

2016 Regular Session

SENATE BILL NO. 54

BY SENATORS JOHNS AND GATTI

LAW ENFORCEMENT. Creates a pilot program (Statewide Motor Vehicle Theft and Uninsured Motorists Identification Program) involving the use of license plate recognition devices for certain purposes. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(19) and to enact Part II-A of Chapter 1 of Title 32 of
3 the Louisiana Revised Statutes of 1950, to be comprised of R.S. 32:46, relative to
4 motor vehicles and traffic regulation; to create the Statewide Motor Vehicle Theft
5 and Uninsured Motorists Identification Program; to provide relative to a pilot
6 program using automatic license plate recognition systems to identify stolen vehicles
7 and uninsured motorists; to provide definitions; to provide penalties; to provide
8 certain prohibitions; to provide an exemption from the Public Records Law; to
9 provide relative to reporting; to provide a termination date; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Part II-A of Chapter 1 of Title 32 of the Louisiana Revised Statutes of
13 1950, comprised of R.S. 32:46, is hereby enacted to read as follows:

14 **PART II-A. STATEWIDE MOTOR VEHICLE THEFT AND UNINSURED**

15 **MOTORISTS IDENTIFICATION PROGRAM**

16 **§46. Pilot program; Statewide Motor Vehicle Theft and Uninsured Motorists**

17 **Identification Program**

1 A. The Legislature of Louisiana recognizes the critical need for the
2 criminal justice system to be able to reduce the incidence of crimes involving
3 motor vehicle theft and uninsured motorists, which adversely affect public
4 safety and the finances of both the state and individuals. The legislature also
5 acknowledges that there is a need for the identification of persons committing
6 those crimes by the most expeditious means available in order to detect and
7 prevent both motor vehicle theft and the operation of motor vehicles on
8 Louisiana highways by uninsured motorists and to ensure compliance with
9 local, state, and federal laws. Technology can be of great assistance in ensuring
10 public safety, and the criminal justice system should be permitted to utilize such
11 technology in deterring motor vehicle theft and in the identification of
12 uninsured motorists. Accordingly, the legislature hereby creates a pilot
13 program to be known as the State Motor Vehicle Theft and Uninsured
14 Motorists Identification Program.

15 B. The pilot program created by this Section shall be implemented and
16 administered solely by the participating law enforcement agencies. The sheriff's
17 office in each parish of the state, in cooperation with that parish's district
18 attorney's office, is authorized to participate in the pilot program by entering
19 into an agreement to participate with appropriate agencies and other entities
20 in each jurisdiction. In order to implement this pilot program, the use of
21 technology and software to aid in detection of offenses involving motor vehicle
22 theft and uninsured motorists is necessary and desirable, and, in order to
23 effectuate the program, participating law enforcement agencies shall have the
24 authority to enter into contractual agreements with other entities.

25 C.(1) The use of an automatic license plate recognition system utilizing
26 individual automatic license plate reader system units is authorized for those
27 law enforcement agencies participating in the pilot program, as well as other
28 entities with which those participating law enforcement agencies contract in
29 order to implement and operate the pilot program.

1 (2) An authorized user under this Subsection may use an automated
2 license plate recognition system only for the official and legitimate purposes of
3 the user's employer.

4 D. For purposes of this Section:

5 (1) "Active data" means data uploaded to an individual automatic
6 license plate reader system unit before operation, as well as data gathered
7 during the operation of an automated license plate reader system unit.

8 (2) "Authorized user" means an employee of the participating law
9 enforcement agency or an employee of the other entity authorized by that entity
10 to use the system for a legitimate purpose.

11 (3) "Automatic license plate recognition system" means a system of one
12 or more mobile or fixed high-speed cameras combined with computer
13 algorithms to convert images of registration plates into computer-readable data.
14 This definition does not include a traffic camera as referenced in R.S. 32:393(I).

15 (4) "Captured plate data" means the global positioning system
16 coordinates, date and time, photograph, license plate number, and any other
17 data captured by or derived from an automatic license plate recognition system
18 and includes both historical and active data.

19 (5) "Historical data" means any data collected by an individual
20 automatic license plate reader system unit and stored in a database.

21 (6) "Law enforcement agency", except as provided in Paragraph (10) of
22 this Subsection, includes the district attorney's office of any parish, the sheriff's
23 office of any parish, the police department of any municipality, the attorney
24 general's office, the Department of Public Safety and Corrections, office of state
25 police and office of motor vehicles, and the Department of Wildlife and
26 Fisheries.

27 (7) "Legitimate purpose", for law enforcement agencies, means access
28 to collected data for the investigation, detection, analysis, or enforcement of the
29 law regarding a criminal offense.

1 **(8) "Legitimate purpose", for the entities that are a party to an**
2 **agreement or contract with the participating law enforcement agencies, includes**
3 **the collection and storage of data to assist the participating law enforcement**
4 **agency in developing, utilizing, and managing the pilot program.**

5 **(9) "Other entity" means an entity with which a participating law**
6 **enforcement agency contracts to implement and administer the pilot program.**

7 **(10) "Participating law enforcement agency" means the law enforcement**
8 **agency operating the pilot program and is limited to the respective sheriff's**
9 **offices and district attorney's offices in the pilot program parishes.**

10 **(11) "Pilot program" or "program" means the State Motor Vehicle**
11 **Theft and Uninsured Motorists Identification Program.**

12 **E. A central database for the collection, storage, and dissemination of**
13 **data captured by an automatic license plate recognition system shall be**
14 **established and operated by participating law enforcement agencies, which**
15 **database shall be located in a secure area.**

16 **(1) The central database shall fully comply with all National Law**
17 **Enforcement Telecommunications System (Nlets) and Federal Bureau of**
18 **Investigation hosting and security standards.**

19 **(2) Access to the database shall be restricted to authorized law**
20 **enforcement agency users in the pilot program and to any entities with whom**
21 **the participating law enforcement agencies contract to establish and operate the**
22 **program.**

23 **F. To accomplish the purposes of the pilot program, the Department of**
24 **Public Safety and Corrections, public safety services:**

25 **(1) Shall allow access to the vehicle registration and compulsory motor**
26 **vehicle insurance databases to be used only in connection with the automatic**
27 **license plate recognition system established pursuant to this Part.**

28 **(2) Shall allow access to the data from the databases in accordance with**
29 **a memorandum of understanding to be executed between the department,**

1 sheriffs, and district attorneys in the state.

2 G. The automatic license plate recognition system may be used by a law
3 enforcement officer or other authorized user employed by a participating law
4 enforcement agency in the jurisdictions of the pilot program as follows:

5 (1) If a law enforcement officer, by using this system, is able to determine
6 that a motor vehicle is stolen or that the owner of a motor vehicle lacks the
7 compulsory insurance required by R.S. 32:861, through the process of accessing
8 information from the central database referred to in Subsection E of this
9 Section, that determination shall constitute probable cause to arrest the
10 operator of the stolen motor vehicle or to issue a citation to the owner of the
11 motor vehicle for the compulsory insurance violation.

12 (2) A law enforcement officer may verify by sworn affidavit that a
13 photograph generated by an automatic license plate reader system unit
14 identifies a particular vehicle operating on a public highway and that the
15 database shows that the vehicle was uninsured or stolen at the time such vehicle
16 was being operated. The affidavit shall constitute probable cause for
17 prosecution under any applicable state law.

18 H. Data collected or retained through the use of an automated license
19 plate recognition system pursuant to this program may be retained by a law
20 enforcement agency for not more than sixty days, except when the data is being
21 used as evidence of a violation of the compulsory motor vehicle insurance law
22 or for felonies being investigated, including but not limited to motor vehicle
23 theft, homicide, kidnapping, and burglary, or for the purpose of AMBER Alerts
24 and Blue Alerts.

25 I.(1) Data collected or retained through the use of an automated license
26 plate recognition system shall not be used by any individual or agency for
27 purposes other than law enforcement.

28 (2) No law enforcement agency or other entity authorized to operate
29 under this program shall sell captured plate data for any purpose or share it for

1 any purpose not expressly authorized by this Section.

2 (3) A participating law enforcement agency may provide data to another
3 law enforcement agency, as defined in Subsection D of this Section, upon
4 written request of the other law enforcement agency when that agency is
5 engaged in an ongoing investigation or prosecution of a felony offense.

6 (4) Any and all data collected, retained, or shared through the use of an
7 automated license plate recognition system, except data retained as evidence of
8 a violation of compulsory motor vehicle insurance law or a felony being
9 investigated, shall be exempt from the Public Records Law.

10 (5) Under no circumstances shall the Statewide Motor Vehicle Theft and
11 Uninsured Motorists Identification Program authorized by this Act be used for
12 civil traffic enforcement purposes.

13 (6) Any person who violates any provision of this Subsection may be
14 imprisoned for not more than six months, or fined not more than one thousand
15 dollars, or both.

16 J. The provisions of this Part shall apply only to law enforcement
17 agencies, other entities, and authorized users and shall not apply to or be
18 construed or interpreted in a manner to prohibit the use of any other automated
19 license plate recognition system by an individual or private legal entity for
20 purposes not otherwise prohibited by law.

21 K. On or before January 15, 2017, and annually thereafter, the
22 Department of Public Safety and Corrections shall submit a written report
23 concerning the program to the Senate Select Committee on Homeland Security
24 and the House Special Committee on Homeland Security. The report shall
25 comprise an evaluation of program operations, and may include any
26 information and recommendations for improvement of the program deemed
27 appropriate by the secretary of the department.

28 L. The provisions of this Part shall terminate and be null, void, and
29 without effect on and after January 1, 2022.

1 Section 2. R.S. 44:4.1(B)(19) is hereby amended and reenacted to read as follows:

2 §4.1. Exceptions

3 * * *

4 B. The legislature further recognizes that there exist exceptions, exemptions,
5 and limitations to the laws pertaining to public records throughout the revised
6 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
7 limitations are hereby continued in effect by incorporation into this Chapter by
8 citation:

9 * * *

10 (19) R.S. 32:~~46~~, 398, 707.2, 1254

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The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement, Jr.

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Proposed law creates and provides relative to a program for using an automatic license plate recognition system to identify uninsured motorists and stolen vehicles.

Proposed law provides that the automatic license plate recognition system may be used as follows:

- (1) If a law enforcement officer is able to determine that a motor vehicle is stolen or that the owner of a motor vehicle lacks the compulsory insurance required by present law, the determination constitutes probable cause to arrest the operator of the stolen motor vehicle or to issue a citation to the owner of the motor vehicle for the compulsory insurance violation.
- (2) A law enforcement officer may verify by sworn affidavit that a photograph generated by an automatic license plate reader system unit identifies a particular vehicle operating on a public highway and that the database shows that the vehicle was uninsured or stolen at the time such vehicle was being operated, which affidavit constitutes probable cause for prosecution under any applicable present law.

Proposed law authorizes the sheriff's office in each parish of the state, in cooperation with that parish's district attorney's office to participate in the program by entering into an agreement to participate with appropriate agencies and other entities in each jurisdiction.

Proposed law further provides that to implement the program, the use of technology and software to aid in detection of offenses involving motor vehicle theft and uninsured motorists is necessary and desirable, and participating law enforcement agencies in these parishes have the authority to enter into contractual agreements with other entities.

Proposed law authorizes the use of automatic license plate recognition systems, utilizing individual automatic license plate reader system units, by participating law enforcement

agencies and other entities with which those law enforcement agencies contract to implement and operate the program.

Proposed law provides that an authorized user may use an automated license plate recognition system only for the official and legitimate purposes of the user's employer.

Proposed law provides the following definitions:

- (1) "Active data" means data uploaded to an individual automatic license plate reader system unit before operation, as well as data gathered during the operation of an automated license plate reader system unit.
- (2) "Authorized user" means an employee of the participating law enforcement agency or an employee of the other entity authorized by that entity to use the system for a legitimate purpose.
- (3) "Automatic license plate recognition system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data. This definition does not include a traffic camera as referenced in present law.
- (4) "Captured plate data" means the global positioning system coordinates, date and time, photograph, license plate number, and any other data captured by or derived from an automatic license plate recognition system, and includes both historical and active data.
- (5) "Historical data" means any data collected by an individual automatic license plate reader system unit and stored in a database.
- (6) "Law enforcement agency", except as provided elsewhere in proposed law, includes a district attorney's office of any parish, the sheriff's office of any parish, the police department of any municipality, the attorney general's office, the Dept. of Public Safety and Corrections, office of state police and office of motor vehicles, and the Dept. of Wildlife and Fisheries.
- (7) "Legitimate purpose" for law enforcement agencies means access to collected data for the investigation, detection, analysis, or enforcement of the law regarding a criminal offense.
- (8) "Legitimate purpose" for the entities that are a party to an agreement or contract with the participating law enforcement agencies includes the collection and storage of data to assist the participating law enforcement agency in developing, utilizing, and managing the pilot program.
- (9) "Other entity" means an entity with which a participating law enforcement agency contracts to implement and administer the pilot program.
- (10) "Participating law enforcement agency" means the law enforcement agency operating the pilot program in one of the pilot program parishes established by proposed law, and is limited to the respective sheriff's offices and district attorney's offices in the pilot program parishes.
- (11) "Pilot program" or "program" means the State Motor Vehicle Theft and Uninsured Motorists Identification Program.

Proposed law provides that a central database for the collection, storage, and dissemination of data captured by an automatic license plate recognition system is to be established and operated by the participating law enforcement agencies, which database must be located in

a secure area. Proposed law further provides that the central database must fully comply with all National Law Enforcement Telecommunications System (Nlets) and FBI hosting and security standards, and access to the database is to be restricted to authorized law enforcement agency users and to entities with whom the law enforcement agencies contract to establish and operate the program.

Proposed law provides that the Dept. of Public Safety and Corrections, public safety services, are to allow access to the vehicle registration and compulsory motor vehicle insurance databases to be used only in connection with the automatic license plate recognition system established pursuant to proposed law.

Proposed law requires the Dept. of Public Safety and Corrections, public safety services to allow access to the data from the databases in accordance with a memorandum of understanding to be executed between the department, sheriffs, and district attorneys in the state.

Proposed law provides that data collected or retained through the use of an automated license plate recognition system may be retained by a law enforcement agency for not more than 60 days, except when the data is being used as evidence of a violation of the compulsory motor vehicle insurance law or for felonies being investigated, including motor vehicle theft, homicide, kidnaping, and burglary, or for the purpose of AMBER Alerts and Blue Alerts.

Proposed law provides that data collected or retained through the use of an automated license plate recognition system cannot be used by any individual or agency for purposes other than law enforcement.

Proposed law provides that no law enforcement agency or other entity authorized to operate under this program may sell captured plate data for any purpose, or share it for any purpose not expressly authorized by proposed law. Proposed law further provides that a participating law enforcement agency may provide data to another law enforcement agency upon written request when that agency is engaged in an ongoing investigation or prosecution of a felony.

Proposed law further provides that any and all data collected, retained, or shared through the use of an automated license plate recognition system, except data retained as evidence of a violation of compulsory motor vehicle insurance law or a felony shall be exempt from disclosure under present law (Public Records Law).

Proposed law provides that any person who violates any provision of proposed law relative to use of automated license plate recognition system and use of data may be imprisoned for up to six months, or fined up to \$1,000, or both.

Proposed law specifies that, except for the prohibition on use to enforce civil traffic citations, proposed law applies only to law enforcement agencies, other entities, and authorized users and does not apply to or be construed or interpreted in a manner to prohibit the use of any other automated license plate recognition system by an individual or private legal entity for purposes not otherwise prohibited by present law or proposed law.

Proposed law provides that on or before 1/15/17 and annually thereafter, the Dept. of Public Safety and Corrections is to submit a written report concerning the program created by proposed law to the Senate Select Committee on Homeland Security and the House Special Committee on Homeland Security. Proposed law further provides that this report is to be comprised of an evaluation of program operations, and may include any information and recommendations for improvement of the program deemed appropriate by the secretary of the department.

Proposed law makes proposed law subject to certain exemptions contained in present law (Public Records Law).

Proposed law terminates on 1/1/22.

Effective August 1, 2016.

(Amends R.S. 44:4.1(B)(19); adds R.S. 32:46)