

1 ENGROSSED SENATE
2 BILL NO. 1144

By: Dahm of the Senate

3 and

4 Walker of the House

5
6 [license plates - "Automatic License Plate Reader
7 Privacy Act" - exceptions to restrictions - penalties
8 - privacy - severability - codification - effective
9 date]

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

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

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

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

19 Definitions.

20 A. "Automatic License Plate Reader system" shall mean a system
21 of one or more mobile or fixed automated high-speed cameras used in
22 combination with computer algorithms to convert images of license
23 plates into computer-readable data.
24

1 B. "Captured plate data" shall mean the GPS coordinates, date
2 and time, photograph, license plate number and any other data
3 captured by or derived from any automatic license plate reader
4 system.

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

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

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

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

21 Restrictions on use.

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

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

3 1. By state, county or municipal law enforcement agencies for
4 the comparison of captured plate data with data held by the
5 Department of Public Safety, the state Criminal Justice Information
6 System, the National Crime Information Center, the FBI Kidnappings
7 and Missing Persons list, Oklahoma Missing Persons list, and license
8 plate numbers captured by the automatic license plate reader system
9 that are relevant and material to an ongoing criminal or missing
10 persons investigation for the purpose of identifying:

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

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

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

4 4. For the purpose of electronic toll collection.

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

8 Protections.

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

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

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

15 3. Pursuant to a disclosure order under paragraph B of Section
16 5 of this act; or

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

22 B. Any governmental entity that uses automatic license plate
23 reader systems pursuant to paragraph B of Section 3 of this act must
24 update those systems from the databases enumerated in paragraph B of

1 Section 3 at the beginning of each work shift if such updates are
2 available.

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 of 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 use captured plate data when it is
10 relevant and material to an ongoing criminal or missing persons
11 investigation.

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

15 Reporting.

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

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

20 2. Adopt a privacy policy to ensure that captured plate data is
21 not shared in violation of this act or any other law, conspicuously
22 post the privacy policy on the governmental entity's Internet
23 website; and
24

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

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

- 1 (i) the number of applications for disclosure orders
2 to governmental entities under paragraph B of
3 Section 5 of this act that were denied,
4 (ii) the number of orders for disclosure to
5 governmental entities under paragraph B of
6 Section 5 of this act resulting in arrest and
7 prosecution,
8 (iii) the number of applications for disclosure orders
9 to private automatic license plate reader systems
10 under paragraph B of Section 5 of this act that
11 were denied, and
12 (iv) the number of orders for disclosure to private
13 automatic license plate reader systems under
14 paragraph B of Section 5 resulting in arrest and
15 prosecution,
16 h. the number of license plate numbers confirmed matches
17 and the number of matches that upon further
18 investigation did not correlate to an alerts, and
19 i. any changes in policy that affect privacy concerns.

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

23 No captured plate data and no evidence derived therefrom may be
24 received in evidence in any trial, hearing or other proceeding in or

1 before any court, grand jury, department, officer, agency,
2 regulatory body, legislative committee or other authority of the
3 State of Oklahoma, or a political subdivision thereof, if the
4 disclosure of that information would be in violation of this act.

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

8 Penalties.

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

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

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

22 Privacy.

23 A. Captured plate data is not considered a public record for
24 the purposes of the Oklahoma Open Records Act and may only be

1 disclosed to the person to whom the vehicle is registered, or with
2 the prior written consent of the person to whom the vehicle is
3 registered.

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

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

14 Severability.

15 The provisions in this act are severable. If any part or
16 provision of this act, or the application of this act to any person,
17 entity, or circumstance, is held invalid, the remainder of this act,
18 including the application of such part or provision to other
19 persons, entities, or circumstances, shall not be affected by such
20 holding and shall continue to have force and effect.

21 SECTION 11. This act shall become effective November 1, 2016.
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1 Passed the Senate the 10th day of March, 2016.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2016.

7
8 _____
9 Presiding Officer of the House
10 of Representatives