

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016
COMMITTEE STATEMENT
LB831

Hearing Date: Thursday January 21, 2016
Committee On: Judiciary
Introducer: Hansen
One Liner: Adopt the Automatic License Plate Reader Privacy Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Chambers, Ebke, Morfeld, Pansing Brooks, Seiler, Williams
Nay:	1	Senator Krist
Absent:		
Present Not Voting:	1	Senator Coash

Verbal Testimony:

Proponents:	Representing:
SEN. MATT HANSEN	INTRODUCER
MARY JANE TREMPER	SELF
SANDRA SMITH	SELF
AMY MILLER	ACLU OF NEBRASKA

Opponents:	Representing:
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Neutral:	Representing:
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Summary of purpose and/or changes:

LB831 would adopt the Automatic License Plate Reader Privacy Act.
Section 1 would state the title of the act.

Section 2 would define terms for purposes of the act.

Subsection (1) would define the term "alert". Subsection (2) would define the term "automatic license plate reader system". Subsection (3) would define the term "captured plate data". Subsection (4) would define the term "governmental entity". Subsection (5) would define the term "secured area".

Section 3 would provide criteria for who could use an automatic license plate reader. The bill would prohibit the use of plate readers by state entities, except as explicitly allowed by this bill. The list of when allowed would include (a) assisting law enforcement to identify a vehicle for specific purposes, (b) for parking enforcement, (c) for controlling access to a secured area, and (d) for toll collection.

Section 4 would provide criteria for the situations in which an automatic license plate reader systems could be used.

Subsection (1) would prohibit the use, sharing, or retention of automatic license plate reader data, except as expressly allowed. Subsection (2) would require regular updates to automatic license plate databases. Subsection (3) would provide limitations on manual entries of license plate numbers into an automatic license plate reader system.

Section 5 would require an automatic plate reader operator to respond to a preservation request or a court order initiated by a government entity or defendant. This section would require a government entity to destroy data in certain circumstances, and would require a government entity to obtain a warrant, in certain circumstances.

Section 6 would require a government entity using an automatic license plate reader system to adopt and publish policies regarding their use. This section also sets forth a reporting requirement.

Section 7 would prohibit the use of data as evidence if disclosure of the data would violate this act.

Section 8 would provide civil and criminal penalties for violations of the act. The bill would provide a civil cause of action, and would allow for damages and attorney's fees, for any violation of the act. The criminal penalty for violating section 3 of the act would be a Class I Misdemeanor (up to 1 year imprisonment, up to \$1,000 fine, or both).

Section 9 provides that data collected pursuant to this act would not be considered a public record.

Section 10 would provide a severability clause.

Explanation of amendments:

AM2119 to LB831 would (1) incorporate provisions from LB738 to prohibit law enforcement agencies from purchasing and using "cell-site simulator technology or devices", (2) allow the use of an automatic license plate reader system at weighing stations, (3) eliminate a criminal penalty, and (4) make technical changes.

(1) Incorporate LB738

Section 10 of AM2119 includes language from LB738, to prohibit law enforcement agencies from purchasing and using cell-site simulator devices. Subsection (2) would define the term "cell-site simulator", with minor changes to the definition used in LB738.

(2) Allow use of ALPR systems at weighing stations

Section 3 of AM2119 would add a fifth category to the list of circumstances in which use of an automatic license plate reader system would be allowed. The following new language can be found on page 2, lines 27-28 of the amendment:

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

Section 6 of AM2119 exclude weighing stations from the report requirement. The following new language can be found on page 6 of the amendment:

(3)(b) The reporting requirements of this subsection shall not apply to weighing stations using an automatic license plate reader system pursuant to subdivision (2)(e) of section 3 of this act.

(3) Eliminate criminal penalty

Section 8 of AM2119 would provide a civil penalty for violations of the act, with no change from the green copy. The amendment would strike the criminal penalty, by removing the language found on page 7 of the green copy, lines 23-24.

(4) Technical changes

AM2119 would make the following technical changes to the green copy of LB831:

Page 2, line 15: after "means" strike "a system of"

Page 2, line 25: strike "an area," and insert "a place"

Page 2, lines 28-30: strike "it shall be unlawful." through "automatic license plate reader system." And insert "or in section 4 of this act, the use of an automatic license plate reader system by any person acting under color of state law is prohibited."

Page 3, line 2: after "By" insert "a"; strike "agencies" insert "agency"

Page 3, lines 3-12: strike beginning with "data held by the Department" in line 3 through "missing persons investigation"

in line 12. Insert "an alert".

Page 3, line 25: after "By" insert "a"; strike "entities" and insert "entity"; after "of" insert "a"; strike "facilities" and insert "facility".

Page 3, line 27: after "access to" insert "a" strike "areas" and insert "area"

Page 3, strike lines 29-31 and insert:

(1) Except as provided in this section, the use or sharing of captured plate data obtained for the purposes described in subsection (2) of section 3 of this act is prohibited. Captured plate data obtained for the purposes described in subsection (2) of section 3 of this act may be retained:

Page 5, line 27, insert: Except as provided in subdivision (3)(b) of this section,

Page 8: Strike section 10 (no need for severability clause)

Les Seiler, Chairperson