100TH GENERAL ASSEMBLY
State of Illinois
2017 and 2018
SB0880

Introduced 2/7/2017, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 140/7.5

Creates the Automated License Plate Recognition System Data Act. Provides that a law enforcement agency may use recorded automated license plate recognition system (ALPR) data and historical ALPR system data only for a legitimate law enforcement purpose. ALPR system data collected by law enforcement and historical ALPR system data collected by law enforcement may not be used, shared, sold, traded, or exchanged for any other purpose. Requires law enforcement agencies using an automated license plate recognition system to adopt a policy governing use of the system; adopt a privacy policy to ensure that ALPR system data and historical ALPR system data is not used or shared in violation of this Act; adopt audit procedures relating to use of ALPR system data and historical ALPR system data; and adopt and periodically update a comprehensive training program for agency employees who use or have access to ALPR system data and procedures to adhere to policies and procedures governing use of ALPR system data or historical ALPR system data. Prohibits admission of data in a court or administrative proceeding which is used in violation of this Act. Prohibits less restrictive local regulation, including home rule units. Defines terms. Amends the Freedom of Information Act to exempt ALPR system and historical ALPR system data from disclosure under the Act.
AN ACT concerning transportation.

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

Section 1. Short title. This Act may be cited as the Automated License Plate Recognition System Data Act.

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

"ALPR system data" means data packets representing interpretation by ALPR systems of recorded vehicle license plates affixed to vehicles in the field of view of ALPR system cameras, with associated global positioning system (GPS) coordinates, and time and date stamps associated with the recording of the data.

"Automated license plate recognition system" or "ALPR system" means a system of one or more mobile, portable, or fixed video cameras using computer algorithms to convert images of license plates into automated computer-recognized searchable alphanumerical data, including associated servers, data normalization technologies, and similar technologies.

"Historical ALPR system data" means data recorded by ALPR systems that are stored in an authorized ALPR system platform.

"Law enforcement agency" means an agency of this State, another state within the United States, a unit of local government, or a political subdivision of any of the preceding,
which is vested by law or ordinance with the duty to maintain public order or to enforce criminal laws and ordinances.

"Legitimate law enforcement purpose" means for the purpose of the investigation of a criminal offense or violation of federal, State, or local law or ordinance by a law enforcement agency.

"Secured area" means an area, enclosed by clear boundaries, to which access is limited and not open to the public and entry is obtainable only through specific access-control points.

Section 10. ALPR system data and historical ALPR system data protections.

(a) A law enforcement agency may use recorded ALPR system data and historical ALPR system data only for a legitimate law enforcement purpose. ALPR system data collected by law enforcement and historical ALPR system data collected by law enforcement may not be used, shared, sold, traded, or exchanged for any other purpose.

(b) ALPR system data and historical ALPR system data shall be considered and treated by a law enforcement agency as sensitive data, but the data is not in the same category as personally identifying information (PII).

(c) ALPR system data and historical ALPR system data are not subject to disclosure under the Freedom of Information Act.

(d) This Act does not apply to automated license plate recognition systems or similar systems:
(1) used for electronic toll collection and
enforcement;

(2) used in government buildings and other locations
for security purposes or controlling access to a secured
area;

(3) used for private sector activities; and

(4) used for any purpose for which motor vehicle
registration data may be accessed under 18 U.S.C. 2721.

Section 15. Use and privacy policy. Any law enforcement
agency that uses automated license plate recognition systems
shall:

(1) adopt a policy governing use of the system;

(2) adopt a privacy policy to ensure strict access and
control of the data so that ALPR system data and historical
ALPR system data are not used or shared in violation of
this Act;

(3) adopt audit procedures relating to use of ALPR
system data and historical ALPR system data; and

(4) adopt and periodically update a comprehensive
training program for agency employees who use or have
access to ALPR system data and historical ALPR system data,
which fully trains the employees on safeguards in use of
ALPR system data or historical ALPR system data and
procedures to adhere to policies and procedures governing
use of ALPR system data or historical ALPR system data.
Section 20. Admissibility.

If a court finds by a preponderance of the evidence that ALPR system data or historical ALPR system data was gathered, stored, used, or disclosed in violation of this Act, then that information shall be presumed to be inadmissible in any judicial or administrative proceeding. The party seeking admission of the ALPR system data or historical ALPR system data may overcome this presumption by proving the applicability of a judicially recognized exception to the exclusionary rule of the Fourth Amendment to the United States Constitution or Article I, Section 6 of the Illinois Constitution, or by a preponderance of the evidence that the law enforcement agency was acting in good faith and reasonably believed that one or more of the exceptions existed at the time that the ALPR system data or historical ALPR system data was gathered, stored, used, or disclosed.

Section 25. Home rule and other local regulation. Any home rule unit of local government, any non-home rule municipality, or any non-home rule county within the unincorporated territory of the county may regulate law enforcement agency owned automated license plate recognition systems and the use of ALPR system data collected by law enforcement and historical ALPR system data collected by law enforcement, but that regulation must be no less restrictive than this Act. This Section is a
limitation on the concurrent exercise of home rule power under subsection (i) of Section 6 of Article VII of the Illinois Constitution.

Section 100. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible
disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.


(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(k) Law enforcement officer identification information
or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

   (l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

   (m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

   (n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

   (o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

   (p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair
County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Records Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Authority due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(u) Records and information provided to an independent team of experts under Brian's Law.

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under
the Firearm Owners Identification Card Act or applied for
or received a concealed carry license under the Firearm
Concealed Carry Act, unless otherwise authorized by the
Firearm Concealed Carry Act; and databases under the
Firearm Concealed Carry Act, records of the Concealed Carry
Licensing Review Board under the Firearm Concealed Carry
Act, and law enforcement agency objections under the
Firearm Concealed Carry Act.

(w) Personally identifiable information which is
exempted from disclosure under subsection (g) of Section
19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure
under Section 5-1014.3 of the Counties Code or Section

(y) Confidential information under the Adult
Protective Services Act and its predecessor enabling
statute, the Elder Abuse and Neglect Act, including
information about the identity and administrative finding
against any caregiver of a verified and substantiated
decision of abuse, neglect, or financial exploitation of an
eligible adult maintained in the Registry established
under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality
review team or the Illinois Fatality Review Team Advisory
Council under Section 15 of the Adult Protective Services
Act.
(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) (dd) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) ALPR system data or historical ALPR system data under the Automated License Plate Recognition System Data Act.

(Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756, eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14; 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16; 99-863, eff. 8-19-16; revised 9-1-16.)