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As Engrossed: H4/3/13

A Bill

HOUSE BILL 1996

By: Representatives Steel, Bell

For An Act To Be Entitled

AN ACT TO REGULATE THE USE OF AUTOMATIC LICENSE PLATE
READER SYSTEMS; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE THE USE OF AUTOMATIC LICENSE
PLATE READER SYSTEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 12, Chapter 12, is amended to add an
additional subchapter to read as follows:

SUBCHAPTER 18

– Use of Automatic License Plate Reader Systems

12-12-1801. Title.

This subchapter is known and may be cited as the "Automatic License
Plate Reader System Act".

12-12-1802. Definitions.

As used in this subchapter:

(1) "Alert" means data held by the Office of Motor Vehicle, the
Arkansas Crime Information Center including without limitation the Arkansas
Crime Information Center's Missing Persons database, the National Crime
Information Center, and the Federal Bureau of Investigation Kidnappings and
Missing Persons database;

(2) "Automatic license plate reader system" means a system of
one (1) or more mobile or fixed automated high-speed cameras used in



1 combination with computer algorithms to convert images of license plates into
2 computer-readable data;

3 (3) "Captured plate data" means the global positioning device
4 coordinates, date and time, photograph, license plate number, and any other
5 data captured by or derived from any automatic license plate reader system;

6 (4) "Governmental entity" means a lawfully created branch,
7 department, or agency of the federal, state, or local government; and

8 (5) "Secured area" means an area, enclosed by clear boundaries,
9 to which access is limited and not open to the public, and entry is
10 obtainable only through specific access-control points.

11
12 12-12-1803. Restrictions on use.

13 (a) Except as provided in subsection (b) of this section, it is
14 unlawful for an individual, partnership, corporation, association, or the
15 State of Arkansas, its agencies, and political subdivisions to use an
16 automatic license plate reader system.

17 (b) An automatic license plate reader system may be used:

18 (1) By a state, county, or municipal law enforcement agency for
19 the comparison of captured plate data with data held by the Office of Motor
20 Vehicle, the Arkansas Crime Information Center, the National Crime
21 Information Center, a database created by law enforcement for the purposes of
22 an ongoing investigation, and the Federal Bureau of Investigation for the
23 purpose of identifying:

24 (A) An outstanding parking or traffic violation;

25 (B) An unregistered or uninsured vehicle;

26 (C) A vehicle in violation of any other vehicle
27 registration requirement;

28 (D) A vehicle registered to an individual for whom there
29 is an outstanding warrant; or

30 (E) A vehicle associated with a missing person;

31 (2) By parking enforcement entities for regulating the use of
32 parking facilities; or

33 (3) For the purpose of controlling access to secured areas.

34
35 12-12-1804. Protections.

36 (a) Captured plate data obtained for the purposes described under §

12-12-1803(b) shall not be used or shared for any other purpose and shall not be preserved for more than thirty (30) days.

(b) Captured plate data obtained by an entity under § 12-12-1803(b)(1) may be retained as part of an ongoing investigation and shall be destroyed at the conclusion of either:

(1) An investigation that does not result in any criminal charges being filed; or

(2) Any criminal action undertaken in the matter involving the captured plate data.

(c) A governmental entity that uses an automatic license plate reader system under § 12-12-1803(b)(1) shall update the captured plate data collected under this subchapter every twenty-four (24) hours if updates are available.

(d)(1) Except as provided under subdivision (d)(2) of this section, a governmental entity authorized to use an automatic license plate reader system under § 12-12-1803(b) shall not sell, trade, or exchange captured plate data for any purpose.

(2) Captured plate data obtained by a law enforcement agency under § 12-12-1803(b)(1) may be shared with other law enforcement agencies.

12-12-1805. Preservation and access.

(a)(1) Upon the request of a governmental entity, an operator of an automatic license plate reader system shall take all necessary steps to preserve captured plate data in its possession fourteen (14) days pending the issuance of a court order under subsection (b) of this section.

(2) A requesting governmental entity must specify in a written sworn statement:

(A) Either the particular:

(i) Camera or cameras for which captured plate data must be preserved; or

(ii) License plate for which captured plate data must be preserved; and

(B) The date or dates and time frames for which captured plate data must be preserved.

(b) A governmental entity may apply for a court order for disclosure of captured plate data which shall be issued by a court of competent

1 jurisdiction if the governmental entity offers specific and articulable facts
2 showing that there are reasonable grounds to believe that the captured plate
3 data is relevant and material to an ongoing criminal or missing persons
4 investigation.

5 (c) Captured plate data shall be destroyed if the application for an
6 order under subsection (b) of this section is denied or at the end of
7 fourteen (14) days, whichever is later.

8
9 12-12-1806. Practice and usage data preservation.

10 (a) An entity that uses an automatic license plate reader system under
11 § 12-12-1803(b) shall:

12 (1) Compile statistical data identified in subsection (b) of
13 this section every six (6) months into a format sufficient to allow the
14 general public to review the compiled data; and

15 (2) Preserve the compiled data for eighteen months.

16 (b) The preserved data shall include:

17 (1) The number of license plates scanned;

18 (2)(A) The names of the lists against which captured plate data
19 were checked;

20 (3) For each check of captured plate data against a list:

21 (A) The number of confirmed matches;

22 (B) The number of matches that upon further investigation
23 did not correlate to an alert; and

24 (C) The number of matches that resulted in arrest and
25 prosecution;

26 (4) The number of preservation requests received under § 12-12-
27 1805(a);

28 (5) The number of preservation requests issued under § 12-12-
29 1805(a), if applicable;

30 (6) The number of disclosure orders received under § 12-12-
31 1805(b);

32 (7) The number of disclosure orders applied for under § 12-12-
33 1805(b), if applicable, broken down by:

34 (A) The number of applications for disclosure orders that
35 were denied; and

36 (B) The number of orders for disclosure that resulted in

1 arrest and prosecution; and

2 (8)(A) Promulgate rules and policies concerning the manner and
3 method of obtaining, retaining, and destroying captured plate data,
4 including, without limitation, specific rules and policies concerning
5 retention of material in excess of thirty (30) days under § 12-12-1803(b),
6 and make those rules and policies available for public inspection.

7 (B) Failure to comply with subdivision (b)(8)(A) of this
8 section shall be grounds for a court of competent jurisdiction to exclude any
9 evidence obtained under this subchapter.

10
11 12-12-1807. Use of data and data-derived evidence.

12 Captured plate data and evidence derived from it shall not be received
13 in evidence in any trial, hearing, or other proceeding before any court,
14 grand jury, department, officer, agency, regulatory body, legislative
15 committee, or other authority of the state or a political subdivision of the
16 state if the disclosure of that information would be in violation of this
17 subchapter.

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19 12-12-1808. Penalties.

20 (a) A person who violates this subchapter shall be subject to legal
21 action for damages to be brought by any other person claiming that a
22 violation of this subchapter has injured his or her business, person, or
23 reputation.

24 (b) A person so injured shall be entitled to actual damages, or
25 liquidated damages of one thousand dollars (\$1,000), whichever is greater and
26 other costs of litigation.

27
28 12-12-1809. Privacy.

29 (a)(1) Captured plate data or data obtained from the Office of Motor
30 Vehicle are not public record for purposes of the Freedom of Information Act
31 of 1967, § 25-19-101 et seq., and may be disclosed only:

32 (A) To the person to whom the vehicle is registered;

33 (B) After the written consent of the person to whom the
34 vehicle is registered; or

35 (C) If the disclosure of the data is permitted by the
36 Driver Privacy Protection Act of 1994, 18 U.S.C. § 2721 et seq., as it

1 existed on January 1, 2013.

2 (2) Practice and usage data compiled and preserved under § 12-
3 12-1806 are a public record for purposes of the Freedom of Information Act of
4 1967, § 25-19-101 et seq.

5 (b) Upon the presentation to an appropriate governmental entity of a
6 valid, outstanding protection order protecting the driver of a vehicle
7 jointly registered with or registered solely in the name of the individual
8 against whom the order was issued, captured plate data shall not be disclosed
9 except under a disclosure order under § 12-12-1805(b) or as the result of a
10 match under § 12-12-1803(b).

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