



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1753

Introduced 2/20/2015, by Sen. Daniel Biss

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Freedom from Automatic License Plate Reader Surveillance Act. Provides that a person acting under the color of State law may not use any automatic license plate reader system (ALPR system) except (1) for electronic toll collection; (2) for traffic enforcement; (3) by parking enforcement entities for regulating the use of parking facilities; (4) for controlling access to secured areas that have clear boundaries, entry only through specific controlled points, and limited access; (5) for the purpose of conducting criminal investigations upon an officer's determination that the vehicles or individuals associated with the license plate numbers are relevant and material to an ongoing criminal investigation; or (6) by law enforcement agencies for the comparison of captured plate data with information contained in databases maintained by the Secretary of State of this State or by federal, State, or local law enforcement agencies, and with license plate numbers that have been manually entered into an ALPR system upon an officer's determination that the vehicles or individuals associated with the license plate numbers are relevant and material to an ongoing criminal or missing person investigation, for the purpose of identifying: (A) vehicles that are stolen, or in violation of any registration or inspection requirements; (B) persons who are missing, or the subject of an arrest warrant, look-out order, traffic citation, or parking citation; or (C) vehicles that are relevant and material to an ongoing criminal investigation.

LRB099 10646 RLC 30890 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning vehicles.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

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

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

15 "Automatic license plate reader system" or "ALPR system"  
16 means a system of one or more mobile or fixed automatic  
17 high-speed cameras used in combination with computer  
18 algorithms to convert images of license plates into  
19 computer-readable data.

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

23 "Law enforcement agency" means any agency of this State or

1 a unit of local government which is vested by law or ordinance  
2 with the duty to maintain public order and to enforce criminal  
3 laws and ordinances.

4 "Law enforcement officer" means any officer, agent, or  
5 employee of this State or a unit of local government authorized  
6 by law or by a government agency to engage in or supervise the  
7 prevention, detection, or investigation of any violation of  
8 criminal law, or authorized by law to supervise sentenced  
9 criminal offenders.

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

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

18 (1) for electronic toll collection;

19 (2) for traffic enforcement;

20 (3) by parking enforcement entities for regulating the  
21 use of parking facilities;

22 (4) for controlling access to secured areas that have  
23 clear boundaries, entry only through specific controlled  
24 points, and limited access;

25 (5) for the purpose of conducting criminal

1 investigations upon an officer's determination that the  
2 vehicles or individuals associated with the license plate  
3 numbers are relevant and material to an ongoing criminal  
4 investigation; or

5 (6) by law enforcement agencies for the comparison of  
6 captured plate data with information contained in  
7 databases maintained by the Secretary of State of this  
8 State or by federal, State, or local law enforcement  
9 agencies, and with license plate numbers that have been  
10 manually entered into an ALPR system upon an officer's  
11 determination that the vehicles or individuals associated  
12 with the license plate numbers are relevant and material to  
13 an ongoing criminal or missing person investigation, for  
14 the purpose of identifying:

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

17 (B) persons who are missing, or the subject of an  
18 arrest warrant, look-out order, traffic citation, or  
19 parking citation; or

20 (C) vehicles that are relevant and material to an  
21 ongoing criminal investigation.

22 Section 15. Protections.

23 (a) Captured plate data obtained for the purposes described  
24 under paragraph (6) of Section 10 shall not be used, shared,  
25 sold, traded, or exchanged for any other purpose and shall not

1 be preserved for more than 30 days by a law enforcement agency  
2 except it may be preserved for more than 30 days:

3 (1) under a preservation request under Section 25;

4 (2) under a disclosure order under Section 25;

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

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

10 (B) any criminal action undertaken in the matter  
11 involving the captured plate data.

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

16 (c) Any law enforcement agency that uses an ALPR system  
17 under paragraph (6) of Section 10 may manually enter license  
18 plate numbers into the ALPR system only if an officer  
19 determines that the vehicle or individuals associated with the  
20 license plate numbers are relevant and material to an ongoing  
21 criminal or missing persons investigation and subject to the  
22 following limitations:

23 (1) any manual entry must document the reason for the  
24 entry; and

25 (2) manual entries must be purged after 48 hours,  
26 unless an officer determines that the vehicle or

1 individuals associated with the license plate numbers  
2 continue to be relevant and material to an ongoing criminal  
3 or missing persons investigation.

4 Section 20. Preservation and disclosure.

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

12 (1) the particular camera or cameras for which captured  
13 plate data must be preserved or the particular license  
14 plate for which captured plate data must be preserved; and

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

17 (b) A law enforcement agency or defendant in a criminal  
18 case may apply for a court order for disclosure of captured  
19 plate data which shall be issued by any court that is a court  
20 of competent jurisdiction if the law enforcement agency or  
21 defendant in a criminal case offers specific and articulable  
22 facts showing that there are reasonable grounds to believe that  
23 the captured plate data is relevant and material to an ongoing  
24 criminal or missing persons investigation or criminal  
25 prosecution.

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

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

9 (1) shall be used and disclosed only as necessary to  
10 achieve the purpose for which the information was captured  
11 and shall not be sold, traded, or exchanged for any other  
12 purpose; and

13 (2) shall be destroyed within 48 hours of the  
14 completion of that purpose.

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

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

21 (b) A law enforcement agency may obtain, receive, or use  
22 privately-held captured plate data for the purposes described  
23 in paragraphs (5) and (6) of Section 10 under a court order,  
24 only if the law enforcement agency offers specific and

1 articulable facts showing that there are reasonable grounds to  
2 believe that the captured plate data is relevant and material  
3 to an ongoing criminal or missing person investigation or  
4 criminal prosecution, and only if the private automatic license  
5 plate reader system retains captured plate data for 30 days or  
6 less.

7 Section 35. Admissibility. If a court finds by a  
8 preponderance of the evidence that captured plate information  
9 was gathered, stored, used, or disclosed in violation of this  
10 Act, then that information shall be presumed to be inadmissible  
11 in any judicial or administrative proceeding. The State may  
12 overcome this presumption by proving the applicability of a  
13 judicially recognized exception to the exclusionary rule of the  
14 Fourth Amendment to the United States Constitution or Article  
15 I, Section 6 of the Illinois Constitution, or by a  
16 preponderance of the evidence that the individual,  
17 partnership, corporation, association, or the law enforcement  
18 officer was acting in good faith and reasonably believed that  
19 one or more of the exceptions identified in Section 10 existed  
20 at the time that the captured plate information was gathered,  
21 stored, used, or disclosed.

22 Section 40. Reporting. Any law enforcement agency that uses  
23 automatic license plate reader systems under Section 10 shall:

24 (1) adopt a policy governing use of the system and



1 conspicuously post the policy on the law enforcement agency's  
2 Internet Web site;

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

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

9 (4) adopt and periodically update a comprehensive training  
10 program for agency employees who use or have access to ALPR  
11 system data, which fully trains the employees on safeguards in  
12 the use of ALPR system data and procedures to adhere to  
13 policies and procedures governing the use of ALPR system data.