

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1144

By: Dahm of the Senate

and

Walker of the House

6
7
8
9 COMMITTEE SUBSTITUTE

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

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

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

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

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

4 Definitions.

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

9 B. "Captured plate data" shall mean the GPS coordinates, date
10 and time, photograph, license plate number and any other data
11 captured by or derived from any automatic license plate reader
12 system.

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

16 D. "Alert" shall mean data held by the Department of Motor
17 Vehicles, the state Criminal Justice Information System, the
18 National Crime Information Center, the FBI Kidnappings and Missing
19 Persons list, Oklahoma Missing Persons list, and license plate
20 numbers captured by the automatic license plate reader system that
21 are relevant and material to an ongoing criminal or missing persons
22 investigation.

23

24

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

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

7 Restrictions on use.

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

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

13 1. By state, county or municipal law enforcement agencies for
14 the comparison of captured plate data with data held by the
15 Department of Public Safety, the state Criminal Justice Information
16 System, the National Crime Information Center, the FBI Kidnappings
17 and Missing Persons list, Oklahoma Missing Persons list, and license
18 plate numbers captured by the automatic license plate reader system
19 that are relevant and material to an ongoing criminal or missing
20 persons investigation for the purpose of identifying:

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

- 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; or

1 4. As part of an ongoing investigation provided that captured
2 plate data is confirmed as matching an alert and is destroyed at the
3 conclusion of an investigation that does not result in any criminal
4 charges being filed action undertaken in the matter involving the
5 captured plate data.

6 B. Any governmental entity that uses automatic license plate
7 reader systems pursuant to paragraph B of Section 3 of this act must
8 update those systems from the databases enumerated in paragraph B of
9 Section 3 at the beginning of each work shift if such updates are
10 available.

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

14 Preservation and Access.

15 A. Preservation Request.

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

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

23 a. the particular camera or cameras for which captured
24 plate data must be preserved or the particular license

1 plate for which captured plate data must be preserved,
2 and

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

5 B. A governmental entity or defendant in a criminal case may
6 apply for a court order for disclosure of captured plate data, which
7 shall be issued by any court of competent jurisdiction if the
8 governmental entity or defendant in a criminal case offers specific
9 and articulable facts showing there are reasonable grounds to
10 believe the captured plate data is relevant and material to an
11 ongoing criminal or missing persons investigation or criminal
12 prosecution or defense.

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

17 D. A governmental entity may use captured plate data when it is
18 relevant and material to an ongoing criminal or missing persons
19 investigation.

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

23 Reporting.
24

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

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

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

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

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

1 the number of preservation requests issued to other
2 governmental entities and the number of preservation
3 requests issued to private automatic license plate
4 reader systems,

5 f. the number of disclosure orders received under
6 paragraph B of Section 5 of this act,

7 g. the number of disclosure orders applied for under
8 paragraph B of Section 5 of this act, broken down by:

9 (i) the number of applications for disclosure orders
10 to governmental entities under paragraph B of
11 Section 5 of this act that were denied,

12 (ii) the number of orders for disclosure to
13 governmental entities under paragraph B of
14 Section 5 of this act resulting in arrest and
15 prosecution,

16 (iii) the number of applications for disclosure orders
17 to private automatic license plate reader systems
18 under paragraph B of Section 5 of this act that
19 were denied, and

20 (iv) the number of orders for disclosure to private
21 automatic license plate reader systems under
22 paragraph B of Section 5 resulting in arrest and
23 prosecution,

24

- 1 h. the number of license plate numbers confirmed matches
2 and the number of matches that upon further
3 investigation did not correlate to an alerts, and
4 i. any changes in policy that affect privacy concerns.

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

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

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

17 Penalties.

18 A. Any person who violates the provisions of this act shall be
19 subject to legal action for damages, to be brought by any other
20 person claiming that a violation of this act has injured his or her
21 business, person or reputation. A person so injured shall be
22 entitled to actual damages, including mental pain and suffering
23 endured by him or her on account of violation of the provisions of
24

1 this act, or liquidated damages of One Thousand Dollars (\$1,000.00),
2 and a reasonable attorney fee and other costs of litigation.

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

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

8 Privacy.

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

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

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

24 Severability.

1 The provisions in this act are severable. If any part or
2 provision of this act, or the application of this act to any person,
3 entity, or circumstance, is held invalid, the remainder of this act,
4 including the application of such part or provision to other
5 persons, entities, or circumstances, shall not be affected by such
6 holding and shall continue to have force and effect.

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

8
9 55-2-3125 BH 2/18/2016 12:05:34 PM

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24