

SECOND REGULAR SESSION

SENATE BILL NO. 1087

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROWDEN.

Read 1st time March 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6795S.011

AN ACT

To amend chapter 590, RSMo, by adding thereto eight new sections 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 590, RSMo, is amended by adding thereto eight new sections, to be known as sections 590.1100, 590.1110, 590.1115, 590.1120, 590.1130, 590.1135, 590.1140, and 590.1150, to read as follows:

590.1100. As used in sections 590.1100 to 590.1150, the following terms shall mean:

(1) "Automated license plate reader system", a system of one or more mobile or fixed cameras combined with computer algorithms to convert images of registration plates into data readable by a computer;

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

(3) "Fixed camera", a camera affixed for a period of twelve consecutive months or more to property owned or leased by the state or a political subdivision thereof;

(4) "Government entity", a branch, department, or agency of the state or of a political subdivision of the state;

(5) "Public highway", any public thoroughfare for vehicles, including state highways, county roads, and public streets, avenues, boulevards, parkways, and alleys in any municipality.

590.1110. Government entities, including but not limited to the department of public safety, the Missouri state highway patrol, and local government officials and law enforcement agencies, may purchase, install, and use automated license plate reader systems approved by the

5 department of public safety to enforce state and local motor vehicle,
6 traffic, and criminal laws. Automated license plate reader systems and
7 other electronic devices authorized by sections 590.1100 to 590.1150
8 may be installed and used on the right of way of all public highways in
9 the state.

590.1115. The department of public safety may execute a
2 memorandum of understanding with local government officials or law
3 enforcement agencies for the use of automated license plate reader
4 systems by law enforcement on public highways within the state. The
5 memorandum of understanding shall contain detailed instructions on
6 the use of automated license plate reader systems, including specific
7 provisions regarding retention of captured plate data.

590.1120. 1. Except as provided in section 590.1150, no automated
2 license plate reader system shall be installed or operated on a right of
3 way of the state highway system unless a permit has been issued by the
4 department of transportation on behalf of the state highways and
5 transportation commission and such permit is still valid. The
6 department shall have the sole discretion to determine, at a minimum,
7 whether the system shall be installed or operated on the state highway
8 system rights of way, as well as the location of any approved systems
9 on such rights of way. The department shall not pay any costs arising
10 from a government entity's purchase, installation, use, or removal of
11 systems on state highway system rights of way.

12 2. No government entity shall allow a transfer of such agency's
13 captured plate data to a branch, department, or agency of the federal
14 government, except as expressly provided by law.

15 3. A government entity responsible for the purchase, installation,
16 or use of an automated license plate reader system shall maintain
17 reasonable security practices and procedures, including operational,
18 administrative, technical, and physical safeguards to protect captured
19 plate data from unauthorized access, use, modification, disclosure, and
20 destruction.

590.1130. 1. A government entity may make a preservation
2 request for captured plate data by submitting an affidavit to a court of
3 competent jurisdiction stating:

4 (1) The particular system or systems for which captured plate
5 data shall be preserved, or the license plate for which captured plate

6 data shall be preserved;

7 (2) The date or dates and time frames for which captured plate
8 data shall be preserved; and

9 (3) Specific and articulable facts showing there are reasonable
10 grounds to believe that the captured plate data is materially relevant
11 to an ongoing criminal or missing persons investigation or pending
12 court proceeding.

13 2. A government entity responsible for the purchase, installation,
14 or use of an automated license plate reader system shall publish and
15 distribute a policy applicable to the use of such system. Such policy
16 shall:

17 (1) Limit access to any captured plate data to:

18 (a) In the case of a law enforcement entity's system, criminal
19 investigators and analysts and automated license plate reader system
20 auditors; or

21 (b) In the case of the state highways and transportation
22 commission's system, state department of transportation personnel as
23 expressly delegated by the state highways and transportation
24 commission;

25 (2) Prohibit access to such captured plate data by all other law
26 enforcement officers after the initial thirty day period allowed under
27 section 590.1125;

28 (3) Require that such captured plate data shall only be used:

29 (a) In the case of law enforcement entities, to enforce state and
30 local motor vehicle, traffic, or criminal laws; or

31 (b) In the case of the state highways and transportation
32 commission, to administer and enforce compliance with state motor
33 vehicle laws under the commission's authority as specified in section
34 226.008;

35 (4) Require the destruction of all captured plate data after a
36 period of one year unless a preservation request is filed and granted
37 under this section.

38 3. Captured plate data preserved under this section shall be
39 destroyed at the conclusion of either:

40 (1) An investigation that does not result in any civil action or
41 criminal charges being filed; or

42 (2) Any civil or criminal action undertaken involving the

43 captured plate data.

44 4. Captured plate data and evidence derived from it shall not be
45 received in evidence in any trial, hearing, or other proceeding before
46 any court, grand jury, department, officer, agency, regulatory body,
47 legislative committee, or other authority of the state or a political
48 subdivision of the state if the disclosure of that information would
49 violate this section.

590.1135. A person commits the offense of misuse of license plate
2 reader information under this section if he or she knowingly or
3 recklessly obtains or discloses information collected by an automated
4 license plate reader system operated by a government entity for private
5 or personal use, or for a purpose other than in connection with his or
6 her official duties. The offense of misuse of license plate reader
7 information is a class E felony.

590.1140. By January 1, 2019, the department of public safety
2 shall promulgate rules as necessary to implement the provisions of
3 sections 590.1100 to 590.1150. Any rule or portion of a rule, as that term
4 is defined in section 536.010 that is created under the authority
5 delegated in this section shall become effective only if it complies with
6 and is subject to all of the provisions of chapter 536, and, if applicable,
7 section 536.028. This section and chapter 536 are nonseverable and if
8 any of the powers vested with the general assembly pursuant to chapter
9 536, to review, to delay the effective date, or to disapprove and annul
10 a rule are subsequently held unconstitutional, then the grant of
11 rulemaking authority and any rule proposed or adopted after August
12 28, 2018, shall be invalid and void. All rules promulgated under this
13 section shall be posted on the department of public safety's official
14 website.

590.1150. 1. For fixed automated license plate reader systems
2 installed after the promulgation of rules under section 590.1140, a
3 government entity desiring to install an automated license plate reader
4 system shall submit an application to the department of public safety
5 for approval prior to purchase or installation. The requesting entity
6 shall not purchase, install, or operate an automated license plate
7 reader system until the entity's application has been approved by the
8 department.

9 2. A government entity operating a fixed automated license plate

10 reader system that was in operation prior to the promulgation of rules
11 under section 590.1140 shall have thirty days after the promulgation of
12 the rules to submit an application to the department of public safety
13 for approval. If such application is denied, the system shall be removed
14 by the government entity at its own expense, but such system may
15 continue to be operated pending final adjudication of the
16 application. Any application submitted to the department of public
17 safety shall include a justification for the installation of the system. A
18 government entity operating an automated license plate reader system
19 shall make available upon request its application for such system
20 submitted in accordance with this section.

21 3. The department of public safety shall approve or deny an
22 application under this section no later than thirty days after the date
23 the application is received.

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