

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 93

FINAL READING

Introduced by Hansen, 26; Ebke, 32.

Read first time January 05, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to law enforcement; to adopt the Automatic
- 2 License Plate Reader Privacy Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and may be
2 cited as the Automatic License Plate Reader Privacy Act.

3 Sec. 2. For purposes of the Automatic License Plate Reader Privacy
4 Act:

5 (1) Alert means data held by the Department of Motor Vehicles, each
6 criminal justice information system maintained in this state, the Federal
7 Bureau of Investigation National Crime Information Center, the Federal
8 Bureau of Investigation Kidnappings and Missing Persons list, the Missing
9 Persons Information Clearinghouse established under section 29-214.01,
10 and license plate numbers that have been manually entered into the
11 automatic license plate reader system upon a law enforcement officer's
12 determination that the vehicles or individuals associated with the
13 license plate numbers are relevant and material to an ongoing criminal or
14 missing persons investigation;

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

19 (3) Captured plate data means global positioning system coordinates,
20 date and time information, photographs, license plate numbers, and any
21 other data captured by or derived from any automatic license plate reader
22 system;

23 (4) Governmental entity means a department or agency of this state,
24 the federal government, another state, or a political subdivision or an
25 individual acting for or as an agent of any of such entities; and

26 (5) Secured area means a place, enclosed by clear boundaries, to
27 which access is limited and not open to the public and into which entry
28 is only obtainable through specific access-control points.

29 Sec. 3. (1) Except as otherwise provided in this section or in
30 section 4 of this act, the use of an automatic license plate reader
31 system by a governmental entity is prohibited.

1 (2) An automatic license plate reader system may be used when such
2 use is:

3 (a) By a law enforcement agency of a governmental entity for the
4 purpose of identifying:

5 (i) Outstanding parking or traffic violations;

6 (ii) An unregistered or uninsured vehicle;

7 (iii) A vehicle in violation of the vehicle equipment requirements
8 set forth under the Nebraska Rules of the Road;

9 (iv) A vehicle in violation of any other vehicle registration
10 requirement;

11 (v) A vehicle registered to an individual for whom there is an
12 outstanding warrant;

13 (vi) A vehicle associated with a missing person;

14 (vii) A vehicle that has been reported as stolen; or

15 (viii) A vehicle that is relevant and material to an ongoing
16 criminal investigation;

17 (b) By a parking enforcement entity for regulating the use of a
18 parking facility;

19 (c) For the purpose of controlling access to a secured area;

20 (d) For the purpose of electronic toll collection; or

21 (e) To assist weighing stations in performing their duties under
22 section 60-1301.

23 Sec. 4. (1) A governmental entity shall not retain captured plate
24 data obtained under subsection (2) of section 3 of this act for more than
25 one hundred eighty days unless the captured plate data is:

26 (a) Evidence related to a purpose listed in subsection (2) of
27 section 3 of this act;

28 (b) Subject to a preservation request under subsection (1) of
29 section 5 of this act; or

30 (c) The subject of a warrant, subpoena, or court order.

31 (2) Any governmental entity that uses automatic license plate reader

1 systems pursuant to subsection (2) of section 3 of this act must update
2 such systems from the data bases used by the governmental entities
3 enumerated in such subsection at the beginning of each law enforcement
4 agency shift if such updates are available.

5 (3) Any governmental entity that uses automatic license plate reader
6 systems pursuant to subsection (2) of section 3 of this act may manually
7 query captured plate data only when a law enforcement officer determines
8 that the vehicle or individuals associated with the license plate number
9 are relevant and material to an ongoing criminal or missing persons
10 investigation subject to the following limitations:

11 (a) Any manual entry must document the reason for the entry; and

12 (b) Manual entries must be automatically purged at the end of each
13 law enforcement agency shift, unless the criminal investigation or
14 missing persons investigation remains ongoing.

15 Sec. 5. (1)(a) An operator of an automatic license plate reader
16 system shall, upon the request of a governmental entity or a defendant in
17 a criminal case, take all necessary steps to preserve captured plate data
18 in its possession pending the issuance of a warrant, subpoena, or order
19 of a court.

20 (b) A requesting governmental entity or defendant in a criminal case
21 must specify in a written sworn statement:

22 (i) The particular camera or cameras for which captured plate data
23 must be preserved or the particular license plate for which captured
24 plate data must be preserved; and

25 (ii) The date or dates and timeframes for which captured plate data
26 must be preserved.

27 (2) A governmental entity or defendant in a criminal case may apply
28 for a court order for disclosure of captured plate data, which shall be
29 issued by the court if the governmental entity or defendant in a criminal
30 case offers specific and articulable facts showing there are reasonable
31 grounds to believe the captured plate data is relevant and material to

1 the criminal or civil action. Nothing in this subsection shall prevent
2 the governmental entity from disclosing any captured plate data: (a) To
3 the parties to a criminal or civil action; (b) for administrative
4 purposes; (c) to alert the public of an emergency situation; or (d)
5 relating to a missing person.

6 Sec. 6. Except as otherwise provided in subdivision (3)(b) of this
7 section, any governmental entity that uses an automatic license plate
8 reader system shall:

9 (1) Adopt a policy governing use of the system and conspicuously
10 post the policy on the governmental entity's Internet web site or, if no
11 web site is available, in its main office;

12 (2) Adopt a privacy policy to ensure that captured plate data is not
13 shared in violation of the Automatic License Plate Reader Privacy Act or
14 any other law and conspicuously post the privacy policy on its Internet
15 web site or, if no web site is available, in its main governmental
16 office; and

17 (3)(a) Report annually to the Nebraska Commission on Law Enforcement
18 and Criminal Justice on its automatic license plate reader practices and
19 usage. The report shall also be conspicuously posted on the governmental
20 entity's Internet web site or, if no web site is available, in its main
21 office. The report shall include the following information, if captured
22 by the automatic license plate reader system:

23 (i) The names of each list against which captured plate data was
24 checked, the number of confirmed matches, and the number of matches that
25 upon further investigation did not correlate to an alert; and

26 (ii) The number of manually-entered license plate numbers under
27 subsection (3) of section 4 of this act, the number of confirmed matches,
28 and the number of matches that upon further investigation did not
29 correlate to an alert.

30 (b) The reporting requirements of this subsection shall not apply to
31 governmental entities using an automatic license plate reader system

1 pursuant to subdivisions (2)(b) through (e) of section 3 of this act.

2 Sec. 7. No captured plate data and no evidence derived therefrom
3 may be received in evidence in any trial, hearing, or other proceeding
4 before any court, grand jury, department, officer, agency, regulatory
5 body, legislative committee, or other authority of this state, or a
6 political subdivision thereof, if the disclosure of that information
7 would be in violation of the Automatic License Plate Reader Privacy Act.

8 Sec. 8. Any person who violates the Automatic License Plate Reader
9 Privacy Act shall be liable for damages that proximately cause injury to
10 the business, person, or reputation of another individual or entity.

11 Sec. 9. (1) Captured plate data held by a governmental entity is
12 not considered a public record for purposes of sections 84-712 to
13 84-712.09 and shall only be disclosed to the person to whom the vehicle
14 is registered or with the prior written consent of the person to whom the
15 vehicle is registered or pursuant to a disclosure order under subsection
16 (2) of section 5 of this act or as the result of a match pursuant to
17 subsection (2) of section 3 of this act.

18 (2) Upon the presentation to a governmental entity of a valid,
19 outstanding protection order pursuant to the Protection from Domestic
20 Abuse Act, the Uniform Interstate Enforcement of Domestic Violence
21 Protection Orders Act, or section 28-311.09 or 28-311.10 protecting the
22 driver of a vehicle jointly registered with or registered solely in the
23 name of the individual against whom the order was issued, captured plate
24 data may not be disclosed except pursuant to a disclosure order under
25 subsection (2) of section 5 of this act or as the result of a match
26 pursuant to subsection (2) of section 3 of this act.