

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H4/3/13 H4/6/13 S4/11/13 S4/12/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

HOUSE BILL 1996

4
5 By: Representatives Steel, Bell, *Leding, D. Meeks, Nickels, D. Whitaker, Wardlaw, Baine*

For An Act To Be Entitled

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

Subtitle

12 TO REGULATE THE USE OF AUTOMATIC LICENSE
14 PLATE READER SYSTEMS.

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code Title 12, Chapter 12, is amended to add an
20 additional subchapter to read as follows:

SUBCHAPTER 18

– Use of Automatic License Plate Reader Systems

12-12-1801. Title.

24
25 This subchapter is known and may be cited as the "Automatic License
26 Plate Reader System Act".

12-12-1802. Definitions.

As used in this subchapter:

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

35 (2) "Automatic license plate reader system" means a system of
36 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)(A) "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 (B) Captured plate data shall not include any personal
7 data;

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

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

13
14 12-12-1803. Restrictions on use.

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

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

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

26 (2) By parking enforcement entities for regulating the use of
27 parking facilities; or

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

29
30 12-12-1804. Protections.

31 (a) Captured plate data obtained for the purposes described under §
32 12-12-1803(b) shall not be used or shared for any other purpose and shall not
33 be preserved for more than one hundred fifty (150) days.

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

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

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

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

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

13 (2) Captured plate data obtained by a law enforcement agency
14 under § 12-12-1803(b)(1) that indicates evidence of an offense may be shared
15 with other law enforcement agencies.

16
17 12-12-1805. Practice and usage data preservation.

18 (a) An entity that uses an automatic license plate reader system under
19 § 12-12-1803(b) shall:

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

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

24 (b) The preserved data shall include:

25 (1) The number of license plates scanned;

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

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

29 (A) The number of confirmed matches;

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

32 (C) The number of matches that resulted in arrest and
33 prosecution; and

34 (4)(A) Promulgate rules and policies concerning the manner and
35 method of obtaining, retaining, and destroying captured plate data,
36 including, without limitation, specific rules and policies concerning

1 retention of material in excess of one hundred fifty (150) days under § 12-
2 12-1804(b), and make those rules and policies available for public
3 inspection.

4 (B) Failure to comply with subdivision (b)(4)(A) of this
5 section shall be grounds for a court of competent jurisdiction to exclude any
6 evidence obtained under this subchapter.

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8 12-12-1806. Use of data and data-derived evidence.

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

15
16 12-12-1807. Penalties.

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

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

24
25 12-12-1808. Privacy.

26 (a)(1) Captured plate data or data obtained from the Office of Motor
27 Vehicle may be disclosed only:

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

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

31 (C) If the disclosure of the data is permitted by the
32 Driver Privacy Protection Act of 1994, 18 U.S.C. § 2721 et seq., as it
33 existed on January 1, 2013.

34 (2) Practice and usage data compiled and preserved under § 12-
35 12-1806 are a public record for purposes of the Freedom of Information Act of
36 1967, § 25-19-101 et seq.

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

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/s/Steel