

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 85
99TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, Infrastructure and Public Safety, March 2, 2017, with recommendation that the Senate Committee Substitute do pass.

0114S.02C

ADRIANE D. CROUSE, Secretary.

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 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 any automatic 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 federal, state, county, or other 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. No local, county, or state law enforcement agency shall allow

21 a transfer of such agency's license plate reader system database to a
22 federal database. However, federal government entities may access
23 local, county, or state databases as otherwise provided by law.

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

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

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

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

36 5. A published and distributed law enforcement organization
37 policy shall:

38 (1) Limit access to captured plate data to criminal investigators
39 and analysts, and automated license plate reader system auditors after
40 the initial thirty day period allowed under subsection 2 of this section;

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

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

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

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

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

53 (2) Any criminal action undertaken in the matter involving the
54 captured plate data.

55 7. Captured plate data and evidence derived from it shall not be
56 received in evidence in any trial, hearing, or other proceeding before
57 any court, grand jury, department, officer, agency, regulatory body,

58 legislative committee, or other authority of the state or a political
59 subdivision of the state if the disclosure of that information would be
60 in violation of this section.

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

68 9. By August 28, 2018, the department of public safety shall
69 promulgate, by rule, a standard for the installation and operation of
70 fixed automated license plate reader systems by government
71 entities. The rule shall be posted on the department's official
72 website. For a fixed automated license plate reader system installed
73 after the promulgation of the rule, a government entity requesting such
74 system shall submit an application to the department of public safety
75 for approval prior to installation. The requesting entity may install
76 such system upon submitting an application, but shall not allow it to be
77 operated until such application has been approved by the department.
78 If such application is subsequently denied, the system shall be removed.
79 A government entity utilizing a fixed automated license plate reader
80 system that was in operation prior to the promulgation of the rule shall
81 have thirty days after the promulgation of the rule to submit an
82 application to the department of public safety for approval, and if such
83 application is denied, the system shall be removed. Such system may
84 continue to be operated pending adjudication of the application. Any
85 application submitted to the department of public safety shall include
86 a justification for the installation of the fixed automated license plate
87 reader system. Any government entity utilizing a fixed automated
88 license plate reader system shall make available, upon request, any
89 application submitted in accordance with this section for such fixed
90 automated license plate reader system.

91 10. The department of public safety shall promulgate all
92 necessary rules and regulations for the administration of this
93 section. Any rule or portion of a rule, as that term is defined in section
94 536.010, that is created under the authority delegated in this section

95 shall become effective only if it complies with and is subject to all of
96 the provisions of chapter 536 and, if applicable, section 536.028. This
97 section and chapter 536 are nonseverable and if any of the powers
98 vested with the general assembly pursuant to chapter 536 to review, to
99 delay the effective date, or to disapprove and annual a rule are
100 subsequently held unconstitutional, then the grant of rulemaking
101 authority and any rule proposed or adopted after August 28, 2017, shall
102 be invalid and void.

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Bill

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