

AUTOMATIC LICENSE PLATE READER SYSTEM

AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies the Traffic Code by amending provisions relating to automatic license plate reader systems.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ provides that the restrictions on the use of an automatic license plate reader system only apply to a governmental entity;
- ▶ provides that a governmental entity may obtain, receive, or use privately held captured plate data only:
 - pursuant to a warrant or a court order; and
 - if the private automatic license plate reader system retains captured plate data for 30 days or fewer; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-2002, as enacted by Laws of Utah 2013, Chapter 447

30 [41-6a-2003](#), as enacted by Laws of Utah 2013, Chapter 447

31 [41-6a-2004](#), as enacted by Laws of Utah 2013, Chapter 447

32 [41-6a-2005](#), as enacted by Laws of Utah 2013, Chapter 447

33

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **41-6a-2002** is amended to read:

36 **41-6a-2002. Definitions.**

37 As used in this section:

38 (1) "Automatic license plate reader system" means a system of one or more mobile or
39 fixed automated high-speed cameras used in combination with computer algorithms to convert
40 an image of a license plate into computer-readable data.

41 (2) "Captured plate data" means the global positioning system coordinates, date and
42 time, photograph, license plate number, and any other data captured by or derived from an
43 automatic license plate reader system.

44 (3) (a) "Governmental entity" [~~has the same meaning as defined in Section [63G-2-103](#);~~]
45 means:

46 (i) executive department agencies of the state;

47 (ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney
48 general, and the state treasurer;

49 (iii) the Board of Pardons and Parole;

50 (iv) the Board of Examiners;

51 (v) the National Guard;

52 (vi) the Career Service Review Office;

53 (vii) the State Board of Education;

54 (viii) the State Board of Regents;

55 (ix) the State Archives;

56 (x) the Office of the Legislative Auditor General;

57 (xi) the Office of Legislative Fiscal Analyst;

- 58 (xii) the Office of Legislative Research and General Counsel;
- 59 (xiii) the Legislature;
- 60 (xiv) legislative committees, except any political party, group, caucus, or rules or
- 61 sifting committee of the Legislature;
- 62 (xv) courts, the Judicial Council, the Office of the Court Administrator, and similar
- 63 administrative units in the judicial branch;
- 64 (xvi) any state-funded institution of higher education or public education; or
- 65 (xvii) any political subdivision of the state.
- 66 (b) "Governmental entity" includes:
- 67 (i) every office, agency, board, bureau, committee, department, advisory board, or
- 68 commission of an entity listed in Subsections (3)(a)(i) through (xvii) that is funded or
- 69 established by the government to carry out the public's business; or
- 70 (ii) a person acting as an agent of a governmental entity or acting on behalf of a
- 71 governmental entity.

72 (4) "Secured area" means an area, enclosed by clear boundaries, to which access is

73 limited and not open to the public and entry is only obtainable through specific access-control

74 points.

75 Section 2. Section **41-6a-2003** is amended to read:

76 **41-6a-2003. Automatic license plate reader systems -- Restrictions.**

77 (1) Except as provided in Subsection (2), a [~~person or~~] governmental entity may not

78 use an automatic license plate reader system.

79 (2) An automatic license plate reader system may be used:

80 (a) by a law enforcement agency for the purpose of protecting public safety, conducting

81 criminal investigations, or ensuring compliance with local, state, and federal laws;

82 (b) by a governmental parking enforcement entity for the purpose of enforcing state

83 and local parking laws;

84 (c) by a parking enforcement entity for regulating the use of a parking facility;

85 (d) for the purpose of controlling access to a secured area;

86 (e) for the purpose of collecting an electronic toll; or

87 (f) for the purpose of enforcing motor carrier laws.

88 Section 3. Section **41-6a-2004** is amended to read:

89 **41-6a-2004. Captured plate data -- Preservation and disclosure.**

90 (1) Captured plate data obtained for the purposes described in Section **41-6a-2003**:

91 (a) in accordance with Section **63G-2-305**, is a protected record under Title 63G,
92 Chapter 2, Government Records Access and Management Act, if the captured plate data is
93 maintained by a governmental entity;

94 (b) may not be used or shared for any purpose other than the purposes described in
95 Section **41-6a-2003**;

96 (c) may not be preserved for more than [~~30 days by a private entity or~~] nine months by
97 a governmental entity except pursuant to:

98 (i) a preservation request under Section **41-6a-2005**;

99 (ii) a disclosure order under Subsection **41-6a-2005(2)**; or

100 (iii) a warrant issued under the Utah Rules of Criminal Procedure or an equivalent
101 federal warrant; and

102 (d) may only be disclosed:

103 (i) in accordance with the disclosure requirements for a protected record under Section
104 **63G-2-202**;

105 (ii) pursuant to a disclosure order under Subsection **41-6a-2005(2)**; or

106 (iii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
107 equivalent federal warrant.

108 (2) (a) A [~~person or~~] governmental entity that is authorized to use an automatic license
109 plate reader system under this part may not sell captured plate data for any purpose.

110 (b) A [~~person or~~] governmental entity that is authorized to use an automatic license
111 plate reader system under this part may not share captured plate data for a purpose not
112 authorized under Subsection **41-6a-2003(2)**.

113 (c) Notwithstanding the provisions of this section, a governmental entity may preserve

114 and disclose aggregate captured plate data for planning and statistical purposes if the
115 information identifying a specific license plate is not preserved or disclosed.

116 Section 4. Section **41-6a-2005** is amended to read:

117 **41-6a-2005. Preservation request.**

118 (1) A person or governmental entity using an automatic license plate reader system
119 shall take all steps necessary to preserve captured plate data in its possession for 14 days after
120 the date the data is captured pending the issuance of a court order requiring the disclosure of
121 the captured plate data if a governmental entity or defendant in a criminal case requesting the
122 captured plate data submits a written statement to the person or governmental entity using an
123 automatic license plate reader system:

- 124 (a) requesting the person or governmental entity to preserve the captured plate data;
- 125 (b) identifying:
 - 126 (i) the camera or cameras for which captured plate data shall be preserved;
 - 127 (ii) the license plate for which captured plate data shall be preserved; or
 - 128 (iii) the dates and time frames for which captured plate data shall be preserved; and
- 129 (c) notifying the person or governmental entity maintaining the captured plate data that
130 the governmental entity or defendant in a criminal case is applying for a court order for
131 disclosure of the captured plate data.

132 (2) (a) A governmental entity or defendant in a criminal case may apply for a court
133 order for the disclosure of captured plate data.

134 (b) A court that is a court of competent jurisdiction shall issue a court order requiring
135 the disclosure of captured plate data if the governmental entity or defendant in a criminal case
136 offers specific and articulable facts showing that there are reasonable grounds to believe that
137 the captured plate data is relevant and material to an ongoing criminal or missing person
138 investigation.

139 (3) Captured plate data that is the subject of an application for a disclosure order under
140 Subsection (2) may be destroyed at the later of:

- 141 (a) the date that an application for an order under Subsection (2) is denied and any

142 appeal exhausted;

143 (b) the end of 14 days, if the person or governmental entity does not otherwise preserve
144 the captured plate data; or

145 (c) the end of the period described in Subsection [41-6a-2004\(1\)\(c\)](#).

146 (4) A governmental entity may obtain, receive, or use privately held captured plate data
147 only:

148 (a) (i) pursuant to a warrant issued using the procedures described in the Utah Rules of
149 Criminal Procedure or an equivalent federal warrant; or

150 (ii) using the procedure described in Subsection (2); and

151 (b) if the private automatic license plate reader system retains captured plate data for
152 30 days or fewer.