

1 **SENATE FLOOR VERSION**

2 February 18, 2016

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1144

By: Dahm of the Senate

and

Walker of the House

6
7
8
9 An Act relating to license plates; creating the
10 "Automatic License Plate Reader Privacy Act";
11 providing definitions; prohibiting certain use of
12 automatic license plate reader systems; providing
13 exceptions to restrictions; prescribing certain
14 preservation and access; stipulating reporting
15 requirements; requiring certain compliance; defining
16 penalties; requiring certain privacy; stating certain
17 severability; providing for codification; and
18 providing an effective date.

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

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

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

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

1 Definitions.

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

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

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

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

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

23

24

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 captured by the automatic license plate reader system
16 that are relevant and material to an ongoing criminal or missing
17 persons investigation for the purpose of identifying:

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

24

- 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

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

1 conclusion of an investigation that does not result in any criminal
2 charges being filed action undertaken in the matter involving the
3 captured plate data.

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

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

12 Preservation and Access.

13 A. Preservation Request.

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

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

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

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

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

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

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

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

21 Reporting.

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

24

- 1 1. Adopt a policy governing use of the system and conspicuously
2 post the policy on the governmental entity's Internet website;
- 3 2. Adopt a privacy policy to ensure that captured plate data is
4 not shared in violation of this act or any other law, conspicuously
5 post the privacy policy on the governmental entity's Internet
6 website; and
- 7 3. Report annually on its automatic license plate reader
8 practices and usage to the state or local body that governs the
9 governmental entity. The report must also be conspicuously posted
10 on the governmental entity's Internet website. The report shall
11 include:
- 12 a. the number of license plates scanned,
 - 13 b. the names of lists against which captured plate data
14 was checked, and the number of confirmed matches and
15 the number of matches that upon further investigation
16 did not correlate to an alert,
 - 17 c. the number of matches that resulted in arrest and
18 prosecution,
 - 19 d. the number of preservation requests received under
20 paragraph A of Section 5 of this act,
 - 21 e. the number of preservation requests issued under
22 paragraph A of Section 5 of this act, broken down by
23 the number of preservation requests issued to other
24 governmental entities and the number of preservation

1 requests issued to private automatic license plate
2 reader systems,

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

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

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

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

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

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

22 h. the number of license plate numbers confirmed matches
23 and the number of matches that upon further
24 investigation did not correlate to an alerts, and

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

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

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

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

14 Penalties.

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

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

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

4 Privacy.

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

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

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

20 Severability.

21 The provisions in this act are severable. If any part or
22 provision of this act, or the application of this act to any person,
23 entity, or circumstance, is held invalid, the remainder of this act,
24 including the application of such part or provision to other

1 persons, entities, or circumstances, shall not be affected by such
2 holding and shall continue to have force and effect.

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

4 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
5 February 18, 2016 - DO PASS AS AMENDED
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24