

SECOND REGULAR SESSION

SENATE BILL NO. 1040

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Read 1st time February 9, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6386S.01I

AN ACT

To amend chapter 43, RSMo, by adding thereto one new section relating to automated license plate reader systems, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 43, RSMo, is amended by adding thereto one new section, to be known as section 43.385, to read as follows:

43.385. 1. As used in this section, the following terms shall mean:

(1) "Automated license plate reader system", 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;

(2) "Captured plate data", the global positioning device coordinates, date and time, photograph, license plate number, and any other data captured by or derived from any automatic license plate reader system;

(3) "Government entity", a lawfully created branch, department, or agency of the federal, state, or local government.

2. Data collected or retained through the use of an automated license plate reader system by a government entity shall not be preserved for more than thirty days, except pursuant to:

(1) A preservation request under subsection 4 of this section;

(2) A published and distributed law enforcement organization policy under subsection 5 of this section; or

(3) A warrant under section 542.271.

3. Data collected or retained through the use of an automated license plate reader system by a government entity shall not be shared with a federal government entity, except pursuant to:

22 (1) A preservation request under subsection 4 of this section;
23 (2) A warrant under section 542.271; or
24 (3) Exigent circumstances which require immediate release of
25 the captured plate data.

26 4. A government entity making a preservation request under this
27 section shall submit an affidavit to a court of competent jurisdiction
28 stating:

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

32 (2) The date or dates and time frames for which captured plate
33 data must be preserved; and

34 (3) Specific and articulable facts showing that there are
35 reasonable grounds to believe that the captured plate data are relevant
36 and material to an ongoing criminal or missing persons investigation
37 or to a pending court proceeding.

38 5. A published and distributed law enforcement organization
39 policy shall:

40 (1) Limit access to captured plate data to detectives and
41 automated license plate reader system auditors after the initial thirty
42 day period allowed under subsection 2 of this section;

43 (2) Prohibit access to such captured plate data by all other law
44 enforcement officers after the initial thirty day period allowed under
45 subsection 2 of this section;

46 (3) Require that such captured plate data shall be used for
47 criminal justice purposes only; and

48 (4) Require the destruction of all captured plate data after a
49 period of one year unless a preservation request is filed and granted
50 pursuant to subsection 4 of this section.

51 6. Captured plate data preserved under subsection 2 of this
52 section shall be destroyed at the conclusion of either:

53 (1) An investigation that does not result in any criminal charges
54 being filed; or

55 (2) Any criminal action undertaken in the matter involving the
56 captured plate data.

57 7. Captured plate data and evidence derived from it shall not be
58 received in evidence in any trial, hearing, or other proceeding before

59 any court, grand jury, department, officer, agency, regulatory body,
60 legislative committee, or other authority of the state or a political
61 subdivision of the state if the disclosure of that information would be
62 in violation of this section.

63 8. A person commits the offense of misuse of license plate reader
64 information under this section if he or she knowingly or recklessly
65 obtains or discloses information collected by automated license plate
66 reader systems operated by a government entity for private or personal
67 use, or for a purpose other than in connection with their official
68 duties. The offense of misuse of license plate reader information is a
69 class D felony.

70 9. The department of public safety shall promulgate, by rule, a
71 standard for the placement of fixed automated license plate reader
72 cameras by August 28, 2017, which shall be posted on the department's
73 official website. For a fixed automated license plate reader camera
74 installed after the promulgation of the rule, a government entity
75 requesting such camera shall submit an application to the department
76 of public safety for approval prior to installation. Government entities
77 utilizing fixed automated license plate reader cameras in operation
78 prior to the promulgation of the rule shall have thirty days after the
79 promulgation of the rule to submit an application to the department of
80 public safety for approval, and if such application is denied, the camera
81 shall be removed. Any application submitted to the department of
82 public safety shall include a justification for the placement of the fixed
83 automated license plate reader camera. Any government entity
84 utilizing a fixed automated license plate reader camera shall make
85 available, upon request, any application for such fixed automated
86 license plate reader camera. The department of public safety shall
87 promulgate all necessary rules and regulations for the administration
88 of this section. Any rule or portion of a rule, as that term is defined in
89 section 536.010, that is created under the authority delegated in this
90 section shall become effective only if it complies with and is subject to
91 all of the provisions of chapter 536 and, if applicable, section
92 536.028. This section and chapter 536 are nonseverable and if any of
93 the powers vested with the general assembly pursuant to chapter 536
94 to review, to delay the effective date, or to disapprove and annual a
95 rule are subsequently held unconstitutional, then the grant of

96 rulemaking authority and any rule proposed or adopted after August
97 28, 2016, shall be invalid and void.

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Bill

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