1   * * * Automated License Plate Recognition Systems * * *

2   Sec. 6. EXTENSION OF SUNSET

3   2013 Acts and Resolves No. 69, Sec. 3, as amended by 2015 Acts and Resolves No. 32, Sec. 1, is

4   further amended to read:

5   Sec. 3. EFFECTIVE DATE AND SUNSET

6   * * *

7   (b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, ~~2016~~

8   2019.

9   Sec. 7. ANALYSIS OF ALPR SYSTEM-RELATED COSTS AND

10   BENEFITS

11   (a) On or before January 15, 2017, the Department of Public Safety, in consultation with the

12   Joint Fiscal Office, shall:

13   (1) Estimate the total annualized fixed and variable costs associated with all automated

14   license plate recognition (ALPR) systems used by law enforcement officers in Vermont,

15   including capital, operating, maintenance, personnel, training, and other costs. The estimate

16   shall include a breakdown of costs by category.

17   (2) Estimate the total annualized fixed and variable costs associated with any planned

18   increase in the number of ALPR systems used by law enforcement officers in Vermont and with

19   any planned increase in the intensity of use of existing ALPR systems, including capital,

20   operating, maintenance, personnel, training, and other costs. The estimate shall include a

21   breakdown of costs by category.

1   (3) Conduct a cost-benefit analysis of the existing and planned use of ALPR systems in

2   Vermont, and an analysis of how these costs and benefits compare with other enforcement tools

3   that require investment of Department resources.

4   (b) On or before January 15, 2017, the Department of Public Safety shall submit a written

5   report to the House and Senate Committees on Judiciary and on Transportation of the estimates

6   and analysis required under subsection (a) of this section.

7   (c) If the Department of Motor Vehicles establishes or designates an independent server to

8   store data captured by ALPRs before January 15, 2017, it shall conduct the analysis required

9   under subsection (a) of this section in consultation with the Joint Fiscal Office and submit a

10   report in accordance with subsection (b) of this section.

11   Sec. 8. 23 V.S.A. § 1607 is amended to read:

12   § 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

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

14   (1) "Active data" is distinct from historical data as defined in subdivision (3) of this

15   subsection and means data uploaded to individual automated license plate recognition system

16   units before operation as well as data gathered during the operation of an ALPR system. Any

17   data collected by an ALPR system in accordance with this section shall be considered collected

18   for a legitimate law enforcement purpose.

19   (2) "Automated license plate recognition system" or "ALPR system" means a system of

20   one or more mobile or fixed high-speed cameras combined with computer algorithms to convert

21   images of registration plates into computer-readable data.

22   (3) "Historical data" means any data collected by an ALPR system and stored on the

23   statewide ALPR server operated by the Vermont Justice Information Sharing System of the

1   Department of Public Safety. Any data collected by an ALPR system in accordance with this

2   section shall be considered collected for a legitimate law enforcement purpose.

3   (4) "Law enforcement officer" means a State Police officer, municipal police officer,

4   motor vehicle inspector, Capitol Police officer, constable, sheriff, or deputy sheriff certified by

5   the Vermont Criminal Justice Training Council as ~~having satisfactorily completed the approved~~

6   ~~training programs required to meet the minimum training standards applicable to that person~~ a

7   level II or level III law enforcement officer under 20 V.S.A. § 2358.

8   (5) "Legitimate law enforcement purpose" applies to access to active or historical data and

9   means investigation, detection, analysis, or enforcement of a crime~~, traffic violation, or parking~~

10 ~~violation~~ or of a commercial motor vehicle violation or defense against the same, or operation of

11 AMBER alerts or missing or endangered person searches.

12   (6) "Vermont ~~Information and Analysis~~ Technology Center Analyst" means any sworn or

13 civilian employee who through his or her employment with the Vermont ~~Information and~~

14 ~~Analysis~~ Technology Center ~~(VTIAC)~~ (VTC) has access to secure databases that support law

15 enforcement investigations.

16   (b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by

17 the Vermont Criminal Justice Training Council in order to operate an ALPR system.

18   (c) ALPR use and data access; confidentiality.

19   (1)(A) Deployment of ALPR equipment by Vermont law enforcement agencies is

20 intended to provide access to law enforcement reports of wanted or stolen vehicles and wanted

21 persons and to further other legitimate law enforcement purposes. Use of ALPR systems by law

22 enforcement officers and access to active data are restricted to legitimate law enforcement

23 purposes.

1   (B) Active ~~ALPR~~ data may be accessed by a law enforcement officer operating the

2   ALPR system only if he or she has a legitimate law enforcement purpose for the data. Entry of

3   any data into the system other than data collected by the ALPR system itself must be approved

4   by a supervisor and shall have a legitimate law enforcement purpose.

5   (C)(i) Requests to ~~review~~ <u>access</u> active data shall be in writing and include the name of

6   the requester, the law enforcement agency the requester is employed by, <u>if any,</u> and the law

7   enforcement agency's Originating Agency Identifier (ORI) number. ~~The~~ <u>To be approved, the</u>

8   request ~~shall describe the legitimate law enforcement purpose~~ <u>must provide specific and</u>

9   <u>articulable facts showing that there are reasonable grounds to believe that the data are relevant</u>

10   <u>and material to an ongoing criminal, missing person, or commercial motor vehicle investigation</u>

11   <u>or enforcement action.</u> The written request and the outcome of the request shall be transmitted to

12   ~~VTIAC~~ <u>VTC</u> and retained by ~~VTIAC~~ <u>VTC</u> for not less than three years.

13   (ii) In each department operating an ALPR system, access to active data shall be

14   limited to designated personnel who have been provided account access by the department to

15   conduct authorized ALPR stored data queries. Access to active data shall be restricted to data

16   collected within the past seven days.

17   (2)(A) A ~~VTIAC~~ <u>VTC</u> analyst shall transmit historical data only to a Vermont or

18   out-of-state law enforcement officer <u>or person</u> who has a legitimate law enforcement purpose for

19   the data. A law enforcement officer <u>or other person</u> to whom historical data are transmitted may

20   use such data only for a legitimate law enforcement purpose. Entry of any data onto the

21   statewide ALPR server other than data collected by an ALPR system itself must be approved by

22   a supervisor and shall have a legitimate law enforcement purpose.

1   (B) Requests for historical data, whether from Vermont or out-of-state law enforcement

2   officers or other persons, shall be made in writing to ~~an analyst at VTIAC~~ a VTC analyst. The

3   request shall include the name of the requester, the law enforcement agency the requester is

4   employed by, if any, and the law enforcement agency's ORI number. ~~The~~ To be approved, the

5   request ~~shall describe the legitimate law enforcement purpose~~ must provide specific and

6   articulable facts showing that there are reasonable grounds to believe that the data are relevant

7   and material to an ongoing criminal, missing person, or commercial motor vehicle investigation

8   or enforcement action. ~~VTIAC~~ VTC shall retain all requests and shall record in writing the

9   outcome of the request and any information that was provided to the requester or, if applicable,

10   why a request was denied or not fulfilled. ~~VTIAC~~ VTC shall retain the information described in

11   this subdivision (c)(2)(B) for no fewer than three years.

12   (d) Retention.

13   (1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent

14   to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2)

15   of this subsection. The Department of Public Safety shall maintain the ALPR storage system for

16   Vermont law enforcement agencies.

17   (2) Except as provided in this subsection and section 1608 of this title, information

18   gathered by a law enforcement officer through use of an ALPR system shall only be retained for

19   18 months after the date it was obtained. When the permitted 18-month period for retention of

20   the information has expired, the Department of Public Safety and any local law enforcement

21   agency with custody of the information shall destroy it and cause to have destroyed any copies or

22   backups made of the original data. Data may be retained beyond the 18-month period pursuant

23   to a preservation request made or disclosure order issued under Section 1608 of this title or

1   pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal

2   Procedure.

3   (e) Oversight; rulemaking.

4   (1) The Department of Public Safety shall establish a review process to ensure that

5   information obtained through use of ALPR systems is used only for the purposes permitted by

6   this section. The Department shall report the results of this review annually on or before

7   January 15 to the Senate and House Committees on Judiciary and on Transportation. The report

8   shall contain the following information based on prior calendar year data:

9   (A) the total number of ALPR units being operated in the State and the number of units

10   submitting data to the statewide ALPR database;

11   (B) the ~~total~~ number of ALPR readings each agency submitted, and the total number of

12   all such readings submitted, to the statewide ALPR database;

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

14   ALPR database as of the end of the calendar year;

15   (D) the total number of requests made to ~~VTIAC~~ VTC for ~~ALPR~~ historical data~~;~~

16   ~~(E),~~ the average age of the data requested, and the ~~total~~ number of these requests that

17   resulted in release of information from the statewide ALPR database;

18   ~~(F)~~(E) the total number of out-of-state requests~~; and~~

19   ~~(G)~~ to VTC for historical data, the average age of the data requested, and the ~~total~~

20   number of out-of-state requests that resulted in release of information from the statewide ALPR

21   database:

1   (F) the total number of alerts generated on ALPR systems operated by law enforcement

2   officers in the State by a match between an ALPR reading and a plate number on an alert

3   database and the number of these alerts that resulted in an enforcement action;

4   (G) the total number of criminal, missing person, and commercial motor vehicle

5   investigations and enforcement actions to which active data contributed, and a summary of the

6   nature of these investigations and enforcement actions;

7   (H) the total number of criminal, missing person, and commercial motor vehicle

8   investigations and enforcement actions to which historical data contributed, and a summary of

9   the nature of these investigations and enforcement actions; and

10   (I) the total annualized fixed and variable costs associated with all ALPR systems used

11   by Vermont law enforcement agencies and an estimate of the total of such costs per unit.

12   (2) The Before January 1, 2018, the Department of Public Safety may shall adopt rules to

13   implement this section.

14   Sec. 9. 23 V.S.A. § 1608 is amended to read:

15   § 1608. PRESERVATION OF DATA

16   (a) Preservation request.

17   (1) A law enforcement agency or the Department of Motor Vehicles or other person with a

18   legitimate law enforcement purpose may apply to the Criminal Division of the Superior Court for

19   an extension of up to 90 days of the 18-month retention period established under subdivision

20   1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing

21   that there are reasonable grounds to believe that the captured plate data are relevant and material

22   to an ongoing criminal or missing persons investigation or to a pending court or Judicial Bureau

23   proceeding involving enforcement of a crime or of a commercial motor vehicle violation.

1   Requests for additional 90-day extensions or for longer periods may be made to the Superior

2   Court subject to the same standards applicable to an initial extension request under this

3   subdivision.

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

5   affidavit stating:

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

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

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

9   (b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this

10   title if the preservation request is denied or 14 days after the denial, whichever is later.

11   * * * Information Related to Use of Ignition Interlock Devices * * *

12   Sec. 10. 23 V.S.A. § 1213 is amended to read:

13   § 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE;

14   PENALTIES

15   * * *

16   (m)(1) Images and other individually identifiable information in the custody of a public

17   agency related to the use of an ignition interlock device is exempt from public inspection and

18   copying under the Public Records Act and shall not be disclosed except:

19   (A) pursuant to a warrant;

20   (B) if a law enforcement officer, in good faith, believes that an emergency involving

21   danger of death or serious bodily injury to any person requires access to the information without

22   delay; or

1   (C) in connection with enforcement proceedings under this section or rules adopted

2   pursuant to this section.

3   (2) Images or information disclosed in violation of this subsection shall be inadmissible in

4   any judicial or administrative proceeding.

5   * * * Administrative Procedure Act; Code of Administrative Rules * * *

6   Sec. 11. 3 V.S.A. § 847 is amended to read:

7   § 847. AVAILABILITY OF ADOPTED RULES; RULES BY SECRETARY

8   OF STATE

9   (a) The Secretary of State shall keep open to public inspection a permanent register of rules.

10   The Secretary also shall publish a code of administrative rules that contains the rules adopted

11   under this chapter. The requirement to publish a code shall be considered satisfied if a

12   commercial publisher offers such a code in print at a competitive price and at no charge online.

13   (b) The Secretary of State shall publish not less than quarterly a bulletin setting forth the text

14   of all rules filed since the immediately preceding publication and any objections filed under

15   subsection 842(b) or 844(e) of this title. The provisions of 2 V.S.A. § 20(d) (expiration of

16   required reports) shall not apply to the report to be made under this subsection.

17   (c) The bulletin may omit any rule if either:

18   (1) a commercial publisher offers a comparable publication at a competitive price; or

19   (2) all three of the following apply:

20   (A) its publication would be unduly cumbersome or expensive; and

21   (B) the rule is made available on application to the adopting agency; and

1   (C) the bulletin contains a notice stating the general subject matter of the omitted rule

2   and stating how a copy of the rule and any objection filed under subsection 842(b) or 844(e) of

3   this title may be obtained.

4   (d) Bulletins shall be made available upon request to agencies and officials of this State free

5   of charge and to other persons at prices fixed by the Secretary of State to cover mailing and

6   publication costs.

7   (e) The Secretary of State shall adopt rules for the effective administration of this chapter.

8   These rules shall be applicable to every agency and shall include but not be limited to uniform

9   procedural requirements, style, appropriate forms, and a system for compiling and indexing

10   rules.

11   Sec. 12. 3 V.S.A. § 848 is amended to read:

12   § 848. RULES REPEAL; OPERATION OF LAW

13   (a) A rule shall be repealed without formal proceedings under this chapter if:

14   (1) the agency which that adopted the rule is abolished and its authority, specifically

15   including its authority to implement its existing rules, has not been transferred to another

16   agency,; or

17   (2) a court of competent jurisdiction has declared the rule to be invalid,; or

18   (3) the statutory authority for the rule, as stated by the agency under subdivision 838(b)(4)

19   of this title, is repealed by the General Assembly or declared invalid by a court of competent

20   jurisdiction.

21   (b) When a rule is repealed by operation of law under this section, the Secretary of State shall

22   delete the rule from the published code of administrative rules.

1   (c) (1) On July 1, 2018, a rule shall be repealed without formal proceedings under this

2 chapter if:

3   (A) as of July 1, 2016, the rule was in effect but not published in the code of

4 administrative rules; and

5   (B) the rule is not published in such code before July 1, 2018.

6   (2) An agency seeking to publish a rule described in subdivision (1) of this subsection

7 may submit a digital copy of the rule to the Secretary of State with proof acceptable to the

8 Secretary that as of July 1, 2016 the rule was adopted and in effect under this chapter and the

9 digital copy consists of the text of such rule without change.

10   (d) If the statutory authority for a rule, as stated by the agency under subdivision 838(b)(4), is

11 amended by the General Assembly, the agency shall review the rule and make a determination

12 whether such statutory amendment repeals the authority upon which the rule is based, and shall,

13 within 60 days of the effective date of the statutory amendment, inform in writing the Secretary

14 of State and the Legislative Committee on Administrative Rules whether repeal or revision of the

15 rule is required by the statutory amendment.

16   * * * Effective Dates * * *

17 Sec. 13. EFFECTIVE DATES

18   (a) This section and Secs. 6–7 shall take effect on passage.

19   (b) Secs. 8–12 shall take effect on July 1, 2016, except that in Sec. 10, 23 V.S.A.

20 § 1607(e)(1) (oversight, reporting) shall take effect on January 16, 2017.

21   (c) Secs. 1, 2, 3, 4, and 5 shall take effect on October 1, 2016.