

FIRST REGULAR SESSION

SENATE BILL NO. 85

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Pre-filed December 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0114S.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
2 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:

2 **(1) "Automated license plate reader system", a system of one or**
3 **more mobile or fixed high-speed cameras combined with computer**
4 **algorithms to convert images of registration plates into computer**
5 **readable data;**

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

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

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

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

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

18 **(3) A warrant under section 542.271.**

19 **3. Data collected or retained through the use of an automated**
20 **license plate reader system by a government entity shall not be shared**
21 **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 E felony.

70 9. By August 28, 2018, the department of public safety shall
71 promulgate, by rule, a standard for the installation of fixed automated
72 license plate reader systems by government entities. The rule shall be
73 posted on the department's official website. For a fixed automated
74 license plate reader system installed after the promulgation of the rule,
75 a government entity requesting such system shall submit an application
76 to the department of public safety for approval prior to
77 installation. Government entities utilizing fixed automated license
78 plate reader systems that were installed prior to the promulgation of
79 the rule shall have thirty days after the promulgation of the rule to
80 submit an application to the department of public safety for approval,
81 and if such application is denied, the system shall be removed. Any
82 application submitted to the department of public safety shall include
83 a justification for the installation of the fixed automated license plate
84 reader system. Any government entity utilizing a fixed automated
85 license plate reader system shall make available, upon request, any
86 application submitted in accordance with this section for such fixed
87 automated license plate reader system.

88 10. The department of public safety shall promulgate all
89 necessary rules and regulations for the administration of this
90 section. Any rule or portion of a rule, as that term is defined in section
91 536.010, that is created under the authority delegated in this section
92 shall become effective only if it complies with and is subject to all of
93 the provisions of chapter 536 and, if applicable, section 536.028. This
94 section and chapter 536 are nonseverable and if any of the powers
95 vested with the general assembly pursuant to chapter 536 to review, to

96 delay the effective date, or to disapprove and annual a rule are
97 subsequently held unconstitutional, then the grant of rulemaking
98 authority and any rule proposed or adopted after August 28, 2017, shall
99 be invalid and void.

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Unofficial

Bill

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