



Automatic License Plate Reader Privacy Model Bill

Section 1. Definitions.

- (A) “Automatic License Plate Reader system” shall mean a system of one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert images of license plates into computer-readable data.
- (B) “Captured plate data” shall mean the GPS coordinates, date and time, photograph, license plate number, and any other data captured by or derived from any automatic license plate reader system.
- (C) “Secured area” shall mean an area, enclosed by clear boundaries, to which access is limited and not open to the public and entry is only obtainable through specific access-control points.
- (D) “Alert” shall mean data held by the Department of Motor Vehicles, the state Criminal Justice Information System, the National Crime Information Center, the FBI Kidnappings and Missing Persons list, [insert state missing persons list], and license plate numbers that have been manually entered into the automatic license plate reader system upon an officer’s determination that the vehicles or individuals associated with the license plate numbers are relevant and material to an ongoing criminal or missing persons investigation.
- (E) “Government entity” shall mean a department or agency of the state or a political subdivision thereof, or an individual acting for or on behalf of the state or a political subdivision thereof.

Comment [CM1]: NOTE TO AFFILIATES: Your state may already have a commonly used definition of this term.

Section 2. Restrictions on use.

- (A) Except as provided for in Section 2(B), it shall be unlawful for any person acting under color of state law to use an automatic license plate reader system.
- (B) An automatic license plate reader system may be used by a person acting under color of state law:
 - (1) By state, county, or municipal law enforcement agencies for the comparison of captured plate data with data held by the Department of Motor Vehicles, the state Criminal Justice Information System, the National Crime Information Center, the FBI Kidnappings and Missing Persons list, [insert identifier for state missing persons list], and license plate numbers that have been manually entered into the automatic license plate reader system upon an officer’s determination that the vehicles or individuals associated with the license plate numbers are relevant and material to an ongoing criminal or missing persons investigation for the purpose of identifying:
 - (a) Outstanding parking or traffic violations;



- (b) An unregistered or uninsured vehicle;
 - (c) A vehicle in violation of the inspection requirements set forth in section [insert citation to state vehicle inspection law];
 - (d) A vehicle in violation of any other vehicle registration requirement;
 - (e) A vehicle registered to an individual for whom there is an outstanding felony warrant;
 - (f) A vehicle associated with a missing person;
 - (g) A vehicle that has been reported as stolen; or
 - (h) A vehicle that is relevant and material to an ongoing criminal investigation.
- (2) By parking enforcement entities for regulating the use of parking facilities;
 - (3) For the purpose of controlling access to secured areas; or
 - (4) For the purpose of electronic toll collection.

Section 3. Protections.

- (A) Captured plate data obtained for the purposes described under Section 2(B) shall not be used or shared for any other purpose and shall not be retained except:
 - (1) As evidence under Section 2(B);
 - (2) Pursuant to a preservation request under Section 4(A);
 - (3) Pursuant to a disclosure order under Section 4(B);
 - (4) Pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure or [insert citation to state warrant statute]; or
 - (5) As part of an ongoing investigation provided that captured plate data is confirmed as matching an alert and is destroyed at the conclusion of either:
 - (a) An investigation that does not result in any criminal charges being filed; or
 - (b) Any criminal action undertaken in the matter involving the captured plate data.
- (B) Any governmental entity that uses automatic license plate reader systems pursuant to Section 2(B)(1) must update those systems from the databases enumerated in Section 2(B)(1) at the beginning of each shift if such updates are available.
- (C) Any governmental entity that uses automatic license plate reader systems pursuant to Section 2(B)(1) may manually enter license plate numbers into the automatic license plate reader system only where an officer determines that the vehicle or individuals associated with the license plate number are relevant and material to an ongoing criminal or missing persons investigation and subject to the following limitations:



- (1) Any manual entry must document the reason for the entry; and
- (2) Manual entries must be automatically purged at the end of each shift.

Section 4. Preservation and Access.

(A) Preservation request.

- (1) An operator of an automatic license plate reader system, upon the request of a governmental entity or a defendant in a criminal case, shall take all necessary steps to preserve captured plate data in its possession for 14 days pending the issuance of a court order under Section 4(B).
 - (a) A requesting governmental entity or defendant in a criminal case must specify in a written sworn statement:
 - (i) The particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and
 - (ii) The date or dates and timeframes for which captured plate data must be preserved.

(B) A governmental entity or defendant in a criminal case may apply for a court order for disclosure captured plate data, which shall be issued by any court of competent jurisdiction if the governmental entity or defendant in a criminal case offers specific and articulable facts showing there are reasonable grounds to believe the captured plate data is relevant and material to an ongoing criminal or missing persons investigation or criminal prosecution or defense.

(C) Captured plate data held by a governmental entity shall be destroyed if the application for an order under Section 4(B) is denied or at the end of 14 days, whichever is later.

(D) A governmental entity may obtain, receive, or use privately-held captured plate data only pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure or [insert citation to state warrant statute] or the procedure described in Section 4(B), and only if the private automatic license plate reader system retains captured plate data for 14 days or fewer.

Section 5. Reporting.

(A) Any governmental entity that uses automatic license plate reader systems pursuant to Section 2(B) shall:

- (1) Adopt a policy governing use of the system and conspicuously post the policy on the governmental entity's Internet website;



- (2) Adopt a privacy policy to ensure that captured plate data is not shared in violation of this Act or any other law, and conspicuously post the privacy policy on the governmental entity's Internet website;
- (3) Report annually on its automatic license plate reader practices and usage to the state or local body that governs the governmental entity. The report must also be conspicuously posted on the governmental entity's Internet website. The report shall include:
 - (a) The number of license plates scanned;
 - (b) The names of the lists against which captured plate data was checked, and the number of confirmed matches and the number of matches that upon further investigation did not correlate to an alert;
 - (c) The number of matches that resulted in arrest and prosecution;
 - (d) The number of preservation requests received under Section 4(A);
 - (e) The number of preservation requests issued under Section 4(A), broken down by the number of preservation requests issued to other governmental entities and the number of preservation requested issued to private automatic license plate reader systems;
 - (f) The number of disclosure orders received under Section 4(B);
 - (g) The number of disclosure orders applied for under Section 4(B), broken down by:
 - (i) The number of applications for disclosure orders to governmental entities under Section 4(B) that were denied;
 - (ii) The number of orders for disclosure to governmental entities under Section 4(B) resulting in arrest and prosecution;
 - (iii) The number of applications for disclosure orders to private automatic license plate reader systems under Section 4(B) that were denied; and
 - (iv) The number of orders for disclosure to private automatic license plate reader systems under Section 4(B) resulting in arrest and prosecution.
 - (h) The number of manually-entered license plate numbers under Section 3(C), broken down by reason justifying the entry, and the number of confirmed matches and the number of matches that upon further investigation did not correlate to an alert; and
 - (i) Any changes in policy that affect privacy concerns.



Section 6. No captured plate data and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the State of [insert state name], or a political subdivision thereof, if the disclosure of that information would be in violation of this Act.

Section 7. Penalties.

(A) Any person who violates the provisions of this Act shall be subject to legal action for damages, to be brought by any other person claiming that a violation of this Act has injured his business, his person, or his reputation. A person so injured shall be entitled to actual damages, including mental pain and suffering endured by him on account of violation of the provisions of this Act, or liquidated damages of one thousand dollars, and a reasonable attorney's fee and other costs of litigation.

(B) Any person who violates Section 2 of this Act is guilty of a gross misdemeanor.

Comment [CM2]: NOTE TO AFFILIATES: Make sure this designation comports appropriately with your state law.

Section 8. Privacy.

(A) Captured plate data is not considered a public record for the purposes of [insert citation to state sunshine/open records law] and may only be disclosed to the person to whom the vehicle is registered, or with the prior written consent of the person to whom the vehicle is registered.

(B) Upon the presentation to an appropriate governmental entity of a valid, outstanding protection order protecting the driver of a vehicle jointly registered with or registered solely in the name of the individual against whom the order was issued, captured plate data may not be disclosed except pursuant to a disclosure order under Section 4(B) or as the result of a match pursuant to Section 2(B).

Section 9. Severability:

The provisions in this Act are severable. If any part or provision of this Act, or the application of this Act to any person, entity, or circumstance, is held invalid, the remainder of this Act, including the application of such part or provision to other persons, entities, or circumstances, shall not be affected by such holding and shall continue to have force and effect.

Section 10. Effective Date:

This Act shall take effect upon passage.