

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1996**

**Amendment Number: Engrossment 4/12/13 (Am. #S2)**

**Bill Subtitle: TO REGULATE THE USE OF AUTOMATIC LICENSE PLATE READER SYSTEMS.**

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### Basic Change :

Representatives Steel, Bell

The bill restricts the use of automatic license plate reader systems. The bill provides that it is unlawful for an individual, partnership, corporation, association, or the State of Arkansas, its agencies, and political subdivisions to use such systems. The bill places restrictions on disclosure of the data as defined in the bill and defines penalties for violations of the subchapter. The bill as originally written provides that such system may be used by a state, county, or municipal law enforcement for the comparison of license plate data held by the Office of Motor Vehicle, the Arkansas Crime Information Center, and the Federal Bureau of Investigation for purposes defined in the bill. The 4/6/13 engrossment adds a provision that the data may also be compared to a database created by law enforcement for the purposes of an ongoing investigation.

The bill as originally written stated that captured data could not be preserved for more than seven (7) days; the 4/6/13 engrossment changes that requirement to thirty (30) days. The 4/6/13 engrossment adds a new provision that data retained as part of an ongoing investigation must be destroyed at the conclusion of an investigation that does not result in the filing of any criminal charges, or result criminal action undertaken in the matter involving the captured data. The bill states that a governmental entity shall not sell, trade, or exchange captured data for any purpose.

The 4/6/13 engrossment adds a provision that captured plate data obtained by a law enforcement agency may be shared with other law enforcement agencies. Amendment S1 provides that such data that indicates evidence of an offense, may be shared with other law enforcement agencies.

The 4/6/13 engrossment adds new provisions to require an entity that uses an automatic license plate reader to promulgate rules and policies concerning the manner and method of obtaining, retaining, and destroying captured plate data, and provides that failure to do so will be grounds for a court to exclude evidence obtained by the license plate reader.

The 4/6/13 engrossment adds a new provision to specify that captured plate data obtained from the Office of Motor Vehicle are not public record for purposes of the Freedom of Information Act and may be disclosed only to the person to whom the vehicle is registered, after written consent from the registered owner, or if the disclosure is permitted by the Driver Privacy Protection Act. With Amendment S1 captured plate data or data obtained from the Office of Motor Vehicle are subject to the FOI. Amendment S2 adds a provision to the definition of "Captured plate data" to state that such data shall not include any personal data.

The bill as engrossed 4/6/13 stated that captured plate data could not be preserved for more than thirty (30) days. Amendment S2 changes that time to not more than one hundred fifty (150) days.

Amendment S2 removes new Section 12-12-1805, regarding provisions for preservation and access of captured data and changes code citations that were necessary due to the removal of the section.

Amendment S2 removes several requirements regarding compilation of statistical data and adds a provision that any entity that uses an automatic license plate reader must promulgate rules and policies concerning the method of obtaining, retaining, and destroying captured plate data.

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### Revenue Impact :

None

### Taxpayer Impact :

Restrictions would be placed on use of the data retrieved from the license plate of a vehicle owner. The 4/6/13 engrossment specifies that an owner's data are not public record for purposes of the Freedom of Information Act of 1967, and may be disclosed only to the person to whom the vehicle is registered, after written consent from the registered owner, or if the disclosure is permitted by the Driver Privacy Protection Act. With Amendment S1 an owner's data will be subject to FOI. With Amendment S2, an owner's personal data will not be included in captured data.

### Resources Required :

None

### Time Required :

None

### Procedural Changes :

None

### Other Comments :

None

### Legal Analysis :

HB1996 creates the Automatic License Plate Reader System Act. Under the amended version of the bill, state and federal law enforcement agencies shall continue to be able to compare captured plate data with the motor vehicle records of DFA. Of importance to DFA is that any personal information or records obtained from DFA shall not be subject to disclosure by the law enforcement agency unless permitted by the Driver Privacy Protection Act, 18 U.S.C. § 2721, et seq.