

2023 -- H 5365

LC001233

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- AUTOMATED LICENSE PLATE READERS

Introduced By: Representatives Solomon, and Casey

Date Introduced: February 03, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 5.3

4 AUTOMATED LICENSE PLATE READERS

5 **12-5.3-1. Automated license plate reader defined.**

6 As used in this chapter, "automated license plate reader" means an electronic device
7 mounted on a law enforcement vehicle or positioned in a stationary location that is capable of
8 recording data on, or taking a photograph of, the license plate of a vehicle and comparing the
9 collected data and photographs to existing law enforcement databases for investigative purposes.
10 "Automated license plate reader" includes a device that is owned or operated by a person who is
11 not a government entity to the extent that data collected by the reader is shared with a law
12 enforcement agency. For the purposes of this chapter, "automated license plate reader" does not
13 refer to those electronic devices mounted on a law enforcement vehicle or positioned in a stationary
14 location that is capable of recording data on, or taking a photograph of, the license plate of a vehicle
15 solely for the purpose of recording the speed on a vehicle, recording information for tolling
16 purposes, or recording traffic patterns and assessing traffic violations at an intersection.

17 **12-5.3-2. Approval mandatory for funding acquisition or use.**

18 (a) Unless otherwise prohibited by city or town charter, a municipal law enforcement
19 agency shall obtain city or town council approval following an advertised public hearing of the

1 council prior to engaging in any of the following acts:

2 (1) Seeking funds for automated license plate readers, including, but not limited to,
3 applying for a grant or soliciting or accepting state or federal funds or in-kind or other donations;

4 (2) Acquiring or borrowing automated license plate readers, whether or not that acquisition
5 is made through the exchange of monies or other consideration; or

6 (3) Entering into an agreement with any other person or entity to acquire, share, or
7 otherwise use automated license plate readers or data therefrom.

8 (b) Any municipal law enforcement agency exempt from obtaining city or town council
9 approval pursuant to subsection (a) of this section shall be required to formally advise the council
10 of any actions taken to purchase or otherwise fund, acquire, or use an automated license plate
11 reader.

12 (c) A state law enforcement agency shall adopt, via rulemaking procedures pursuant to
13 chapter 35 of title 42, its policies and procedures relating to the operation of an automated license
14 plate reader system prior to engaging in any of the following acts:

15 (1) Seeking funds for automated license plate readers, including, but not limited to,
16 applying for a grant or soliciting or accepting state or federal funds or in-kind or other donations;

17 (2) Acquiring or borrowing automated license plate readers, whether or not that acquisition
18 is made through the exchange of monies or other consideration; or

19 (3) Entering into an agreement with any other person or entity to acquire, share, or
20 otherwise use automated license plate readers or data therefrom.

21 **12-5.3-3. Regulated use of automated license plate readers.**

22 (a) Operation of and access to an automated license plate reader shall be for official law
23 enforcement purposes only, and shall only be used to scan, detect, and identify license plate
24 numbers for the purpose of identifying:

25 (1) Stolen vehicles;

26 (2) Vehicles associated with wanted, missing, or endangered persons;

27 (3) Vehicles that register as a match within the National Crime Information Center; and

28 (4) Vehicles associated with a suspect in an ongoing, active investigation of a violent felony
29 or domestic violence offense.

30 (b) An automated license plate reader shall not be used for:

31 (1) Photographing or recording or producing images of the occupants of a motor vehicle;

32 (2) Photographing or recording or producing images of further identifying features of a
33 vehicle other than those captured on the rear of the vehicle from photographing or recording the
34 license plate number;

1 (3) Photographing or recording or producing images of passersby or pedestrians, including
2 the photographing, recording, or production of images which may identify biometric information
3 about such passersby or pedestrians through the usage of facial, voice, iris, or other software;

4 (4) In the absence of a judicial warrant, utilizing any photographs or records or images
5 produced through the implementation of the automated license plate reader for the purpose of
6 identifying potentially associated vehicles;

7 (5) Recording or otherwise capturing audio; or

8 (6) The identification of a vehicle, or the performance of a search for a vehicle, based on
9 the contents or message of a bumper sticker or decal.

10 (c) Prior to using an automated license plate reader, the municipal or state law enforcement
11 agency that intends to use the technology shall certify that the automated license plate reader meets
12 all requirements of this chapter and that the agency has a policy or policies in effect governing its
13 use in accordance with this chapter and a documented training process for the officers that will use
14 it.

15 (d) A positive match by an automated license plate reader alone shall not constitute
16 reasonable suspicion as grounds for a law enforcement officer to stop the vehicle. Prior to stopping
17 a vehicle based on identification within the automated license plate reader database, the officer
18 shall immediately confirm visually that the license plate on the vehicle matches the image of the
19 license plate displayed on the automated license plate reader and that the license plate number
20 meets one of the criteria specified in subsection (a) of this section.

21 (e) Records of license plates recorded by an automated license plate reader shall not be
22 transmitted for any other purpose and shall be purged from the database or system within thirty
23 (30) days of their capture in such a manner that they are destroyed and not recoverable, unless the
24 identification of a license plate resulted in an arrest, a citation, or identified a vehicle that was the
25 subject of a missing person or wanted broadcast, or remains the subject of an active investigation
26 to the extent authorized by this chapter, in which case the data on the particular license plate may
27 be retained until final disposition of the matter. Captured license plate data obtained for the
28 purposes identified in section (a) of this section shall not be used or shared for any other purpose.

29 (f) A law enforcement officer shall be certified in automated license plate reader operation
30 by the department of public safety prior to operating an automated license plate reader system.

31 **12-5.3-4. Public log of use required.**

32 (a) A law enforcement agency that installs or uses any automated license plate reader shall
33 maintain a public log of its use, to be updated on an ongoing monthly basis, containing, but not
34 limited to, the following information:

1 (1) The aggregate number of vehicles on which data is collected for each month of use and
2 a list of all state and federal databases with which the data were compared, unless the existence of
3 the database itself is not public;

4 (2) For each month of use, a breakdown of the number of vehicles in which the collected
5 data identified a stolen vehicle or license plate, a warrant for the arrest of the owner of the vehicle,
6 or any other basis for pursuing the owner or operator of a motor vehicle based on an identification
7 generated in accordance with § 12-5.3-3(a).

8 (3) The census tract in which any stationary or fixed location automated license plate reader
9 that is actively collecting data is installed and used;

10 (4) A summary of complaints or concerns that were received during each month of active
11 use about the automated license plate reader; and

12 (5) Any instances of erroneous identification by the automated license plate reader.

13 (b) The law enforcement agency shall maintain a public list of current and previous census
14 tracts in which an automated license plate reader is or has been located, including the dates it was
15 or is utilized at those locations.

16 **12-5.3-5. Review of preexisting uses mandatory.**

17 No later than one hundred twenty (120) days following the effective date of this chapter,
18 any law enforcement agency seeking to continue the use of any automated license plate reader that
19 was in use prior to the effective date, shall commence an approval or advisory process in accordance
20 with §§ 12-5.3-2 and 12-5.3-3. If the continued use of the automated license plate reader has not
21 been approved within one hundred eighty (180) days of its submission, the municipal entity or state
22 agency shall cease its use of the automated license plate reader and the sharing of data therefrom
23 unless and until such time as approval is obtained in accordance with this chapter.

24 **12-5.3-6. Remedies and penalties.**

25 (a) The attorney general may seek appropriate relief, including an injunction banning or
26 restricting the use of automated license plate readers, against an agency found to have violated the
27 provisions of this chapter.

28 (b) Any violation of this chapter shall be subject to the remedies available for a deprivation
29 of the right to privacy as provided in § 9-1-28.1(b).

30 (c) Any data or other information created or collected in contravention of this chapter, and
31 any data or information derived therefrom, shall be immediately deleted and destroyed, and may
32 not be offered as evidence by any municipal or state governmental entity in any criminal or civil
33 action or proceeding, except as evidence of the violation of this chapter or be voluntarily provided
34 to another person or entity for use as evidence or for any other purpose.

1 (d) Notwithstanding subsection (c) of this section, if, upon the discovery of data or other
2 information that was created or collected in contravention of this chapter, it appears such data or
3 information may be material to the defense in a criminal prosecution, a copy of the relevant,
4 potentially material data or other information shall be turned over to the defendant before it is
5 deleted and destroyed.

6 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL PROCEDURE -- AUTOMATED LICENSE PLATE READERS

1 This act would provide for municipal and state police authorities to acquire and to utilize
2 automated license plate readers. Further, the act would identify what data may be collected and in
3 what ways the data can be used.

4 This act would take effect upon passage.

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