

HOUSE No. 3439

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to all-electronic tolling data privacy.

PETITION OF:

NAME:

William M. Straus

DISTRICT/ADDRESS:

10th Bristol

HOUSE No. 3439

By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 3439) of William M. Straus relative to the collection of all-electronic tolling data. Transportation.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to all-electronic tolling data privacy.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 1. As used throughout this act, the following words shall have the following
2 meanings, unless the context clearly requires otherwise:

3 "ALPR data" means any data captured, created or originated by an ALPR system,
4 including, without limitation, GPS coordinates, dates, times, images and license plate numbers,
5 existing in an any form or medium, whether electronic, paper or otherwise, and any copies
6 thereof;

7 "Automated license plate reader system" or "ALPR system" means an automated system
8 of one or more mobile or fixed high-speed cameras combined with computer algorithms to
9 convert images of license plates into computer-readable data;

10 "Department" means Massachusetts department of transportation;

11 "Preservation request" means written notice obtained by a federal, state or municipal law
12 enforcement agency or a defendant in a criminal case requesting that certain ALPR data be

13 preserved and retained for a specified period of time from the date such request is received;
14 provided, that such preservation request shall be accompanied by an affidavit stating: (i) the
15 parameters identifying which ALPR data must be preserved, including, without limitation, the
16 license plate numbers, if any, and the dates, times, and locations; and (ii) that such specified
17 period of time is necessary to obtain a search warrant or production order compelling the
18 production of such ALPR data;

19 “Production order” means an order or summons obtained by a defendant in a criminal
20 case charged with a felony requiring the department or an agent of the department to produce
21 ALPR data; provided, that such order or summons shall be issued in compliance with
22 Massachusetts Rule of Criminal Procedure 17(a)(2); provided further, that any ALPR data
23 produced in response to such order or summons shall be deemed privileged for the purposes of
24 complying therewith;

25 “Search warrant” means: (i) a federal search warrant issued upon a determination of
26 probable cause by a court or justice authorized to issue warrants in criminal cases that meets the
27 requirements of the Federal Rules of Criminal Procedure; or (ii) a state search warrant issued
28 pursuant to the requirements of sections 2 through 3A, inclusive, of chapter 276 by a court or
29 justice authorized to issue warrants in criminal cases.

30

31 Section 2. Notwithstanding any general or special law or regulation to the contrary, the
32 department, and any agent acting on its behalf, shall not access, search, review, disclose, or
33 exchange ALPR data in its possession, custody, or control; provided, however, that the
34 department or an agent thereof may:

35 (a) access, search, review or disclose ALPR data for the purpose of assessing, collecting
36 or pursuing tolls, parking fees, or fines or surcharges related to unpaid tolls or parking fees;

37 (b) access, search, or review ALPR data as necessary to install, maintain or repair an
38 ALPR system or a system storing ALPR data;

39 (c) access, search, review, disclose or exchange ALPR data as necessary to respond to a
40 reasonable belief that an individual is at imminent risk of serious physical injury, death or
41 abduction; provided, that not later than 48 hours after responding, the department shall provide
42 written notice to the office of the attorney general describing with particularity the grounds for
43 such emergency access and the parameters of the ALPR data accessed, searched, reviewed or
44 disclosed; or

45 (d) access, search, review or disclose ALPR data as necessary to comply with a search
46 warrant, production order, or preservation request issued in connection with the investigation or
47 prosecution of a felony.

48 Section 3. (a) Notwithstanding any general or special law or regulation to the contrary,
49 and subject to subsection (b), the department shall permanently erase or destroy, or cause to be
50 permanently erased or destroyed, all ALPR data in its possession, custody, or control not later
51 than 120 days following the date on which the ALPR data was created.

52 (b) The department may retain ALPR data beyond the 120-day period established under
53 subsection (a) as necessary to comply with a search warrant, production order, or preservation
54 request, or as necessary to collect unpaid tolls, parking fees, or fines or surcharges related to
55 unpaid tolls or parking fees.