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.

67958.011

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Any civil or criminal action undertaken involving the
captured plate data.

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

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

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

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

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

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