

1 S.18

2 Introduced by Senators Ashe, Fox, Sears, and Snelling

3 Referred to Committee on Transportation

4 Date: January 11, 2013

5 Subject: Motor vehicles; automated license plate recognition systems

6 Statement of purpose: This bill proposes to authorize and regulate the use of
7 automated license plate recognition systems and to establish limitations on the
8 use, dissemination, and retention of information obtained through automated
9 license plate recognition systems.

10 An act relating to automated license plate recognition systems

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 ~~Sec. 1. 23 V.S.A. § 1607 is added to read:~~

13 § 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

14 (a) Definitions. As used in this section:

15 (1) "Automated license plate recognition system" means a system of one
16 or more mobile or fixed high-speed cameras combined with computer
17 algorithms to convert images of registration plates into computer-readable
18 data.

19 (2) "Law enforcement officer" means a state police officer, municipal

20 ~~police officer, motor vehicle inspector, capitol police officer, constable, sheriff,~~

1 ~~or deputy sheriff certified by the Vermont Criminal Justice Training Council as~~
2 having satisfactorily completed the approved training programs required to
3 meet the minimum training standards applicable to that person under
4 20 V.S.A. § 2358.

5 (b) Prohibition on use; exception.

6 (1) Except as provided in subdivision (2) of this subsection (b), a person
7 shall not use an automated license plate recognition system.

8 (2) A law enforcement officer may use an automated license plate
9 recognition system for a legitimate law enforcement purpose.

10 (c) Confidentiality.

11 (1) Except as provided in subdivision (2) of this subsection (c),
12 information obtained through use of an automated license plate recognition
13 system is confidential and is exempt from public inspection and copying under
14 the Public Records Act.

15 (2) Information obtained through use of an automated license plate
16 recognition system may be used by a law enforcement officer for a legitimate
17 law enforcement purpose.

18 (d) Retention.

19 (1) Except as provided in subdivision (2) of this subsection (d),
20 information obtained through use of an automated license plate recognition
21 system shall only be retained for 180 days after the date it was obtained. When

1 ~~the permitted 180 day period for retention of the information has expired, any~~
2 ~~law enforcement agency that has custody of the information shall destroy it.~~

3 ~~(2) The state's attorney in the county where information was obtained~~
4 ~~through use of an automated license plate recognition system may apply to the~~
5 ~~criminal division of the superior court in that county for an extension of the~~
6 ~~180-day retention period established by subdivision (1) of this subsection (d).~~
7 ~~If it finds based on individual facts particular to the information at issue that~~
8 ~~there is good cause for an extension, the court may grant the petition and~~
9 ~~authorize the information to be retained for an additional 90 days. Successive~~
10 ~~applications for extensions may be filed pursuant to this subdivision.~~

11 ~~(e) Oversight; rulemaking.~~

12 ~~(1) The Department of Public Safety shall establish a review process to~~
13 ~~ensure that information obtained through use of automated license plate~~
14 ~~recognition systems is used only for the purposes permitted by this section.~~
15 ~~The Department shall report the results of this review annually by January 15~~
16 ~~to the Senate and House Committees on Judiciary and on Transportation.~~

17 ~~(2) The Department of Public Safety may adopt rules to implement this~~
18 ~~section.~~

19 Sec. 2. EFFECTIVE DATE

20 ~~This act shall take effect on July 1, 2013.~~

~~Sec. 1. 23 V.S.A. § 1607 is added to read:~~

~~§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS~~

~~(a) Definitions. As used in this section:~~

~~(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose.~~

~~(2) "Automated license plate recognition system" (ALPR) means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.~~

~~(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.~~

~~(4) "Law enforcement officer" means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.~~

~~(5) "Legitimate law enforcement purpose" applies to access to active or historical data and means crime investigation, detection, and analysis or operation of AMBER alerts or missing or endangered person searches.~~

~~(6) "Vermont Information and Analysis Center Analyst" means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.~~

~~(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.~~

~~(c) Confidentiality and access to ALPR data.~~

~~(1)(A) Active ALPR data may only be accessed by a law enforcement officer operating the ALPR system who has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data~~

~~collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.~~

~~(B) Deployment of ALPR equipment is intended to provide access to stolen and wanted files and to further legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to these purposes.~~

~~(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTAC and retained for not less than three years.~~

~~(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.~~

~~(2) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTAC shall retain all requests as well as the outcome of the request and shall record in writing any information that was provided to the requester or why the request was denied or not fulfilled. ALPR requests shall be retained by VTAC for not less than three years.~~

~~(d) Retention.~~

~~(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.~~

~~(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or back-ups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request.~~

~~made or disclosure order issued under Section 1608 of this title, or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.~~

~~(e) Oversight; rulemaking.~~

~~(1) The Department of Public Safety shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:~~

~~(A) The total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database.~~

~~(B) The total number of ALPR reads each agency submitted to the statewide ALPR database.~~

~~(C) The 18-month accumulative number of ALPR reads being housed on the statewide ALPR database.~~

~~(D) The total number of requests made to VTAC for ALPR data.~~

~~(E) The total number of requests that resulted in release of information from the statewide ALPR database.~~

~~(F) The total number of out-of-state requests.~~

~~(G) The total number of out-of-state requests that resulted in release of information from the statewide ALPR database.~~

~~(2) The Department of Public Safety may adopt rules to implement this section.~~

Sec. 2. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

~~(1) A governmental entity may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to~~

~~the same standards applicable to an initial extension request under this subdivision~~

~~(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.~~

~~(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:~~

~~(A) the particular camera or cameras for which captured plate data must be preserved, or the particular license plate for which captured plate data must be preserved; and~~

~~(B) the date or dates and time frames for which captured plate data must be preserved.~~

~~(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied, or 14 days after the denial of the application for disclosure, whichever is later.~~

~~Sec. 3. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2013.~~

Sec. 1. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" or "ALPR system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) “Historical data” means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(4) “Law enforcement officer” means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) “Legitimate law enforcement purpose” applies to access to active or historical data and means investigation, detection, analysis, or enforcement of a crime, traffic violation, or parking violation or operation of AMBER alerts or missing or endangered person searches.

(6) “Vermont Information and Analysis Center Analyst” means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) ALPR use and data access; confidentiality.

(1)(A) Deployment of ALPR equipment is intended to provide access to law enforcement reports of wanted or stolen vehicles and wanted persons and to further other legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to legitimate law enforcement purposes.

(B) Active ALPR data may be accessed by a law enforcement officer operating the ALPR system only if he or she has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency’s Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained by VTIAC for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2)(A) A VTAC analyst shall transmit historical data only to a Vermont or out-of-state law enforcement officer who has a legitimate law enforcement purpose for the data. A law enforcement officer to whom historical data are transmitted may use such data only for a legitimate law enforcement purpose. Entry of any data onto the statewide ALPR server other than data collected by an ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTAC shall retain all requests and shall record in writing the outcome of the request and any information that was provided to the requester or, if applicable, why a request was denied or not fulfilled. VTAC shall retain the information described in this subdivision (c)(2)(B) for no fewer than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or backups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under Section 1608 of this title or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) The total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database.

(B) The total number of ALPR readings each agency submitted to the statewide ALPR database.

(C) The 18-month cumulative number of ALPR readings being housed on the statewide ALPR database.

(D) The total number of requests made to VTIAC for ALPR data.

(E) The total number of requests that resulted in release of information from the statewide ALPR database.

(F) The total number of out-of-state requests.

(G) The total number of out-of-state requests that resulted in release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 2. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation or to a pending court or Judicial Bureau proceeding. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied or 14 days after the denial, whichever is later.

Sec. 3. EFFECTIVE DATE AND SUNSET

(a) This act shall take effect on July 1, 2013.

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, 2015.