

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1996**

**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 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 bill places restrictions on disclosure of the data as defined in the bill and defines penalties for violations of the subchapter.

### **Revenue Impact :**

None

### **Taxpayer Impact :**

Restrictions would be placed on use of the data retrieved from the license plate of a vehicle owner.

### **Resources Required :**

None

### **Time Required :**

None

### **Procedural Changes :**

None

### **Other Comments :**

None

### **Legal Analysis :**

HB1996 permits certain entities to utilize automatic license reader systems to be utilized by law enforcement agencies, "parking enforcement entities", or for purposes of controlling access to "secured areas." Under the bill, a "secured area" is "an area, enclosed by clear boundaries, to which access is limited and not open to the public, and entry is obtainable only through specific access-control points." A "parking enforcement entity" is not defined in the bill.

The bill authorizes law enforcement agencies to compare data obtained from an automatic license plate reader system with motor vehicle data maintained by DFA for specific law enforcement purposes. The bill does not authorize DFA to share motor vehicle data with a "parking enforcement entity" or for "controlling access to secured areas." An entity authorized to utilize an automatic license reader system is prohibited from selling, trading, or exchanging plate data.

The bill authorizes law enforcement to compare data obtained from a license reader system to the motor vehicle records of DFA. Any records of DFA that constitute "personal information" or "highly restricted personal information" are subject to protection under the Driver Privacy Protection Act, 18 U.S.C. § 2721, et seq (DPPA). The DPPA prohibits DFA from releasing "personal information" or "highly restricted personal information" from a person's "motor vehicle record". See 18 U.S.C. § 2721(a).

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"Personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status. See 18 U.S.C. § 2725(3). "Highly restricted personal information" means an individual's photograph or image, social security number, medical or disability information. See 18 U.S.C. § 2725(4). "Motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles. See 18 U.S.C. § 2725(1).

The disclosure of personal information "[f]or use by any government agency, *including any court or law enforcement agency*, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions" is permitted by the DPPA. See 18 U.S.C. § 2721(b). Therefore, the obtaining or use of DFA confidential information or records by law enforcement appears to be consistent with the DPPA. However, of importance to DFA is that the redisclosure of protected information by a recipient of protected information is also restricted by the DPPA. See 18 U.S.C. § 2721(c). A recipient of protected information may only redisclose the information only for a use permitted under subsection (b) of § 2721. In addition, the recipient of information must keep for a period of five (5) years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request. *Id.*

Under the bill, an entity authorized to utilize an automatic license reader system is prohibited from selling, trading, or exchanging license plate data. The bill should be amended to state that a law enforcement entity that obtains or compares DFA confidential records to license plate data is only permitted to redisclose confidential information for a permissible purpose that is authorized by the DPPA.