WEST VIRGINIA CODE: §17-16D-9

§17-16D-9. Privacy of electronic toll collection account holder information; subpoenas and court orders and related confidentiality protections.

(a) Except as provided in subsection (b) of this section, and notwithstanding any provision in the code to the contrary, videotapes, photographs, microphotographs, other recorded images, written records, reports or facsimiles prepared pursuant to this article are for the exclusive use of the Parkways Authority, its authorized agents, its employees and law-enforcement officials for the purpose of discharging their duties under this article. This information includes names, addresses, account numbers, account balances, personal financial information, vehicle movement records and other information compiled from transactions with the account holders. The information in the hands of the Authority, its authorized agents, its employees and law enforcement officials may not be considered a public record under chapter twenty-nine-b of this code.

(b) Notwithstanding subsection (a) of this section, videotapes, photographs, microphotographs, other recorded images, written records, reports or facsimiles prepared and retained pursuant to this article may be discoverable pursuant to a properly issued subpoena or by an order of a court of competent jurisdiction directing that the information be produced in a civil or criminal action or proceeding: Provided, That any such information required to be produced in response to a properly issued subpoena or court order shall at all times be confidential and may not be disclosed by the Parkways Authority other than in connection with, and only for the purposes of, the underlying civil action or criminal proceeding, and subject to compliance with the provisions of subsections (c), (d) and (e) of this section.

(c) All information disclosed or produced pursuant to subsection (b) of this section shall be clearly marked "CONFIDENTIAL." Any document or other material which is marked "CONFIDENTIAL" or the contents thereof, may only be used by a party to the underlying action or proceeding or a party's attorney, expert witness, consultant or other person who is actively engaged in working on the action or proceeding, and only for the purpose of the underlying action or proceeding and not for any other purpose. Prior to a party disclosing any document or other material marked as "CONFIDENTIAL," or the contents thereof, to an attorney, expert witness, consultant or other person actively engaged in working on such action or proceeding, the party making disclosure must first inform the person that he or she is bound by the duty of confidentiality established under this section and the person to whom disclosure is to be made shall sign an acknowledgment that the information is and shall remain at all times confidential and that the person agrees to abide by the duty of confidentiality established under this section.

(d) Prior to the production of any information under this section with any court of competent jurisdiction, the Parkways Authority shall file a motion with the court seeking to have the documents sealed and withheld from the public record throughout the action or proceeding.

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(e) At the conclusion of the action or proceeding, all documents and other material marked as "CONFIDENTIAL" and any copies thereof, and all related notes and memoranda, shall promptly be returned to the Parkways Authority and in any event, within thirty days following the conclusion of the action or proceeding.

(f) All videotapes, photographs, microphotographs, other recorded images, written records, reports or facsimiles prepared pursuant to this article shall be destroyed within sixty days following the conclusion of the action or proceeding.

(g) Nothing in this article authorizes any law-enforcement agency to enter any information in a national database that is contained in videotapes, photographs, microphotographs, other recorded images, written records, reports or facsimiles prepared pursuant to this article.

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