

AMENDMENTS TO LB93

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

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

5           Sec. 2. For purposes of the Automatic License Plate Reader Privacy  
6 Act:

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

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

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

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

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

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

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

9       (a) By a law enforcement agency of a governmental entity for the  
10 purpose of identifying:

11       (i) Outstanding parking or traffic violations;

12       (ii) An unregistered or uninsured vehicle;

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

15       (iv) A vehicle in violation of any other vehicle registration  
16 requirement;

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

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

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

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

23       (b) By a parking enforcement entity for regulating the use of a  
24 parking facility;

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

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

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

29       Sec. 4. (1) A government entity shall not retain captured plate  
30 data obtained under subsection (2) of section 3 of this act for more than  
31 sixty days unless the captured plate data is:

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

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

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

6       (2) Any governmental entity that uses automatic license plate reader  
7 systems pursuant to subsection (2) of section 3 of this act must update  
8 such systems from the data bases used by the governmental entities  
9 enumerated in such subsection at the beginning of each law enforcement  
10 agency shift if such updates are available.

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

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

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

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

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

28       (i) The particular camera or cameras for which captured plate data  
29 must be preserved or the particular license plate for which captured  
30 plate data must be preserved; and

31       (ii) The date or dates and timeframes for which captured plate data

1 must be preserved.

2 (2) A governmental entity or defendant in a criminal case may apply  
3 for a court order for disclosure of captured plate data, which shall be  
4 issued by the court if the governmental entity or defendant in a criminal  
5 case offers specific and articulable facts showing there are reasonable  
6 grounds to believe the captured plate data is relevant and material to  
7 the criminal or civil action. Nothing in this subsection shall prevent  
8 the governmental entity from disclosing any captured plate data: (a) To  
9 the parties to a criminal or civil action; (b) for administrative  
10 purposes; (c) to alert the public of an emergency situation; or (d)  
11 relating to a missing person.

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

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

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

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

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

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

5       (b) The reporting requirements of this subsection shall not apply to  
6 governmental entities using an automatic license plate reader system  
7 pursuant to subdivisions (2)(b) through (e) of section 3 of this act.

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

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

17       Sec. 9. (1) Captured plate data held by a governmental entity is  
18 not considered a public record for purposes of sections 84-712 to  
19 84-712.09 and shall only be disclosed to the person to whom the vehicle  
20 is registered or with the prior written consent of the person to whom the  
21 vehicle is registered or pursuant to a disclosure order under subsection  
22 (2) of section 5 of this act or as the result of a match pursuant to  
23 subsection (2) of section 3 of this act.

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

1 pursuant to subsection (2) of section 3 of this act.