



Rep. Peter Breen

Filed: 4/14/2015

09900HB3289ham002

LRB099 07563 RLC 33852 a

1 AMENDMENT TO HOUSE BILL 3289

2 AMENDMENT NO. _____. Amend House Bill 3289, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Freedom from Automatic License Plate Reader Surveillance Act.

7 Section 5. Definitions. For the purpose of this Act:

8 "Alert" means information contained in databases
9 maintained by the Secretary of State of this State or by
10 federal, State, or local law enforcement agencies, and license
11 plate numbers that have been manually entered into the ALPR
12 system upon an officer's determination that the vehicles or
13 individuals associated with the license plate numbers are
14 relevant and material to an ongoing criminal or missing person
15 investigation.

16 "Automatic license plate reader system" or "ALPR system"

1 means a system of one or more mobile or fixed automatic
2 high-speed cameras used in combination with computer
3 algorithms to convert images of license plates into
4 computer-readable data.

5 "Captured plate data" means the GPS coordinates, date and
6 time, photograph, license plate number, and any other data
7 captured by or derived from any ALPR system.

8 "Law enforcement agency" means any agency of this State or
9 a unit of local government which is vested by law or ordinance
10 with the duty to maintain public order and to enforce criminal
11 laws and ordinances.

12 "Law enforcement officer" means any officer, agent, or
13 employee of this State or a unit of local government authorized
14 by law or by a government agency to engage in or supervise the
15 prevention, detection, or investigation of any violation of
16 criminal law, or authorized by law to supervise sentenced
17 criminal offenders.

18 "Look-out order" means an order received or initiated by a
19 law enforcement agency to look out for a particular person
20 reasonably suspected of being a threat to public safety or
21 engaged in criminal activity.

22 Section 10. Allowable uses of ALPR systems. Except as
23 otherwise provided in this Section, a person acting under the
24 color of State law may not use any ALPR system. An ALPR systems
25 may be used:

1 (1) for electronic toll collection and enforcement of
2 violations for non-payment of tolls;

3 (2) for traffic enforcement;

4 (3) by parking enforcement entities for regulating the
5 use of parking facilities;

6 (4) for controlling access to secured areas that have
7 clear boundaries, entry only through specific controlled
8 points, and limited access;

9 (5) for the purpose of conducting criminal
10 investigations upon an officer's determination that the
11 vehicles or individuals associated with the license plate
12 numbers are relevant and material to an ongoing criminal
13 investigation; or

14 (6) by law enforcement agencies for the comparison of
15 captured plate data with information contained in
16 databases maintained by the Secretary of State of this
17 State or by federal, State, or local law enforcement
18 agencies, and with license plate numbers that have been
19 manually entered into an ALPR system upon an officer's
20 determination that the vehicles or individuals associated
21 with the license plate numbers are relevant and material to
22 an ongoing criminal or missing person investigation, for
23 the purpose of identifying:

24 (A) vehicles that are stolen, or in violation of
25 any registration or inspection requirements;

26 (B) persons who are missing, or the subject of an

1 arrest warrant, look-out order, traffic citation, or
2 parking citation; or

3 (C) vehicles that are relevant and material to an
4 ongoing criminal investigation.

5 Section 15. Protections.

6 (a) Captured plate data obtained for the purposes described
7 under paragraph (6) of Section 10 shall not be used, shared,
8 sold, traded, or exchanged for any other purpose and shall not
9 be preserved for more than 30 days by a law enforcement agency
10 except it may be preserved for more than 30 days:

11 (1) under a preservation request under Section 20;

12 (2) under a disclosure order under Section 20;

13 (3) as part of an ongoing investigation provided that
14 the captured plate data is confirmed as matching an alert
15 and is destroyed at the conclusion of either:

16 (A) an investigation that does not result in any
17 criminal charges being filed; or

18 (B) any criminal action undertaken in the matter
19 involving the captured plate data.

20 (b) Any law enforcement agency that uses an ALPR system
21 under paragraph (6) of Section 10 must update that system from
22 the databases described in paragraph (6) of Section 10 at the
23 beginning of each shift if the updates are available.

24 (c) Any law enforcement agency that uses an ALPR system
25 under paragraph (6) of Section 10 may manually enter license

1 plate numbers into the ALPR system only if an officer
2 determines that the vehicle or individuals associated with the
3 license plate numbers are relevant and material to an ongoing
4 criminal or missing persons investigation and subject to the
5 following limitations:

6 (1) any manual entry must document the reason for the
7 entry; and

8 (2) manual entries must be purged after 48 hours,
9 unless an officer determines that the vehicle or
10 individuals associated with the license plate numbers
11 continue to be relevant and material to an ongoing criminal
12 or missing persons investigation.

13 (d) ALPR system captured plate data is not subject to
14 disclosure under the Freedom of Information Act, unless the
15 disclosure is consented to in writing by the individual
16 subjects of the information.

17 Section 20. Preservation and disclosure.

18 (a) An operator of an automatic license plate reader
19 system, upon the request of a law enforcement agency or a
20 defendant in a criminal case, shall take all necessary steps to
21 preserve captured plate data in its possession for 30 days
22 pending the issuance of a court order under Section (b). A
23 requesting governmental entity or defendant in a criminal case
24 must specify in a written sworn statement:

25 (1) the particular camera or cameras for which captured

1 plate data must be preserved or the particular license
2 plate for which captured plate data must be preserved; and

3 (2) the date or dates and timeframes for which captured
4 plate data must be preserved.

5 (b) A law enforcement agency or defendant in a criminal
6 case may apply for a court order for disclosure of captured
7 plate data which shall be issued by any court that is a court
8 of competent jurisdiction if the law enforcement agency or
9 defendant in a criminal case offers specific and articulable
10 facts showing that there are reasonable grounds to believe that
11 the captured plate data is relevant and material to an ongoing
12 criminal or missing persons investigation or criminal
13 prosecution.

14 (c) Captured plate data held by a law enforcement agency
15 shall be destroyed if the application for an order under
16 Section (b) of this Section is denied or at the end of 30 days,
17 whichever is later.

18 Section 25. Allowable uses of all other captured plate
19 data. If an ALPR system captures plate information under
20 paragraph (1), (2), (3), (4), or (5) of Section 10 of this Act,
21 then the captured plate information:

22 (1) shall be used and disclosed only as necessary to
23 achieve the purpose for which the information was captured
24 and shall not be sold, traded, or exchanged for any other
25 purpose;

1 (2) shall be destroyed within 48 hours of the
2 completion of that purpose; and

3 (3) shall not be subject to disclosure under the
4 Freedom of Information Act, unless the disclosure is
5 consented to in writing by the individual subjects of the
6 information.

7 Section 30. Use of privately held captured plate data.

8 (a) A law enforcement agency may obtain, receive, or use
9 privately-held captured plate data for the purposes described
10 in paragraph (3) of Section 10 only if the private automatic
11 license plate reader system retains captured plate data for 30
12 days or fewer.

13 (b) A law enforcement agency may obtain, receive, or use
14 privately-held captured plate data for the purposes described
15 in paragraphs (5) and (6) of Section 10, and only if the
16 private automatic license plate reader system retains captured
17 plate data for 30 days or less.

18 Section 35. Admissibility. If a court finds by a
19 preponderance of the evidence that captured plate information
20 was gathered, stored, used, or disclosed in violation of this
21 Act, then that information shall be presumed to be inadmissible
22 in any judicial or administrative proceeding. The State may
23 overcome this presumption by proving the applicability of a
24 judicially recognized exception to the exclusionary rule of the

1 Fourth Amendment to the United States Constitution or Article
2 I, Section 6 of the Illinois Constitution, or by a
3 preponderance of the evidence that the individual,
4 partnership, corporation, association, or the law enforcement
5 officer was acting in good faith and reasonably believed that
6 one or more of the exceptions identified in Section 10 existed
7 at the time that the captured plate information was gathered,
8 stored, used, or disclosed.

9 Section 40. Policies and procedures. Any law enforcement
10 agency that uses automatic license plate reader systems under
11 Section 10 shall:

12 (1) adopt a policy governing use of the system and
13 conspicuously post the policy on the law enforcement agency's
14 Internet Web site;

15 (2) adopt a privacy policy to ensure that captured plate
16 data is not shared in violation of this act or any other law
17 and conspicuously post the privacy policy on the law
18 enforcement agency's Internet Web site;

19 (3) adopt audit procedures relating to the use of ALPR
20 system data; and

21 (4) adopt and periodically update a comprehensive training
22 program for agency employees who use or have access to ALPR
23 system data, which fully trains the employees on safeguards in
24 the use of ALPR system data and procedures to adhere to
25 policies and procedures governing the use of ALPR system data.

1 Section 100. The Freedom of Information Act is amended by
2 changing Section 7 as follows:

3 (5 ILCS 140/7) (from Ch. 116, par. 207)

4 Sec. 7. Exemptions.

5 (1) When a request is made to inspect or copy a public
6 record that contains information that is exempt from disclosure
7 under this Section, but also contains information that is not
8 exempt from disclosure, the public body may elect to redact the
9 information that is exempt. The public body shall make the
10 remaining information available for inspection and copying.
11 Subject to this requirement, the following shall be exempt from
12 inspection and copying:

13 (a) Information specifically prohibited from
14 disclosure by federal or State law or rules and regulations
15 implementing federal or State law.

16 (b) Private information, unless disclosure is required
17 by another provision of this Act, a State or federal law or
18 a court order.

19 (b-5) Files, documents, and other data or databases
20 maintained by one or more law enforcement agencies and
21 specifically designed to provide information to one or more
22 law enforcement agencies regarding the physical or mental
23 status of one or more individual subjects.

24 (c) Personal information contained within public

1 records, the disclosure of which would constitute a clearly
2 unwarranted invasion of personal privacy, unless the
3 disclosure is consented to in writing by the individual
4 subjects of the information. "Unwarranted invasion of
5 personal privacy" means the disclosure of information that
6 is highly personal or objectionable to a reasonable person
7 and in which the subject's right to privacy outweighs any
8 legitimate public interest in obtaining the information.
9 The disclosure of information that bears on the public
10 duties of public employees and officials shall not be
11 considered an invasion of personal privacy.

12 (d) Records in the possession of any public body
13 created in the course of administrative enforcement
14 proceedings, and any law enforcement or correctional
15 agency for law enforcement purposes, but only to the extent
16 that disclosure would:

17 (i) interfere with pending or actually and
18 reasonably contemplated law enforcement proceedings
19 conducted by any law enforcement or correctional
20 agency that is the recipient of the request;

21 (ii) interfere with active administrative
22 enforcement proceedings conducted by the public body
23 that is the recipient of the request;

24 (iii) create a substantial likelihood that a
25 person will be deprived of a fair trial or an impartial
26 hearing;

1 (iv) unavoidably disclose the identity of a
2 confidential source, confidential information
3 furnished only by the confidential source, or persons
4 who file complaints with or provide information to
5 administrative, investigative, law enforcement, or
6 penal agencies; except that the identities of
7 witnesses to traffic accidents, traffic accident
8 reports, and rescue reports shall be provided by
9 agencies of local government, except when disclosure
10 would interfere with an active criminal investigation
11 conducted by the agency that is the recipient of the
12 request;

13 (v) disclose unique or specialized investigative
14 techniques other than those generally used and known or
15 disclose internal documents of correctional agencies
16 related to detection, observation or investigation of
17 incidents of crime or misconduct, and disclosure would
18 result in demonstrable harm to the agency or public
19 body that is the recipient of the request;

20 (vi) endanger the life or physical safety of law
21 enforcement personnel or any other person; ~~or~~

22 (vii) obstruct an ongoing criminal investigation
23 by the agency that is the recipient of the request; or

24 ~~-~~

25 (viii) disclose captured plate data as that term is
26 defined in Section 5 of the Freedom from Automatic

1 License Plate Reader Surveillance Act, unless the
2 disclosure is consented to in writing by the individual
3 subjects of the information.

4 (d-5) A law enforcement record created for law
5 enforcement purposes and contained in a shared electronic
6 record management system if the law enforcement agency that
7 is the recipient of the request did not create the record,
8 did not participate in or have a role in any of the events
9 which are the subject of the record, and only has access to
10 the record through the shared electronic record management
11 system.

12 (e) Records that relate to or affect the security of
13 correctional institutions and detention facilities.

14 (e-5) Records requested by persons committed to the
15 Department of Corrections if those materials are available
16 in the library of the correctional facility where the
17 inmate is confined.

18 (e-6) Records requested by persons committed to the
19 Department of Corrections if those materials include
20 records from staff members' personnel files, staff
21 rosters, or other staffing assignment information.

22 (e-7) Records requested by persons committed to the
23 Department of Corrections if those materials are available
24 through an administrative request to the Department of
25 Corrections.

26 (f) Preliminary drafts, notes, recommendations,

1 memoranda and other records in which opinions are
2 expressed, or policies or actions are formulated, except
3 that a specific record or relevant portion of a record
4 shall not be exempt when the record is publicly cited and
5 identified by the head of the public body. The exemption
6 provided in this paragraph (f) extends to all those records
7 of officers and agencies of the General Assembly that
8 pertain to the preparation of legislative documents.

9 (g) Trade secrets and commercial or financial
10 information obtained from a person or business where the
11 trade secrets or commercial or financial information are
12 furnished under a claim that they are proprietary,
13 privileged or confidential, and that disclosure of the
14 trade secrets or commercial or financial information would
15 cause competitive harm to the person or business, and only
16 insofar as the claim directly applies to the records
17 requested.

18 The information included under this exemption includes
19 all trade secrets and commercial or financial information
20 obtained by a public body, including a public pension fund,
21 from a private equity fund or a privately held company
22 within the investment portfolio of a private equity fund as
23 a result of either investing or evaluating a potential
24 investment of public funds in a private equity fund. The
25 exemption contained in this item does not apply to the
26 aggregate financial performance information of a private

1 equity fund, nor to the identity of the fund's managers or
2 general partners. The exemption contained in this item does
3 not apply to the identity of a privately held company
4 within the investment portfolio of a private equity fund,
5 unless the disclosure of the identity of a privately held
6 company may cause competitive harm.

7 Nothing contained in this paragraph (g) shall be
8 construed to prevent a person or business from consenting
9 to disclosure.

10 (h) Proposals and bids for any contract, grant, or
11 agreement, including information which if it were
12 disclosed would frustrate procurement or give an advantage
13 to any person proposing to enter into a contractor
14 agreement with the body, until an award or final selection
15 is made. Information prepared by or for the body in
16 preparation of a bid solicitation shall be exempt until an
17 award or final selection is made.

18 (i) Valuable formulae, computer geographic systems,
19 designs, drawings and research data obtained or produced by
20 any public body when disclosure could reasonably be
21 expected to produce private gain or public loss. The
22 exemption for "computer geographic systems" provided in
23 this paragraph (i) does not extend to requests made by news
24 media as defined in Section 2 of this Act when the
25 requested information is not otherwise exempt and the only
26 purpose of the request is to access and disseminate

1 information regarding the health, safety, welfare, or
2 legal rights of the general public.

3 (j) The following information pertaining to
4 educational matters:

5 (i) test questions, scoring keys and other
6 examination data used to administer an academic
7 examination;

8 (ii) information received by a primary or
9 secondary school, college, or university under its
10 procedures for the evaluation of faculty members by
11 their academic peers;

12 (iii) information concerning a school or
13 university's adjudication of student disciplinary
14 cases, but only to the extent that disclosure would
15 unavoidably reveal the identity of the student; and

16 (iv) course materials or research materials used
17 by faculty members.

18 (k) Architects' plans, engineers' technical
19 submissions, and other construction related technical
20 documents for projects not constructed or developed in
21 whole or in part with public funds and the same for
22 projects constructed or developed with public funds,
23 including but not limited to power generating and
24 distribution stations and other transmission and
25 distribution facilities, water treatment facilities,
26 airport facilities, sport stadiums, convention centers,

1 and all government owned, operated, or occupied buildings,
2 but only to the extent that disclosure would compromise
3 security.

4 (l) Minutes of meetings of public bodies closed to the
5 public as provided in the Open Meetings Act until the
6 public body makes the minutes available to the public under
7 Section 2.06 of the Open Meetings Act.

8 (m) Communications between a public body and an
9 attorney or auditor representing the public body that would
10 not be subject to discovery in litigation, and materials
11 prepared or compiled by or for a public body in
12 anticipation of a criminal, civil or administrative
13 proceeding upon the request of an attorney advising the
14 public body, and materials prepared or compiled with
15 respect to internal audits of public bodies.

16 (n) Records relating to a public body's adjudication of
17 employee grievances or disciplinary cases; however, this
18 exemption shall not extend to the final outcome of cases in
19 which discipline is imposed.

20 (o) Administrative or technical information associated
21 with automated data processing operations, including but
22 not limited to software, operating protocols, computer
23 program abstracts, file layouts, source listings, object
24 modules, load modules, user guides, documentation
25 pertaining to all logical and physical design of
26 computerized systems, employee manuals, and any other

1 information that, if disclosed, would jeopardize the
2 security of the system or its data or the security of
3 materials exempt under this Section.

4 (p) Records relating to collective negotiating matters
5 between public bodies and their employees or
6 representatives, except that any final contract or
7 agreement shall be subject to inspection and copying.

8 (q) Test questions, scoring keys, and other
9 examination data used to determine the qualifications of an
10 applicant for a license or employment.

11 (r) The records, documents, and information relating
12 to real estate purchase negotiations until those
13 negotiations have been completed or otherwise terminated.
14 With regard to a parcel involved in a pending or actually
15 and reasonably contemplated eminent domain proceeding
16 under the Eminent Domain Act, records, documents and
17 information relating to that parcel shall be exempt except
18 as may be allowed under discovery rules adopted by the
19 Illinois Supreme Court. The records, documents and
20 information relating to a real estate sale shall be exempt
21 until a sale is consummated.

22 (s) Any and all proprietary information and records
23 related to the operation of an intergovernmental risk
24 management association or self-insurance pool or jointly
25 self-administered health and accident cooperative or pool.
26 Insurance or self insurance (including any

1 intergovernmental risk management association or self
2 insurance pool) claims, loss or risk management
3 information, records, data, advice or communications.

4 (t) Information contained in or related to
5 examination, operating, or condition reports prepared by,
6 on behalf of, or for the use of a public body responsible
7 for the regulation or supervision of financial
8 institutions or insurance companies, unless disclosure is
9 otherwise required by State law.

10 (u) Information that would disclose or might lead to
11 the disclosure of secret or confidential information,
12 codes, algorithms, programs, or private keys intended to be
13 used to create electronic or digital signatures under the
14 Electronic Commerce Security Act.

15 (v) Vulnerability assessments, security measures, and
16 response policies or plans that are designed to identify,
17 prevent, or respond to potential attacks upon a community's
18 population or systems, facilities, or installations, the
19 destruction or contamination of which would constitute a
20 clear and present danger to the health or safety of the
21 community, but only to the extent that disclosure could
22 reasonably be expected to jeopardize the effectiveness of
23 the measures or the safety of the personnel who implement
24 them or the public. Information exempt under this item may
25 include such things as details pertaining to the
26 mobilization or deployment of personnel or equipment, to

1 the operation of communication systems or protocols, or to
2 tactical operations.

3 (w) (Blank).

4 (x) Maps and other records regarding the location or
5 security of generation, transmission, distribution,
6 storage, gathering, treatment, or switching facilities
7 owned by a utility, by a power generator, or by the
8 Illinois Power Agency.

9 (y) Information contained in or related to proposals,
10 bids, or negotiations related to electric power
11 procurement under Section 1-75 of the Illinois Power Agency
12 Act and Section 16-111.5 of the Public Utilities Act that
13 is determined to be confidential and proprietary by the
14 Illinois Power Agency or by the Illinois Commerce
15 Commission.

16 (z) Information about students exempted from
17 disclosure under Sections 10-20.38 or 34-18.29 of the
18 School Code, and information about undergraduate students
19 enrolled at an institution of higher education exempted
20 from disclosure under Section 25 of the Illinois Credit
21 Card Marketing Act of 2009.

22 (aa) Information the disclosure of which is exempted
23 under the Viatical Settlements Act of 2009.

24 (bb) Records and information provided to a mortality
25 review team and records maintained by a mortality review
26 team appointed under the Department of Juvenile Justice

1 Mortality Review Team Act.

2 (cc) Information regarding interments, entombments, or
3 inurnments of human remains that are submitted to the
4 Cemetery Oversight Database under the Cemetery Care Act or
5 the Cemetery Oversight Act, whichever is applicable.

6 (dd) Correspondence and records (i) that may not be
7 disclosed under Section 11-9 of the Public Aid Code or (ii)
8 that pertain to appeals under Section 11-8 of the Public
9 Aid Code.

10 (ee) The names, addresses, or other personal
11 information of persons who are minors and are also
12 participants and registrants in programs of park
13 districts, forest preserve districts, conservation
14 districts, recreation agencies, and special recreation
15 associations.

16 (ff) The names, addresses, or other personal
17 information of participants and registrants in programs of
18 park districts, forest preserve districts, conservation
19 districts, recreation agencies, and special recreation
20 associations where such programs are targeted primarily to
21 minors.

22 (gg) Confidential information described in Section
23 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

24 (hh) The report submitted to the State Board of
25 Education by the School Security and Standards Task Force
26 under item (8) of subsection (d) of Section 2-3.160 of the

1 School Code and any information contained in that report.

2 (1.5) Any information exempt from disclosure under the
3 Judicial Privacy Act shall be redacted from public records
4 prior to disclosure under this Act.

5 (2) A public record that is not in the possession of a
6 public body but is in the possession of a party with whom the
7 agency has contracted to perform a governmental function on
8 behalf of the public body, and that directly relates to the
9 governmental function and is not otherwise exempt under this
10 Act, shall be considered a public record of the public body,
11 for purposes of this Act.

12 (3) This Section does not authorize withholding of
13 information or limit the availability of records to the public,
14 except as stated in this Section or otherwise provided in this
15 Act.

16 (Source: P.A. 97-333, eff. 8-12-11; 97-385, eff. 8-15-11;
17 97-452, eff. 8-19-11; 97-783, eff. 7-13-12; 97-813, eff.
18 7-13-12; 97-847, eff. 9-22-12; 97-1065, eff. 8-24-12; 97-1129,
19 eff. 8-28-12; 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
20 98-695, eff. 7-3-14.)".