

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H4/3/13 H4/6/13 S4/11/13 S4/12/13*

89th General Assembly

A Bill

Regular Session, 2013

HOUSE BILL 1996

By: Representatives Steel, Bell, *Leding, D. Meeks, Nickels, D. Whitaker, Wardlaw, Baine*

For An Act To Be Entitled

AN ACT TO REGULATE THE USE OF AUTOMATIC LICENSE PLATE
READER SYSTEMS; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE THE USE OF AUTOMATIC LICENSE
PLATE READER SYSTEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 12, Chapter 12, is amended to add an additional subchapter to read as follows:

SUBCHAPTER 18

- Use of Automatic License Plate Reader Systems

12-12-1801. Title.

This subchapter is known and may be cited as the "Automatic License Plate Reader System Act".

12-12-1802. Definitions.

As used in this subchapter:

(1) "Alert" means data held by the Office of Motor Vehicle, the Arkansas Crime Information Center including without limitation the Arkansas Crime Information Center's Missing Persons database, the National Crime Information Center, and the Federal Bureau of Investigation Kidnappings and Missing Persons database;

(2) "Automatic license plate reader system" means a system of one (1) 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;

(3)(A) "Captured plate data" means the global positioning device coordinates, date and time, photograph, license plate number, and any other data captured by or derived from any automatic license plate reader system;

(B) Captured plate data shall not include any personal data;

(4) "Governmental entity" means a lawfully created branch, department, or agency of the federal, state, or local government; and

(5) "Secured area" means an area, enclosed by clear boundaries, to which access is limited and not open to the public, and entry is obtainable only through specific access-control points.

12-12-1803. Restrictions on use.

(a) Except as provided in subsection (b) of this section, it is unlawful for an individual, partnership, corporation, association, or the State of Arkansas, its agencies, and political subdivisions to use an automatic license plate reader system.

(b) An automatic license plate reader system may be used:

(1) By a state, county, or municipal law enforcement agency for the comparison of captured plate data with data held by the Office of Motor Vehicle, the Arkansas Crime Information Center, the National Crime Information Center, a database created by law enforcement for the purposes of an ongoing investigation, and the Federal Bureau of Investigation for any lawful purpose;

(2) By parking enforcement entities for regulating the use of parking facilities; or

(3) For the purpose of controlling access to secured areas.

12-12-1804. Protections.

(a) Captured plate data obtained for the purposes described under § 12-12-1803(b) shall not be used or shared for any other purpose and shall not be preserved for more than one hundred fifty (150) days.

(b) Captured plate data obtained by an entity under § 12-12-1803(b)(1) may be retained as part of an ongoing investigation and shall be destroyed at the conclusion of either:

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

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

(c) A governmental entity that uses an automatic license plate reader system under § 12-12-1803(b)(1) shall update the captured plate data collected under this subchapter every twenty-four (24) hours if updates are available.

(d)(1) Except as provided under subdivision (d)(2) of this section, a governmental entity authorized to use an automatic license plate reader system under § 12-12-1803(b) shall not sell, trade, or exchange captured plate data for any purpose.

(2) Captured plate data obtained by a law enforcement agency under § 12-12-1803(b)(1) that indicates evidence of an offense may be shared with other law enforcement agencies.

12-12-1805. Practice and usage data preservation.

(a) An entity that uses an automatic license plate reader system under § 12-12-1803(b) shall:

(1) Compile statistical data identified in subsection (b) of this section every six (6) months into a format sufficient to allow the general public to review the compiled data; and

(2) Preserve the compiled data for eighteen months.

(b) The preserved data shall include:

(1) The number of license plates scanned;

(2)(A) The names of the lists against which captured plate data were checked;

(3) For each check of captured plate data against a list:

(A) The number of confirmed matches;

(B) The number of matches that upon further investigation did not correlate to an alert; and

(C) The number of matches that resulted in arrest and prosecution; and

(4)(A) Promulgate rules and policies concerning the manner and method of obtaining, retaining, and destroying captured plate data, including, without limitation, specific rules and policies concerning

retention of material in excess of one hundred fifty (150) days under § 12-12-1804(b), and make those rules and policies available for public inspection.

(B) Failure to comply with subdivision (b)(4)(A) of this section shall be grounds for a court of competent jurisdiction to exclude any evidence obtained under this subchapter.

12-12-1806. Use of data and data-derived evidence.

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 be in violation of this subchapter.

12-12-1807. Penalties.

(a) A person who violates this subchapter shall be subject to legal action for damages to be brought by any other person claiming that a violation of this subchapter has injured his or her business, person, or reputation.

(b) A person so injured shall be entitled to actual damages, or liquidated damages of one thousand dollars (\$1,000), whichever is greater and other costs of litigation.

12-12-1808. Privacy.

(a)(1) Captured plate data or data obtained from the Office of Motor Vehicle may be disclosed only:

(A) To the person to whom the vehicle is registered;

(B) After the written consent of the person to whom the vehicle is registered; or

(C) If the disclosure of the data is permitted by the Driver Privacy Protection Act of 1994, 18 U.S.C. § 2721 et seq., as it existed on January 1, 2013.

(2) Practice and usage data compiled and preserved under § 12-12-1806 are a public record for purposes of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(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 shall not be disclosed except as the result of a match under § 12-12-1803(b).

/s/Steel