

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE RECOMMENDATION
4 FOR ENGROSSED

5 SENATE BILL NO. 1144

6 By: Dahm of the Senate

7 and

8 Walker of the House

9 SUBCOMMITTEE RECOMMENDATION

10 An Act relating to motor vehicles; creating the
11 Automatic License Plate Reader Privacy Act;
12 authorizing certain cite; defining terms; prohibiting
13 use of automatic license plate reader systems;
14 providing exceptions; creating misdemeanor for
15 violations; providing maximum fine amount;
16 prohibiting use, sharing or retention of captured
17 plate data; providing exceptions; requiring systems
18 updates at certain intervals; limiting authority for
19 manual entry of license plate numbers into system;
20 providing additional requirements related to manual
21 entry; making certain requirements of system
22 operators related to data preservation; requiring
23 certain statements be written and sworn; authorizing
24 application for certain data disclosures; providing
standards; requiring certain data destruction;
authorizing and limiting the use of certain captured
data by government entities; requiring certain
policies be adopted; requiring certain annual
reports; requiring certain information be included in
reports; exempting from requirements and limitations
system use by ports of entry and weigh stations;
providing certain requirements and limitations on
system use by ports of entry and weigh stations;
allowing for the sharing of certain data between
agencies; prohibiting use of certain data as evidence
in state or political subdivision proceedings;
providing cause of action for violations of this act;
allowing for certain damages, attorney fees and

1 costs; excluding captured plate data from public
2 record; limiting disclosure of captured plate data;
3 providing for codification; and providing an
4 effective date.

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

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

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

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

14 As used in the Automatic License Plate Reader Privacy Act:

15 1. "Automatic license plate reader system" means a system of
16 one or more mobile or fixed automated high-speed cameras used in
17 combination with computer algorithms to convert images of license
18 plates into computer-readable data;

19 2. "Captured plate data" means the GPS coordinates, date and
20 time, photograph, license plate number and any other data captured
21 by or derived from any automatic license plate reader system;

22 3. "Secured area" means an area, enclosed by clear boundaries,
23 to which access is limited and not open to the public and entry is
24 only obtainable through specific access-control points;

1 4. "Alert" means data held by the Department of Motor Vehicles,
2 the state Criminal Justice Information System, the National Crime
3 Information Center, the FBI Kidnappings and Missing Persons list,
4 Oklahoma Missing Persons list, and license plate numbers that have
5 been manually entered into the automatic license plate reader system
6 upon an officer's determination that the vehicles or individuals
7 associated with the license plate numbers are relevant and material
8 to an ongoing criminal or missing persons investigation; and

9 5. "Governmental entity" means a department or agency of the
10 state or a political subdivision thereof, or an individual acting
11 for or on behalf of the state or a political subdivision thereof.

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

15 A. Except as provided in subsection B of this section or as
16 provided in Section 7 of this act, it shall be unlawful for any
17 person acting on behalf of a governmental entity to use an automatic
18 license plate reader system.

19 B. An automatic license plate reader system may be used by a
20 person acting on behalf of a governmental entity as follows:

21 1. By state, county or municipal law enforcement agencies for
22 the comparison of captured plate data with data held by the
23 Department of Public Safety, the state Criminal Justice Information
24 System, the National Crime Information Center, the FBI Kidnappings

1 and Missing Persons list, Oklahoma Missing Persons list, and license
2 plate numbers that have been manually entered into the automatic
3 license plate reader system upon an officer's determination that the
4 vehicles or individuals associated with the license plate numbers
5 are relevant and material to an ongoing criminal or missing persons
6 investigation for the purpose of identifying:

- 7 a. outstanding parking or traffic violations,
- 8 b. an unregistered or uninsured vehicle,
- 9 c. a vehicle in violation of the inspection requirements
10 set forth in Section 1113 of Title 47 of the Oklahoma
11 Statutes,
- 12 d. a vehicle in violation of any other vehicle
13 registration requirement,
- 14 e. a vehicle registered to an individual for whom there
15 is an outstanding felony warrant,
- 16 f. a vehicle associated with a missing person,
- 17 g. a vehicle that has been reported as stolen, or
18 h. a vehicle that is relevant and material to an ongoing
19 criminal investigation;

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

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

23 4. For the purpose of electronic toll collection.

24

1 C. Any person convicted of violating any provision of this
2 section shall be guilty of a misdemeanor and upon conviction shall
3 be punished by a fine not to exceed Five Hundred Dollars (\$500.00).

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

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

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

11 2. Pursuant to a preservation request pursuant to subsection A
12 of Section 5 of this act;

13 3. Pursuant to a disclosure order under subsection B of Section
14 5 of this act;

15 4. Pursuant to a warrant issued using the procedures described
16 in the Federal Rules of Criminal Procedure or according to Section
17 1230 of Title 22 of the Oklahoma Statutes; or

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

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

23 b. any criminal action undertaken in the matter involving
24 the captured plate data.

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

6 C. Any governmental entity that uses automatic license plate
7 reader systems pursuant to subsection B of Section 3 of this act may
8 manually enter license plate numbers into the automatic license
9 plate reader system only when an officer determines that the vehicle
10 or individuals associated with the license plate number are relevant
11 and material to an ongoing criminal or missing persons investigation
12 and subject to the following limitations:

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

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

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

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

3 a. the particular camera or cameras for which captured
4 plate data must be preserved or the particular license
5 plate for which captured plate data must be preserved,
6 and

7 b. the date or dates and time frames for which captured
8 plate data must be preserved.

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

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

21 D. A governmental entity may obtain, receive, or use privately
22 held captured plate data only pursuant to a warrant issued using the
23 procedures described in the Federal Rules of Criminal Procedure or
24 according to Section 1230 of Title 22 of the Oklahoma Statutes or

1 the procedure described in subsection B of this section, and only if
2 the private automatic license plate reader system retains captured
3 plate data for fourteen (14) days or fewer.

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

7 Any governmental entity that uses automatic license plate reader
8 systems pursuant to subsection B of Section 3 of this act shall:

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

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

15 3. Report annually on its automatic license plate reader
16 practices and usage to the state or local body that governs the
17 governmental entity. The report must be conspicuously posted on the
18 governmental entity's Internet website. The report shall include:

- 19 a. the number of license plates scanned,
- 20 b. the names of lists against which captured plate data
21 was checked, and the number of confirmed matches and
22 the number of matches that upon further investigation
23 did not correlate to an alert,

24

- 1 c. the number of matches that resulted in arrest and
2 prosecution,
- 3 d. the number of preservation requests received under
4 subsection A of Section 5 of this act,
- 5 e. the number of preservation requests issued under
6 subsection A of Section 5 of this act, broken down by
7 the number of preservation requests issued to other
8 governmental entities and the number of preservation
9 requests issued to private automatic license plate
10 reader systems,
- 11 f. the number of disclosure orders received under
12 subsection B of Section 5 of this act,
- 13 g. the number of disclosure orders applied for under
14 subsection B of Section 5 of this act, broken down by:
- 15 (1) the number of applications for disclosure orders
16 to governmental entities under subsection B of
17 Section 5 of this act that were denied,
- 18 (2) the number of orders for disclosure to
19 governmental entities under subsection B of
20 Section 5 of this act resulting in arrest and
21 prosecution,
- 22 (3) the number of applications for disclosure orders
23 to private automatic license plate reader systems
24

1 under subsection B of Section 5 of this act that
2 were denied, and

3 (4) the number of orders for disclosure to private
4 automatic license plate reader systems under
5 subsection B of Section 5 of this act resulting
6 in arrest and prosecution,

7 h. the number of manually entered license plate numbers
8 under subsection C of Section 4 of this act, broken
9 down by reason justifying the entry, and the number of
10 confirmed matches and the number of matches that upon
11 further investigation did not correlate to an alert,
12 and

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

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

17 A. The use by a state agency of an automatic license plate
18 reader system in conjunction with the operation of a port of entry
19 or weigh station, as defined in Section 1201 of Title 47 of the
20 Oklahoma Statutes, for the purpose of enforcing motor carrier or
21 commercial motor vehicle requirements is exempted from the
22 requirements set forth in Sections 3 through 6 of this act, except
23 as provided in this section.

1 B. Any state agency using automatic license plate reader
2 systems at a port of entry or weigh station for the purpose
3 described in subsection A of this section shall retain captured
4 plate data in a secured system for no longer than one (1) year with
5 the exception of data required for use as evidence in an
6 administrative investigation or proceeding to enforce motor carrier
7 or commercial motor vehicle requirements. Captured plate data
8 retained longer than one (1) year under this exception shall be
9 deleted in accordance with Oklahoma Records Management Act
10 provisions applicable to documents utilized in administrative
11 investigations or proceedings.

12 C. Any state agency using automatic license plate reader
13 systems at a port of entry or weigh station for the purpose
14 described in subsection A of this section may share captured plate
15 data with any other Oklahoma state agency involved in the operation
16 of ports of entry or weigh stations where the purpose of the
17 information sharing is the enforcement of motor carrier or
18 commercial motor vehicle requirements. If requested captured plate
19 data is to be used by the requesting agency for purposes other than
20 motor carrier or commercial vehicle enforcement or the captured
21 plate data is requested by a governmental entity not involved in the
22 operation of ports of entry or weigh stations, or if the captured
23 plate data is requested by an individual, the requirements set forth
24

1 in subsections A and B of Section 5 of this act shall apply to the
2 data request.

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

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

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

16 Any person who violates the provisions of this act shall be
17 subject to legal action for damages, to be brought by any other
18 person claiming that a violation of this act has injured such
19 person's business, person or reputation. A person so injured shall
20 be entitled to actual damages, including mental pain and suffering
21 endured by the person on account of a violation of the provisions of
22 this act, and a reasonable attorney fee and other costs of
23 litigation.

24

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

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

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

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

17
18
19
20
21
22
23
24

55-2-9685 GRS 03/31/16