.

"§ 15A-203. Use of dashboard cameras in law enforcement vehicles.

(a) Requirement. – If a law enforcement vehicle is equipped with a dashboard camera, and except as provided in subsection (b) of this section, a law enforcement officer shall activate the dashboard camera when engaging in a traffic stop, vehicle pursuit, vehicle search, or other interaction with the public that is within the range of the camera. Except when doing so would be unsafe, impracticable, or impossible, a law enforcement officer shall inform the person or people the law enforcement officer is interacting with that the interaction is being recorded. A law enforcement officer shall not deactivate a dashboard camera until (i) the conclusion of the traffic stop, vehicle pursuit, vehicle search, or other interaction with the public, (ii) the law enforcement officer has left the scene, (iii) a supervisor, while being recorded, authorizes the law enforcement officer to deactivate the dashboard camera, or (iv) an exception listed in subsection (b) of this section authorizes deactivation. Prior to deactivating a dashboard camera, a law enforcement officer shall announce that he or she is deactivating the dashboard camera and the reason why he or she is deactivating the dashboard camera. A law enforcement officer shall note in any incident report prepared after an interaction with the public that a recording was made using a dashboard camera.

(b) Exceptions. – To the extent that they are applicable, a law enforcement officer shall not be required to activate a dashboard camera in any of the places or situations listed in subsection (b) of G.S. 15A-202.

(c) Other Requirements. – The requirements listed in subsections (c) through (h) of G.S. 15A-202 shall apply to the use of dashboard cameras under this section. Any reference to body-worn cameras in subsections (c) through (i) of G.S. 15A-202 shall be deemed to be a reference to dashboard cameras for purposes of this subsection.

(d) Construction. – Nothing in this section shall be construed to require the installation of a dashboard camera in a law enforcement vehicle."

SECTION 2.(a) Grant Program. – Notwithstanding G.S. 143C-5-2, there is appropriated from the General Fund to the Governor's Crime Commission within the Department of Public Safety the sum of five million dollars (\$5,000,000) in nonrecurring funds for the 2015-2016 fiscal year and the sum of five million dollars (\$5,000,000) in nonrecurring funds for the 2016-2017 fiscal year to provide grants to law enforcement agencies for the purposes of purchasing and maintaining body-worn cameras, as required by Section 1 of this act.

SECTION 2.(b) Match Required. – A grant provided pursuant to this section shall be matched on the basis of one dollar (\$1.00) in grant funds for every five dollars (\$5.00) in nongrant funds. Matching funds shall not include other State funds. The Governor's Crime Commission shall not provide a grant under this section until the grantee provides evidence satisfactory to the Commission that the grantee has sufficient nongrant funds to match.

SECTION 2.(c) Maximum Amount. – A grant provided under this section shall not exceed one hundred thousand dollars (\$100,000).

SECTION 2.(d) Guidelines. – The Governor's Crime Commission shall develop guidelines and procedures for the administration and distribution of grants under this section.

SECTION 3. Section 1 of this act becomes effective January 1, 2016, for members and officers of the State Highway Patrol and county law enforcement officers. Section 1 of this act becomes effective January 1, 2017, for the remaining law enforcement officers subject to this act. Section 2 of this act becomes effective July 1, 2015.