

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

5 (5) “Legitimate law enforcement purpose” means:

6 (A) detection, investigation, analysis, or enforcement of a crime,
7 traffic violation, or parking violation;

8 (B) operation of AMBER alerts; or

9 (C) missing or endangered person searches.

10 (6) “Vermont law enforcement agency” means:

11 (A) the Department of Public Safety;

12 (B) a municipal police department;

13 (C) a sheriff’s department;

14 (D) the Office of the Attorney General;

15 (E) a State’s Attorney’s office;

16 (F) the Capitol Police Department;

17 (G) the Department of Motor Vehicles.

18 (7) “Warrant” means a warrant issued pursuant to Rule 41 of the
19 Vermont or Federal Rules of Criminal Procedure.

20 (b) Restrictions on use of ALPR systems, ALPR database content.

1 (1) A person shall not operate an ALPR system in Vermont unless he or
2 she is a law enforcement officer and operates the system for a legitimate law
3 enforcement purpose. A law enforcement officer shall not operate an ALPR
4 system in Vermont unless:

5 (A) the officer is certified in ALPR operation by the Vermont
6 Criminal Justice Training Council; and

7 (B) the system transmits captured plate data to the Department and
8 does not retain any captured plate data after its transfer to the Department.

9 (2) A Department supervisor must approve the entry of any data onto
10 the statewide ALPR server other than data collected by an ALPR system itself,
11 and any such entry shall be for a legitimate law enforcement purpose.

12 (c) Confidentiality of captured plate data; exceptions.

13 (1) Except as provided in this subsection, captured plate data are exempt
14 from public inspection and copying under the Public Records Act and shall be
15 kept confidential. Captured plate data shall not be subject to subpoena or
16 discovery or be admissible in evidence in any private civil action.

17 (2) If a Vermont law enforcement agency retains captured plate data
18 pursuant to a warrant, it may disclose the data only pursuant to the terms of the
19 warrant. A receiving person may use the data or further disclose the data, but
20 only for a legitimate law enforcement purpose.

1 (3)(A) Upon request, the Department may disclose captured plate data
2 lawfully retained under this section to an out-of-state or Vermont law
3 enforcement agency, but only if disclosure is for a legitimate law enforcement
4 purpose. A law enforcement agency receiving such data may use or further
5 disclose the data, but only for a legitimate law enforcement purpose.

6 (B) Any requests for captured plate data from the Department under
7 this subdivision (3) shall be in writing and include the name of the requester,
8 the law enforcement agency the requester is employed by, and the law
9 enforcement agency's Originating Agency Identifier number. The request
10 shall describe the legitimate law enforcement purpose for which the data are to
11 be used. The Department shall retain all requests and record in writing the
12 outcome of the request and any information that was provided to the requester
13 or, if applicable, its reasons for denying or not fulfilling the request. The
14 Department shall retain the information described in this subdivision (c)(3)(B)
15 for at least three years.

16 (4) The Department shall not release captured plate data to an
17 out-of-state or Vermont law enforcement agency unless the agency has
18 accepted the terms of a user agreement with the Department. The user
19 agreement shall specify the confidentiality, permitted uses, and authorized
20 retention periods of the data in accordance with the provisions of this section.

1 (d) Limitation on retention of captured plate data; exceptions. A person
2 shall not retain captured plate data for more than 90 days after the date of its
3 creation unless this period is extended under a warrant or pursuant to section
4 1608a of this title. Captured plate data shall be destroyed upon the expiration
5 of the 90-day period, plus any applicable extension period.

6 (e) Applicability. This section shall not apply to plate data captured
7 outside Vermont and received by a Vermont law enforcement agency from
8 jurisdictions outside Vermont. Such data shall be retained and used only for a
9 legitimate law enforcement purpose, and in accordance with any requirements
10 of the sending agency.

11 (f) Penalties.

12 (1) A person who knowingly uses an ALPR system or captured plate
13 data in violation of this section, or who knowingly violates the confidentiality
14 provisions of this section, shall be fined not more than \$1,000.00 or
15 imprisoned not more than two years, or both.

16 (2) A person who knowingly retains captured plate data beyond the time
17 limits established under this section and section 1608a of this title shall be
18 fined not more than \$500.00.

19 (g) Oversight. The Department shall establish a review process to ensure
20 that information obtained through use of ALPR systems is used only for the
21 purposes permitted under this section. The Department shall report the results

1 of this review annually on or before January 15 to the Senate and House
2 Committees on Judiciary. The report shall contain the following information
3 based on prior calendar year data:

4 (1) the total number of ALPR units being operated in the State and the
5 number of units submitting data to the statewide ALPR database;

6 (2) the total number of ALPR readings each agency submitted to the
7 statewide ALPR database;

8 (3) the 12-month cumulative number of ALPR readings retained on the
9 statewide ALPR database for more than 90 days;

10 (4) the total number of requests made for ALPR data;

11 (5) the total number of requests that resulted in release of information
12 from the statewide ALPR database;

13 (6) the total number of out-of-state requests; and

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

16 (h) Rulemaking authority. The Department may adopt rules to implement
17 this section.

18 Sec. B. 23 V.S.A. § 1608a is added to read:

19 § 1608a. PRESERVATION OF DATA

20 (a) Preservation request.

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

10 (2) A law enforcement agency making a preservation request under this
11 section shall submit an affidavit stating:

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

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

17 (b) If a request for a preservation order is denied, the captured plate data
18 shall be destroyed upon the final denial of the request on appeal or the
19 expiration or waiver of appeal rights, unless the data is required to be
20 preserved under a warrant.

1 Sec. C. APPLICABILITY OF ACT TO EXISTING DATA

2 Secs. A–B of this act shall apply to all captured plate data collected by
3 ALPR systems operated in Vermont that exist as of July 1, 2016, whether the
4 data were collected before or after that date.

5 Sec. D. EFFECTIVE DATES

6 This act shall take effect on July 1, 2016.