

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1144

By: Dahm

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6 AS INTRODUCED

7 An Act relating to license plates; creating the
8 "Automatic License Plate Reader Privacy Act";
9 providing definitions; prohibiting certain use of
10 automatic license plate reader systems; providing
11 exceptions to restrictions; prescribing certain
12 preservation and access; stipulating reporting
13 requirements; requiring certain compliance; defining
14 penalties; requiring certain privacy; stating certain
15 severability; providing for codification; and
16 providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1139.2 of Title 47, unless there
20 is created a duplication in numbering, reads as follows:

21 This act shall be known and cited as the "Automatic License
22 Plate Reader Privacy Act".

23 SECTION 2. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 1139.3 of Title 47, unless there
is created a duplication in numbering, reads as follows:

Definitions.

1 A. "Automatic License Plate Reader system" shall mean a system
2 of one or more mobile or fixed automated high-speed cameras used in
3 combination with computer algorithms to convert images of license
4 plates into computer-readable data.

5 B. "Captured plate data" shall mean the GPS coordinates, date
6 and time, photograph, license plate number and any other data
7 captured by or derived from any automatic license plate reader
8 system.

9 C. "Secured area" shall mean an area, enclosed by clear
10 boundaries, to which access is limited and not open to the public
11 and entry is only obtainable through specific access-control points.

12 D. "Alert" shall mean data held by the Department of Motor
13 Vehicles, the state Criminal Justice Information System, the
14 National Crime Information Center, the FBI Kidnappings and Missing
15 Persons list, Oklahoma Missing Persons list, and license plate
16 numbers that have been manually entered into the automatic license
17 plate reader system upon an officer's determination that the
18 vehicles or individuals associated with the license plate numbers
19 are relevant and material to an ongoing criminal or missing persons
20 investigation.

21 E. "Government entity" shall mean a department or agency of the
22 state or a political subdivision thereof, or an individual acting
23 for or on behalf of the state or a political subdivision thereof.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1139.4 of Title 47, unless there
3 is created a duplication in numbering, reads as follows:

4 Restrictions on use.

5 A. Except as provided for in paragraph B of this section, it
6 shall be unlawful for any person acting under color of state law to
7 use an automatic license plate reader system.

8 B. An automatic license plate reader system may be used by a
9 person acting under color of state law as follows:

10 1. By state, county or municipal law enforcement agencies for
11 the comparison of captured plate data with data held by the
12 Department of Public Safety, the state Criminal Justice Information
13 System, the National Crime Information Center, the FBI Kidnappings
14 and Missing Persons list, Oklahoma Missing Persons list, and license
15 plate numbers that have been manually entered into the automatic
16 license plate reader system upon an officer's determination that the
17 vehicles or individuals associated with the license plate numbers
18 are relevant and material to an ongoing criminal or missing persons
19 investigation for the purpose of identifying:

- 20 a. outstanding parking or traffic violations,
- 21 b. an unregistered or uninsured vehicle,
- 22 c. a vehicle in violation of the inspection requirements
23 set forth in section 1113 of this title,

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- d. a vehicle in violation of any other vehicle registration requirement,
- e. a vehicle registered to an individual for whom there is an outstanding felony warrant,
- f. a vehicle associated with a missing person,
- g. a vehicle that has been reported as stolen, or
- h. a vehicle that is relevant and material to an ongoing criminal investigation.

2. By parking enforcement entities for regulating the use of parking facilities;

3. For the purpose of controlling access to secured areas; or

4. For the purpose of electronic toll collection.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1139.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

Protections.

A. Captured plate data obtained for the purposes described in paragraph B of Section 3 of this act shall not be used or shared for any other purpose and shall not be retained except:

1. As evidence under paragraph B of Section 3 of this act;

2. Pursuant to a preservation request pursuant to paragraph A of Section 5 of this act;

3. Pursuant to a disclosure order under paragraph B of Section 5 of this act;

1 4. Pursuant to a warrant issued using the procedures described
2 in the Federal Rules of Criminal Procedure or according to Section
3 1230 of Title 22 of the Oklahoma State Statutes; or

4 5. As part of an ongoing investigation provided that captured
5 plate data is confirmed as matching an alert and is destroyed at the
6 conclusion of either:

7 a. an investigation that does not result in any criminal
8 charges being filed, or

9 b. any criminal action undertaken in the matter involving
10 the captured plate data.

11 B. Any governmental entity that uses automatic license plate
12 reader systems pursuant to paragraph B of Section 3 of this act must
13 update those systems from the databases enumerated in paragraph B of
14 Section 3 at the beginning of each work shift if such updates are
15 available.

16 C. Any governmental entity that uses automatic license plate
17 readers systems pursuant to paragraph B of Section 3 of this act may
18 manually enter license plate numbers into the automatic license
19 plate reader system only when an officer determines that the vehicle
20 or individuals associated with the license plate number are relevant
21 and material to an ongoing criminal or missing persons investigation
22 and subject to the following limitations:

23 1. Any manual entry must document the reason for the entry; and
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1 2. Manual entries must be automatically purged at the end of
2 each shift.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1139.6 of Title 47, unless there
5 is created a duplication in numbering, reads as follows:

6 Preservation and Access.

7 A. Preservation Request.

8 1. An operator of an automatic license plate reader system,
9 upon the request of a governmental entity or a defendant in a
10 criminal case, shall take all necessary steps to preserve captured
11 plate data in its possession for fourteen (14) days pending the
12 issuance of a court order under paragraph B of Section 5.

13 2. A requesting governmental entity or defendant in a criminal
14 case must specify in a written sworn statement:

15 a. the particular camera or cameras for which captured
16 plate data must be preserved or the particular license
17 plate for which captured plate data must be preserved,
18 and

19 b. the date or dates and timeframes for which captured
20 plate data must be preserved.

21 B. A governmental entity or defendant in a criminal case may
22 apply for a court order for disclosure captured plate data, which
23 shall be issued by any court of competent jurisdiction if the
24 governmental entity or defendant in a criminal case offers specific

1 and articulable facts showing there are reasonable grounds to
2 believe the captured plate data is relevant and material to an
3 ongoing criminal or missing persons investigation or criminal
4 prosecution or defense.

5 C. Captured plate data held by a governmental entity shall be
6 destroyed if the application for an order under paragraph B of this
7 section is denied or at the end of fourteen (14) days, whichever is
8 later.

9 D. A governmental entity may obtain, receive, or use privately-
10 held captured plate data only pursuant to a warrant issued using the
11 procedures described in the Federal Rules of Criminal Procedure or
12 according to Section 1230 of Title 22 of the Oklahoma Statutes or
13 the procedure described in paragraph B of this section, and only if
14 the private automatic license plate reader system retains captured
15 plate data for fourteen (14) days or fewer.

16 SECTION 6. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1139.7 of Title 47, unless there
18 is created a duplication in numbering, reads as follows:

19 Reporting.

20 Any governmental entity that uses automatic license plate reader
21 systems pursuant to paragraph B of Section 3 of this act shall:

22 1. Adopt a policy governing use of the system and conspicuously
23 post the policy on the governmental entity's Internet website;

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1 2. Adopt a privacy policy to ensure that captured plate data is
2 not shared in violation of this act or any other law, conspicuously
3 post the privacy policy on the governmental entity's Internet
4 website; and

5 3. Report annually on its automatic license plate reader
6 practices and usage to the state or local body that governs the
7 governmental entity. The report must also be conspicuously posted
8 on the governmental entity's Internet website. The report shall
9 include:

- 10 a. the number of license plates scanned,
- 11 b. the names of lists against which captured plate data
12 was checked, and the number of confirmed matches and
13 the number of matches that upon further investigation
14 did not correlate to an alert,
- 15 c. the number of matches that resulted in arrest and
16 prosecution,
- 17 d. the number of preservation requests received under
18 paragraph A of Section 5 of this act,
- 19 e. the number of preservation requests issued under
20 paragraph A of Section 5 of this act, broken down by
21 the number of preservation requests issued to other
22 governmental entities and the number of preservation
23 requests issued to private automatic license plate
24 reader systems,

- 1 f. the number of disclosure orders received under
2 paragraph B of Section 5 of this act,
- 3 g. the number of disclosure orders applied for under
4 paragraph B of Section 5 of this act, broken down by:
- 5 (i) the number of applications for disclosure orders
6 to governmental entities under paragraph B of
7 Section 5 of this act that were denied,
- 8 (ii) the number of orders for disclosure to
9 governmental entities under paragraph B of
10 Section 5 of this act resulting in arrest and
11 prosecution,
- 12 (iii) the number of applications for disclosure orders
13 to private automatic license plate reader systems
14 under paragraph B of Section 5 of this act that
15 were denied, and
- 16 (iv) the number of orders for disclosure to private
17 automatic license plate reader systems under
18 paragraph B of Section 5 resulting in arrest and
19 prosecution,
- 20 h. the number of manually-entered license plate numbers
21 under paragraph C of Section 4 of this act, broken
22 down by reason justifying the entry, and the number of
23 confirmed matches and the number of matches that upon
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1 further investigation did not correlate to an alerts,
2 and

3 i. any changes in policy that affect privacy concerns.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1139.8 of Title 47, unless there
6 is created a duplication in numbering, reads as follows:

7 No captured plate data and no evidence derived therefrom may be
8 received in evidence in any trial, hearing, or other proceeding in
9 or before any court, grand jury, department, officer, agency,
10 regulatory body, legislative committee, or other authority of the
11 State of Oklahoma, or a political subdivision thereof, if the
12 disclosure of that information would be in violation of this act.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1139.9 of Title 47, unless there
15 is created a duplication in numbering, reads as follows:

16 Penalties.

17 A. Any person who violates the provisions of this act shall be
18 subject to legal action for damages, to be brought by any other
19 person claiming that a violation of this act has injured his
20 business, his person, or his reputation. A person so injured shall
21 be entitled to actual damages, including mental pain and suffering
22 endured by him on account of violation of the provisions of this
23 act, or liquidated damages of One Thousand Dollars (\$1,000.00), and
24 a reasonable attorney fee and other costs of litigation.

1 B. Any person who violates Section 3 of this act is guilty of a
2 misdemeanor.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1139.10 of Title 47, unless
5 there is created a duplication in numbering, reads as follows:

6 Privacy.

7 A. Captured plate data is not considered a public record for
8 the purposes of the Oklahoma Open Records Act and may only be
9 disclosed to the person to whom the vehicle is registered, or with
10 the prior written consent of the person to whom the vehicle is
11 registered.

12 B. Upon the presentation to an appropriate governmental entity
13 of a valid, outstanding protection order protecting the driver of a
14 vehicle jointly registered with or registered solely in the name of
15 the individual against whom the order was issued, captured plate
16 data may not be disclosed except pursuant to a disclosure order
17 under paragraph B of Section 5 of this act or as a result of a match
18 pursuant to paragraph B of Section 3 of this act.

19 SECTION 10. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1139.11 of Title 47, unless
21 there is created a duplication in numbering, reads as follows:

22 Severability.

23 The provisions in this act are severable. If any part or
24 provision of this act, or the application of this act to any person,

1 entity, or circumstance, is held invalid, the remainder of this act,
2 including the application of such part or provision to other
3 persons, entities, or circumstances, shall not be affected by such
4 holding and shall continue to have force and effect.

5 SECTION 11. This act shall become effective November 1, 2016.

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