

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/24/25

Check all that apply:

SB 71

SB71

SB71

Original Correction

SB71

Bill Number: _____

Amendment Substitute

Sponsor: Sen. Peter Wirth and Rep. Christine Chandler

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: AUTO LICENSE PLATE READER ACT

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

SB 71 creates the “Automatic License Plate Reader Act.”

Section 1 is simply the short title and Section 2 contains definitions, discussed as relevant in context, below.

Section 3 provides permitted uses of automatic license plate readers and license plate data. An “automatic license plate reader system” is defined as “high-speed cameras that are attached to law enforcement vehicles or mounted on street poles, highway overpasses or mobile trailers and used to convert images of license plates into computer-readable license plate data and includes license plate data manually entered by law enforcement officers.” “License plate data” is defined as “a vehicle’s characteristics, including make, model, color and license plate number; a photo of the vehicle, driver or passengers; the global positioning system coordinates; and the date and time of travel.”

The bill provides that a law enforcement agency may compare license plate data in an automatic license plate reader system with data from various sources for investigatory purposes. It also enumerates circumstances under which the license plate data is to be manually entered into an automatic license plate reader system and compared with data from different law enforcement databases, including when a vehicle is unregistered, uninsured, or stolen.

Section 4 provides that the retention of license plate data in an automatic license plate reader system is to be retained for “one year if there is an alert that the vehicle may be connected to a criminal or missing persons investigation.” If there is no alert, the license plate data in an automatic license plate reader system is to be deleted after fourteen days, with exceptions specified therein, including relevance to an ongoing criminal investigation.

SB 71 also requires that law enforcement agencies using an automatic license plate reader system adopt policies to protect the security of the license plate data, promulgate rules regarding retaining and deleting the data, and annually report to the legislature on the system practices and usage. There is a provision prohibiting law enforcement agencies from using an

automatic license plate reader system to target individuals, groups, communities, and geographic locations based on certain identified and generally protected characteristics. The bill also provides that “License plate data in an automatic license plate reader system is confidential and not considered a public record for purposes of the Inspection of Public Records Act,” with certain practical exceptions.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None for this office identified

SIGNIFICANT ISSUES

None identified

PERFORMANCE IMPLICATIONS

None identified

ADMINISTRATIVE IMPLICATIONS

None identified

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified

TECHNICAL ISSUES

None identified

OTHER SUBSTANTIVE ISSUES

Section 3 (B)(2) provides that “License plate data shall be manually entered into an automatic license plate reader system and compared with data” from different law enforcement databases “when an officer determines that a vehicle is: . . . (2) registered to a person who has a New Mexico outstanding felony warrant, is associated with a missing person or is committing a felony.” There may be potential for “associated with” to be interpreted in a variety of ways and it may be beneficial to consider clarifying.

Section 4 is entitled “Limiting the Retention of License Plate Data.” Section 4 (B) provides that license plate data shall be deleted after fourteen days if there is no alert, while also providing that the data shall be retained under certain circumstances, including “upon written request of a law enforcement agency, a prosecutor or a defendant in a criminal case to preserve the license plate data.” It does not specify to whom a written request must be submitted and it may be beneficial to provide some guidance for purposes of clarity, particularly given the brief period within which a retention request would need to be made. Additionally, there is no clear provision for final disposition of the data following a retention request and it may be beneficial to consider adding

language regarding ultimate disposition under such circumstances.

Section 4 (A) provides that license plate data for which there is an alert shall be retained for a one-year period. It does not clearly state that the data shall be deleted upon expiration of the one-year period and there is no provision, as there is for data falling within the fourteen-day period, that a law enforcement agency, a prosecutor or a defendant in a criminal case may make a written request to preserve it for a longer period of time. This may create confusion regarding what must or may be done with the data following the one-year retention period. This may also lead to the possibility of issues arising regarding preservation of evidence for criminal matters, particularly as the one-year retention period is triggered when there is an alert, which is defined as “a notification that occurs when license plate data contained in an automatic license plate reader system matches data found in a New Mexico or national crime investigation database,” that the vehicle may be connected to a criminal or missing persons investigation. For these reasons, it may be beneficial to consider whether language should be added permitting extension of the retention period under the same or similar circumstances as provided for in Section 4 (B) and clarifying ultimate disposition of the data following the retention period.

There are no consequences contained within the bill of failing to comply with the provisions stated therein. For example, if a law enforcement agency fails to adequately protect the security of data, is there a cause of action, by whom, in which court, etc. There is also no provision for how data should be retained or deleted, and the consequences for failure to do so in accordance with the provisions of the bill.

ALTERNATIVES

None identified

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS