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3089

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, the transportation law and the general municipal law, in relation to establishing a closed-circuit television system and surveillance personal privacy act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and declarations. The legislature
2 finds and declares the state has increasingly used camera systems and
3 other surveillance technologies to monitor the daily legal activities of
4 its citizens. Even in public and quasi-public forums, increasing use of
5 government surveillance has a chilling effect on the freedoms and activ-
6 ities of its citizens. Therefore, the legislature finds that the state
7 has an obligation to establish a policy in which the public's privacy
8 interests are protected where camera systems are increasingly used in
9 traffic enforcement, surveillance and other areas. Where these surveil-
10 lance systems are used, the state has an obligation to protect an indi-
11 vidual's right of personal privacy, and consequently, must take all
12 steps to protect personal privacy in all aspects of system planning,
13 design, deployment, operation and maintenance and shall not collect or
14 disseminate any personal identifier information.

15 § 2. The public authorities law is amended by adding a new article 1-B
16 to read as follows:

ARTICLE 1-B

PUBLIC AUTHORITY CLOSED-CIRCUIT TELEVISION SYSTEM

AND SURVEILLANCE PERSONAL PRIVACY ACT

Section 52. Definitions.

53. Operation of CCTV systems; privacy protections.

54. Restrictions on recording CCTV system video.

55. Use and dissemination of CCTV system data.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD06324-01-1

§ 52. Definitions. As used in this article:

1. The terms "closed-circuit television system," "CCTV system," or "CCTV" shall mean a video camera system and/or network used to collect, transmit and monitor data electronically via a data stream and project such data onto a video monitor, television screen or other monitoring equipment and any other system that allows the collection, viewing, transmission and recording of video images; and such a system is a closed circuit in that it has limited access, and all elements are directly connected and controlled by operators of the system. CCTV system shall not include: any images or videotape prepared pursuant to section twenty-nine hundred eighty-five of this chapter; or any system or network of cameras installed on a CCTV system operator's facilities for other than traffic management purposes.

2. "Private entity" shall mean a private corporation or other private organization, including any organization providing news media services or any other information service provider that is not a public service entity.

3. "Public service entity" shall mean any public agency, public authority, public corporation, other governmental entity, municipality, accredited academic institution, or not-for-profit public service provider.

4. "Incident" shall mean an activity that occurs on or near a public highway, roadway, or right-of-way, that has or could have an impact on the safety of the traveling public or that could cause or contribute to highway congestion, and shall include a vehicular accident, and any violation of law or similar situation that would normally involve the attention of a peace officer.

5. "Personal identifier information" shall mean any data or video representation that could:

- (a) identify an individual driver or passenger in or on any vehicle;
- (b) identify any license plate of a vehicle;
- (c) identify the contents of the enclosed interior of a passenger vehicle; or
- (d) show the individual travel pattern of a specific vehicle.

6. "CCTV system operator" shall mean any public authority as defined in this chapter that owns or operates a CCTV system.

§ 53. Operation of CCTV systems; privacy protections. 1. The cameras of a CCTV system subject to this article shall be continuously focused on the highway and feeder and exit roads for which the system is intended to provide information for traffic management, provided, however, such cameras may show adjacent lands where it is not practical to avoid such monitoring during CCTV operation as provided in this article, and this provision shall not prohibit such monitoring in the event of a public health danger or safety emergency.

2. No CCTV system operator shall allow the cameras to be focused on private property for the purpose of monitoring any activity or person on such property, provided however, that this provision shall not prohibit such monitoring to the extent that it becomes necessary in the event of a public health danger or safety emergency.

3. A CCTV system operator shall not operate its CCTV system to collect personal identifier information data, except pursuant to an order of a court of competent jurisdiction, and except that such data may be collected without a court order in a public health danger or safety emergency situation to provide for the safety of the public, including the gathering of information necessary to provide the appropriate response to an incident, or public health danger or safety emergency.

1 4. A CCTV system operator shall adopt policies and practices to imple-
2 ment the requirements of this article. No person shall be employed in
3 the operation of a CCTV system until he or she shall be fully trained in
4 such policies and practices and the requirements of this article.

5 § 54. Restrictions on recording CCTV system video. 1. Except as
6 provided in this section, a CCTV system operator shall not record CCTV
7 data. In all cases, recording of CCTV data shall be done in a manner
8 that protects the privacy of the public.

9 2. A CCTV system operator may record CCTV data either on a planned
10 basis or on an emergency basis. A CCTV system operator may establish a
11 plan in advance for the recording of video images in response to a
12 specific need where a review of such images would contribute to improv-
13 ing safety and/or future traffic operations procedures or system plan-
14 ning and performance including:

15 (a) review of a traffic operations or safety problem;
16 (b) to provide for future operational employee training;
17 (c) for research that will improve future technology or operations;
18 (d) to demonstrate or test equipment or system functions; or
19 (e) to collect data for transportation planning management purposes,
20 provided, however, that for data gathered in accordance with this subdi-
21 vision, personal identifier information shall be removed from the data
22 or obscured before the data is stored and used.

23 A CCTV system operator may record response activities for particularly
24 complex or extensive incident response activity for post-incident review
25 for the purpose of improving operational procedures and response.

26 3. Any recording made pursuant to the authority of this section shall
27 be retained in a specifically designated and secure location with access
28 restricted only for the purpose that it was gathered and upon the
29 approval of supervisory level personnel. Any such recordings shall be
30 retained only for the minimum required time after use of the archived
31 data for its intended purpose in accordance with the applicable records
32 retention schedule or policy.

33 § 55. Use and dissemination of CCTV system data. 1. A CCTV system
34 operator shall use its CCTV system data primarily for transportation
35 planning, traffic management and traveler information purposes. Nothing
36 contained in this section or any other provision of law shall be
37 construed as prohibiting a CCTV system operator from utilizing CCTV
38 system data in a judicial or administrative action proceeding to which
39 the operator is a party.

40 2. Notwithstanding any other provision of law, CCTV system data that
41 contains personal identifier information shall not be open to the public
42 and shall not be subject to public inspection and copying pursuant to
43 article six of the public officers law.

44 3. A CCTV system operator may, in its discretion, distribute CCTV
45 system data that does not contain personal identifier information
46 directly to the public via the Internet or any other means directly or
47 through public or private entities for the purposes of providing travel-
48 er information, provided that all such data disseminated from CCTV
49 systems shall be transferred in a real time feed or in data feed with a
50 delay of not to exceed fifteen minutes.

51 4. (a) A CCTV system operator may, in its discretion, disseminate its
52 CCTV system data to other public service entities to achieve common
53 transportation safety and management objectives. In the event of inci-
54 dents, public health dangers or safety emergencies, a CCTV system opera-
55 tor may disseminate CCTV system data that contains personal identifier
56 information to public service entities to the extent necessary to deal

1 with such incident, danger or emergency. A CCTV system operator shall
2 not disseminate CCTV system data that contains personal identifier
3 information to private entities.

4 (b) All dissemination of CCTV system data from a CCTV system operator
5 to a public service or private entity shall be pursuant to a written
6 agreement that contains the following provisions:

7 (i) the CCTV system operator shall have complete control over the CCTV
8 system data that is provided;

9 (ii) the CCTV system operator may stop transmission of CCTV system
10 data at any time without prior approval or notice;

11 (iii) the receiving entity shall utilize CCTV system data only for the
12 purposes for which the dissemination is made;

13 (iv) the receiving entity shall not disseminate CCTV system data to
14 any third party without the prior written consent of the CCTV system
15 operator;

16 (v) the receiving entity shall not disseminate CCTV system data that
17 contains personal identifier information to any third party under any
18 circumstances; and

19 (vi) the receiving entity shall not record any CCTV system data except
20 as provided in this section.

21 (c) A written agreement between a CCTV system operator and a private
22 entity for the dissemination of CCTV system data shall also contain the
23 following provisions:

24 (i) the private entity shall not attempt to utilize CCTV system data
25 to obtain any personal identifier information; and

26 (ii) if the private entity is a television news organization, the CCTV
27 system operator may, in its sole discretion and subject to a policy
28 established by the CCTV system operator, allow such a private entity to
29 record CCTV system data for the sole purpose of broadcasting such images
30 as traffic reports aired by such private entity within a twenty-four
31 hour period of creating such recording, provided that such private enti-
32 ty agrees to destroy any such recording within twenty-four hours of its
33 creation.

34 § 3. The New York metropolitan transportation authority is directed to
35 conduct a study to review all elements of its operations and create a
36 mission statement that explicitly states the authority's use of closed-
37 circuit television systems and other surveillance systems and what the
38 reasonable privacy expectations of an individual are regarding the
39 authority's use of such systems. The authority shall report within 60
40 days of the effective date of this act and report to the governor, the
41 speaker of the assembly, the temporary president of the senate, the
42 chairman of the assembly standing committee on corporations, authorities
43 and commissions, and the chairman of the senate standing committee on
44 corporations, authorities and commissions.

45 § 4. The transportation law is amended by adding a new article 23 to
46 read as follows:

47 ARTICLE 23

48 STATE HIGHWAY CLOSED-CIRCUIT TELEVISION SYSTEM

49 AND SURVEILLANCE PERSONAL PRIVACY ACT

50 Section 500. Definitions.

51 501. Operation of CCTV systems; privacy protections.

52 502. Restrictions on recording CCTV system video.

53 503. Use and dissemination of CCTV system data.

54 § 500. Definitions. As used in this article:

55 1. The terms "closed-circuit television system," "CCTV system," or
56 "CCTV" shall mean a video camera system and/or network used to collect,

1 transmit and monitor data electronically via a data stream and project
2 such data onto a video monitor, television screen or other monitoring
3 equipment and any other system that allows the collection, viewing,
4 transmission and recording of video images; and is a closed circuit in
5 that it has limited access and all elements are directly connected and
6 controlled by operators of the system. CCTV system shall not include:
7 any system or network of cameras installed on a CCTV system operator's
8 facilities for other than traffic management purposes.

9 2. "Private entity" shall mean a private corporation or other private
10 organization, including any organization providing news media services
11 or any other information service provider that is not a public service
12 entity.

13 3. "Public service entity" shall mean any public agency, public
14 authority, public corporation, other governmental entity, municipality,
15 accredited academic institution, or not-for-profit public service
16 provider.

17 4. "Incident" shall mean an activity that occurs on or near a public
18 highway, roadway, or right-of-way, that has or could have an impact on
19 the safety of the traveling public or that could cause or contribute to
20 highway congestion, and shall include a vehicular accident, and any
21 violation of law or similar situation that would normally involve the
22 attention of a peace officer.

23 5. "Personal identifier information" shall mean any data or video
24 representation that could:

- 25 (a) identify an individual driver or passenger in or on any vehicle;
26 (b) identify any license plate of a vehicle;
27 (c) identify the contents of the enclosed interior of a passenger
28 vehicle; or
29 (d) show the individual travel pattern of a specific vehicle.

30 6. "CCTV system operator" shall mean any department of state govern-
31 ment that owns or operates a CCTV system.

32 § 501. Operation of CCTV systems; privacy protections. 1. The cameras
33 of a CCTV system subject to this article shall be continuously focused
34 on the highway and feeder and exit roads for which the system is
35 intended to provide information for traffic management, provided, howev-
36 er, such cameras may show adjacent lands where it is not practical to
37 avoid such monitoring during CCTV operation as provided in this article,
38 and this provision shall not prohibit such monitoring in the event of a
39 public health danger or safety emergency.

40 2. No CCTV system operator shall allow the cameras to be focused on
41 private property for the purpose of monitoring any activity or person on
42 such property, provided however, that this provision shall not prohibit
43 such monitoring to the extent that it becomes necessary in the event of
44 a public health danger or safety emergency.

45 3. A CCTV system operator shall not operate its CCTV system to collect
46 personal identifier information data, except pursuant to an order of a
47 court of competent jurisdiction, and except that such data may be
48 collected without a court order in a public health danger or safety
49 emergency situation to provide for the safety of the public, including
50 the gathering of information necessary to provide the appropriate
51 response to an incident, or public health danger or safety emergency.

52 4. A CCTV system operator shall adopt policies and practices to imple-
53 ment the requirements of this article. No person shall be employed in
54 the operation of a CCTV system until he or she shall be fully trained in
55 such policies and practices and the requirements of this article.

1 § 502. Restrictions on recording CCTV system video. 1. Except as
2 provided in this section, a CCTV system operator shall not record CCTV
3 data. In all cases, recording of CCTV data shall be done in a manner
4 that protects the privacy of the public.

5 2. A CCTV system operator may record CCTV data either on a planned
6 basis or on an emergency basis. A CCTV system operator may establish a
7 plan in advance for the recording of video images in response to a
8 specific need where a review of such images would contribute to improv-
9 ing safety and/or future traffic operations procedures or system plan-
10 ning and performance including:

11 (a) review of a traffic operations or safety problem;
12 (b) to provide for future operational employee training;
13 (c) for research that will improve future technology or operations;
14 (d) to demonstrate or test equipment or system functions; or
15 (e) to collect data for transportation planning management purposes,
16 provided, however, that for data gathered in accordance with this subdi-
17 vision, personal identifier information shall be removed from the data
18 or obscured before the data is stored and used.

19 A CCTV system operator may record response activities for particularly
20 complex or extensive incident response activity for post-incident review
21 for the purpose of improving operational procedures and response.

22 3. Any recording made pursuant to the authority of this section shall
23 be retained in a specifically designated and secure location with access
24 restricted only for the purpose that it was gathered and upon the
25 approval of supervisory level personnel. Any such recordings shall be
26 retained only for the minimum required time after use of the archived
27 data for its intended purpose in accordance with the applicable records
28 retention schedule or policy.

29 § 503. Use and dissemination of CCTV system data. 1. A CCTV system
30 operator shall use its CCTV system data primarily for transportation
31 planning, traffic management and traveler information purposes. Nothing
32 contained in this section or any other provision of law shall be
33 construed as prohibiting a CCTV system operator from utilizing CCTV
34 system data in a judicial or administrative action proceeding to which
35 the operator is a party.

36 2. Notwithstanding any other provision of law, CCTV system data that
37 contains personal identifier information shall not be open to the public
38 and shall not be subject to public inspection and copying pursuant to
39 article six of the public officers law.

40 3. A CCTV system operator may, in its discretion, distribute CCTV
41 system data that does not contain personal identifier information
42 directly to the public via the Internet or any other means directly or
43 through public or private entities for the purposes of providing travel-
44 er information, provided that all such data disseminated from CCTV
45 systems shall be transferred in a real time feed or in data feed with a
46 delay of not to exceed fifteen minutes.

47 4. (a) A CCTV system operator may, in its discretion, disseminate its
48 CCTV system data to other public service entities to achieve common
49 transportation safety and management objectives. In the event of inci-
50 dents, public health dangers or safety emergencies, a CCTV system opera-
51 tor may disseminate CCTV system data that contains personal identifier
52 information to public service entities to the extent necessary to deal
53 with such incident, danger or emergency. A CCTV system operator shall
54 not disseminate CCTV system data that contains personal identifier
55 information to private entities.

(b) All dissemination of CCTV system data from a CCTV system operator to a public service or private entity shall be pursuant to a written agreement that contains the following provisions:

(i) the CCTV system operator shall have complete control over the CCTV system data that is provided;

(ii) the CCTV system operator may stop transmission of CCTV system data at any time without prior approval or notice;

(iii) the receiving entity shall utilize CCTV system data only for the purposes for which the dissemination is made;

(iv) the receiving entity shall not disseminate CCTV system data to any third party without the prior written consent of the CCTV system operator;

(v) the receiving entity shall not disseminate CCTV system data that contains personal identifier information to any third party under any circumstances; and

(vi) the receiving entity shall not record any CCTV system data except as provided in this section.

(c) A written agreement between a CCTV system operator and a private entity for the dissemination of CCTV system data shall also contain the following provisions:

(i) the private entity shall not attempt to utilize CCTV system data to obtain any personal identifier information; and

(ii) if the private entity is a television news organization, the CCTV system operator may, in its sole discretion and subject to a policy established by the CCTV system operator, allow such a private entity to record CCTV system data for the sole purpose of broadcasting such images as traffic reports aired by such private entity within a twenty-four hour period of creating such recording, provided that such private entity agrees to destroy any such recording within twenty-four hours of its creation.

§ 5. The general municipal law is amended by adding a new article 14-B-1 to read as follows:

ARTICLE 14-B-1

MUNICIPAL CLOSED-CIRCUIT TELEVISION SYSTEM AND SURVEILLANCE PERSONAL PRIVACY ACT

Section 375. Definitions.

376. Operation of CCTV systems; privacy protections.

377. Restrictions on recording CCTV system video.

378. Use and dissemination of CCTV system data.

§ 375. Definitions. As used in this article:

1. The terms "closed-circuit television system," "CCTV system," or "CCTV" shall mean a video camera system and/or network used to collect, transmit and monitor data electronically via a data stream and project such data onto a video monitor, television screen or other monitoring equipment and any other system that allows the collection, viewing, transmission and recording of video images; and is a closed circuit in that it has limited access and all elements are directly connected and controlled by operators of the system. CCTV system shall not include: any system that produces any images or videotape authorized pursuant to section eleven hundred eleven-a of the vehicle and traffic law and any system or network of cameras installed on a CCTV system operator's facilities for other than traffic management purposes.

2. "Private entity" shall mean a private corporation or other private organization, including any organization providing news media services or any other information service provider that is not a public service entity.

1 3. "Public service entity" shall mean any public agency, public
2 authority, public corporation, other governmental entity, municipality,
3 accredited academic institution, or not-for-profit public service
4 provider.

5 4. "Incident" shall mean an activity that occurs on or near a public
6 highway, roadway, or right-of-way, that has or could have an impact on
7 the safety of the traveling public or that could cause or contribute to
8 highway congestion, and shall include a vehicular accident, and any
9 violation of law or similar situation that would normally involve the
10 attention of a peace officer.

11 5. "Personal identifier information" shall mean any data or video
12 representation that could:

13 (a) identify an individual driver or passenger in or on any vehicle;

14 (b) identify any license plate of a vehicle;

15 (c) identify the contents of the enclosed interior of a passenger
16 vehicle; or

17 (d) show the individual travel pattern of a specific vehicle.

18 6. "CCTV system operator" shall mean any county, town, city or village
19 that owns or operates a CCTV system.

20 § 376. Operation of CCTV systems; privacy protections. 1. The cameras
21 of a CCTV system subject to this article shall be continuously focused
22 on the highway and feeder and exit roads for which the system is
23 intended to provide information for traffic management, provided, howev-
24 er, such cameras may show adjacent lands where it is not practical to
25 avoid such monitoring during CCTV operation as provided in this article,
26 and this provision shall not prohibit such monitoring in the event of a
27 public health danger or safety emergency.

28 2. No CCTV system operator shall allow the cameras to be focused on
29 private property for the purpose of monitoring any activity or person on
30 such property, provided however, that this provision shall not prohibit
31 such monitoring to the extent that it becomes necessary in the event of
32 a public health danger or safety emergency.

33 3. A CCTV system operator shall not operate its CCTV system to collect
34 personal identifier information data, except pursuant to an order of a
35 court of competent jurisdiction, and except that such data may be
36 collected without a court order in a public health danger or safety
37 emergency situation to provide for the safety of the public, including
38 the gathering of information necessary to provide the appropriate
39 response to an incident, or public health danger or safety emergency.

40 4. A CCTV system operator shall adopt policies and practices to imple-
41 ment the requirements of this article. No person shall be employed in
42 the operation of a CCTV system until he or she shall be fully trained in
43 such policies and practices and the requirements of this article.

44 § 377. Restrictions on recording CCTV system video. 1. Except as
45 provided in this section, a CCTV system operator shall not record CCTV
46 data. In all cases, recording of CCTV data shall be done in a manner
47 that protects the privacy of the public.

48 2. A CCTV system operator may record CCTV data either on a planned
49 basis or on an emergency basis. A CCTV system operator may establish a
50 plan in advance for the recording of video images in response to a
51 specific need where a review of such images would contribute to improv-
52 ing safety and/or future traffic operations procedures or system plan-
53 ning and performance including:

54 (a) review of a traffic operations or safety problem;

55 (b) to provide for future operational employee training;

56 (c) for research that will improve future technology or operations;

1 (d) to demonstrate or test equipment or system functions; or
2 (e) to collect data for transportation planning management purposes,
3 provided, however, that for data gathered in accordance with this subdi-
4 vision, personal identifier information shall be removed from the data
5 or obscured before the data is stored and used.

6 A CCTV system operator may record response activities for particularly
7 complex or extensive incident response activity for post-incident review
8 for the purpose of improving operational procedures and response.

9 3. Any recording made pursuant to the authority of this section shall
10 be retained in a specifically designated and secure location with access
11 restricted only for the purpose that it was gathered and upon the
12 approval of supervisory level personnel. Any such recording shall be
13 retained only for the minimum required time after use of the archived
14 data for its intended purpose in accordance with the applicable records
15 retention schedule or policy.

16 § 378. Use and dissemination of CCTV system data. 1. A CCTV system
17 operator shall use its CCTV system data primarily for transportation
18 planning, traffic management and traveler information purposes. Nothing
19 contained in this section or any other provision of law shall be
20 construed as prohibiting a CCTV system operator from utilizing CCTV
21 system data in a judicial or administrative action proceeding to which
22 the operator is a party.

23 2. Notwithstanding any other provision of law, CCTV system data that
24 contains personal identifier information shall not be open to the public
25 and shall not be subject to public inspection and copying pursuant to
26 article six of the public officers law.

27 3. A CCTV system operator may, in its discretion, distribute CCTV
28 system data that does not contain personal identifier information
29 directly to the public via the Internet or any other means directly or
30 through public or private entities for the purposes of providing travel-
31 er information, provided that all such data disseminated from CCTV
32 systems shall be transferred in a real time feed or in data feed with a
33 delay of not to exceed fifteen minutes.

34 4. (a) A CCTV system operator may, in its discretion, disseminate its
35 CCTV system data to other public service entities to achieve common
36 transportation safety and management objectives. In the event of inci-
37 dents, public health danger or safety emergencies, a CCTV system opera-
38 tor may disseminate CCTV system data that contains personal identifier
39 information to public service entities to the extent necessary to deal
40 with such incident, danger or emergency. A CCTV system operator shall
41 not disseminate CCTV system data that contains personal identifier
42 information to private entities.

43 (b) All dissemination of CCTV system data from a CCTV system operator
44 to a public service or private entity shall be pursuant to a written
45 agreement that contains the following provisions:

46 (i) the CCTV system operator shall have complete control over the CCTV
47 system data that is provided;

48 (ii) the CCTV system operator may stop transmission of CCTV system
49 data at any time without prior approval or notice;

50 (iii) the receiving entity shall utilize CCTV system data only for the
51 purposes for which the dissemination is made;

52 (iv) the receiving entity shall not disseminate CCTV system data to
53 any third party without the prior written consent of the CCTV system
54 operator;

1 (v) the receiving entity shall not disseminate CCTV system data that
2 contains personal identifier information to any third party under any
3 circumstances; and

4 (vi) the receiving entity shall not record any CCTV system data except
5 as provided in this section.

6 (c) A written agreement between a CCTV system operator and a private
7 entity for the dissemination of CCTV system data shall also contain the
8 following provisions:

9 (i) the private entity shall not attempt to utilize CCTV system data
10 to obtain any personal identifier information; and

11 (ii) if the private entity is a television news organization, the CCTV
12 system operator may, in its sole discretion and subject to a policy
13 established by the CCTV system operator, allow such a private entity to
14 record CCTV system data for the sole purpose of broadcasting such images
15 as traffic reports aired by such private entity within a twenty-four
16 hour period of creating such recording, provided that such private enti-
17 ty agrees to destroy any such recording within twenty-four hours of its
18 creation.

19 § 6. This act shall take effect on the sixtieth day after it shall
20 have become a law.