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SENATE BILL 208

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Peter Wirth and Christine Chandler

AN ACT

RELATING TO LAW ENFORCEMENT; ENACTING THE AUTOMATIC LICENSE
PLATE READER ACT; PERMITTING LICENSE PLATE DATA TO BE USED FOR
LAW ENFORCEMENT INVESTIGATIONS; LIMITING THE RETENTION OF
LICENSE PLATE DATA; PROTECTING THE SECURITY OF THE COLLECTED
DATA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Automatic License Plate Reader Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Automatic License Plate Reader Act:

A. "alert" means a notification that occurs when
data contained in an automatic license plate reader system
matches data found in a New Mexico or national crime
investigation database;

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1 B. "automatic license plate reader system" means
2 high-speed cameras attached to law enforcement vehicles or
3 mounted on street poles, highway overpasses or mobile trailers,
4 used to convert images of license plates into computer-readable
5 data and includes license plate data manually entered by law
6 enforcement officers;

7 C. "license plate data" means a vehicle's
8 characteristics, including make, model, color and license plate
9 number, a photo of the vehicle, driver or passengers, the
10 global positioning system coordinates and date and time of
11 travel; and

12 D. "law enforcement agency" means an agency of the
13 state or local political subdivision of the state that employs
14 certified law enforcement officers or the police department of
15 a tribe that has entered into an agreement with the department
16 of public safety pursuant to Section 29-1-11 NMSA 1978.

17 SECTION 3. [NEW MATERIAL] PERMITTED USE OF AUTOMATIC
18 LICENSE PLATE READERS AND LICENSE PLATE DATA.--

19 A. For law enforcement investigatory purposes, a
20 law enforcement agency may compare license plate data in the
21 automatic license plate reader system with data from:

22 (1) the motor vehicle division of the taxation
23 and revenue department;

24 (2) the New Mexico criminal justice
25 information system;

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1 (3) the national crime information center;

2 (4) the national center for missing and
3 exploited children;

4 (5) the New Mexico missing persons
5 clearinghouse;

6 (6) the federal department of homeland
7 security watchlist service; and

8 (7) the state or federal department of
9 transportation commercial vehicle compliance database.

10 B. License plate data shall be manually entered
11 into the automatic license plate reader system and compared
12 with data from state and federal law enforcement databases when
13 an officer determines that a vehicle is:

14 (1) unregistered, uninsured or stolen;

15 (2) registered to a person who has a New
16 Mexico outstanding felony warrant, is associated with a missing
17 person or is committing a felony;

18 (3) a commercial vehicle that is unsafe,
19 carrying contraband or not registered with the federal or state
20 department of transportation; or

21 (4) parked illegally in an area that is not
22 open to the public and secured by clear boundaries.

23 SECTION 4. [NEW MATERIAL] RETENTION OF AUTOMATIC LICENSE
24 PLATE READER DATA.--

25 A. License plate data in an automatic license plate

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1 reader system shall be retained by a law enforcement agency for
2 one year if there is an alert that the vehicle may be connected
3 to a criminal or missing persons investigation.

4 B. License plate data in an automatic license plate
5 reader system shall be deleted after seven days if there is not
6 an alert, except that the data shall be retained:

7 (1) if a law enforcement agency determines the
8 data is material to an ongoing criminal or missing persons
9 investigation;

10 (2) upon written request of a law enforcement
11 agency, a prosecutor or a defendant in a criminal case to
12 preserve the data; or

13 (3) upon issuance of a probable cause warrant.

14 C. A law enforcement agency that uses an automatic
15 license plate reader system shall protect the security of the
16 data collected and adopt a policy prohibiting:

17 (1) sharing data with third parties within the
18 state or outside of the state unless the third parties have
19 policies that conform to the requirements of the Automated
20 License Plate Reader Act;

21 (2) selling or making available data to non-
22 law enforcement officers or agencies;

23 (3) sharing of data by third-party vendors;

24 and

25 (4) collection and retention of data that is

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1 not defined as license plate data in the Automated License
2 Plate Reader Act.

3 D. A law enforcement agency that uses an automatic
4 license plate reader system shall:

5 (1) promulgate rules concerning retaining and
6 deleting license plate data; and

7 (2) report annually to the legislature on its
8 automatic license plate reader practices and usage, including:

9 (a) the number of license plates
10 scanned;

11 (b) the number of matches that resulted
12 in arrest and prosecution;

13 (c) the number of times license plate
14 data was exculpatory in a criminal proceeding;

15 (d) the number of preservation requests
16 received; and

17 (e) any changes in policy that affect
18 privacy concerns.

19 E. An automatic license plate reader system shall
20 not be used by a law enforcement agency to intentionally target
21 an individual, group, community or geographic location based on
22 race, ethnicity, national origin, ancestry, religion, age,
23 physical or mental handicap, serious medical condition, sex,
24 spousal affiliation, gender identity, sexual orientation,
25 pregnancy or pregnancy-related condition.

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F. Automatic license plate reader system data is confidential and not considered a public record for the purposes of the Inspection of Public Records Act; provided that the data may be disclosed to the person to whom the vehicle is registered or with the written consent of the person to whom the vehicle is registered unless there is an outstanding protection order protecting the driver of a vehicle jointly registered with or registered solely in the name of the person against whom the protective order was issued.