



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1351

Introduced 2/18/2015, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 140/7

from Ch. 116, par. 207

Creates the Automated License Plate Recognition System Data Act. Provides a law enforcement agency may only use recorded automated license plate recognition system (ALPR) data and historical ALPR system data for a legitimate law enforcement purpose. ALPR system data and historical ALPR system data may not be used, shared, sold, traded, or exchanged for any other purpose. Requires law enforcement agencies using a 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 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. Requires law enforcement agencies to report to the Department of State Police requests for data, any data breach, and audit results. Establishes Department of State Police responsibilities. Prohibits admission of data in a court or administrative proceeding which is used in violation of the Act. Prohibits less restrictive local regulation, including home rule units. Defines terms. Amends the Freedom of Information Act to exempt ALPR system data and historical ALPR system data from disclosure under the Act.

LRB099 05191 MRW 25221 b

1 AN ACT concerning automated license plate recognition
2 systems.

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

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

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

8 "ALPR system data" means data packets representing
9 interpretation by ALPR systems of recorded vehicle license
10 plates affixed to vehicles in the field of view of ALPR system
11 cameras, with associated global positioning system (GPS)
12 coordinates, time and date stamps associated with the capture
13 of the data, and any accompanying photographs of the vehicle
14 driver and passenger compartments.

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

21 "Historical ALPR system data" means data recorded by ALPR
22 systems that are stored in an authorized ALPR system platform
23 superintended by a sanctioned law enforcement agency.

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

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

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

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

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

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

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

1 (d) This Act does not apply to automated license plate
2 recognition systems or similar systems:

3 (1) used for electronic toll collection and
4 enforcement;

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

8 (3) used for private sector collection activities
9 permitted by law or ordinance.

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

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

14 (2) adopt a privacy policy to ensure that ALPR system
15 data and historical ALPR system data is not used or shared
16 in violation of this Act;

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

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

1 Section 20. Law enforcement agency reports. Each law
2 enforcement agency using an automated license plate
3 recognition system shall prepare and submit to the Department
4 of State Police a report on the system and use of data from the
5 system on or before October 1 of each calendar year the system
6 is used by the agency. The report shall include, but is not
7 limited to:

8 (1) the number of requests that resulted in release of
9 ALPR system data or historical ALPR system data;

10 (2) the number of out-of-state requests for ALPR system
11 data or historical ALPR system data;

12 (3) the number of federal agency requests for ALPR
13 system data or historical ALPR system data;

14 (4) information on any data breach that resulted in
15 unauthorized release of ALPR system data or historical ALPR
16 system data; and

17 (5) results of any audits conducted on agency use of
18 ALPR system data or historical ALPR system data.

19 Section 25. Department of State Police responsibilities.

20 The Department of State Police shall:

21 (1) collect and compile reports required under Section
22 20 of this Act from each law enforcement agency using an
23 automated license plate recognition system and submit a
24 report summarizing those reports to the General Assembly on

1 or before January 1 of each calendar year;

2 (2) in cooperation with other law enforcement agencies
3 develop storage capacity for a statewide ALPR system data
4 or historical ALPR system data platform; and

5 (3) develop a model policy and audit procedures for
6 lawful use of automated license plate recognition systems,
7 ALPR system data, and historical ALPR system data for
8 adoption and use by other law enforcement agencies.

9 Section 30. Admissibility; penalties.

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

25 (b) The Department of State Police shall adopt rules and

1 appropriate penalties for violations of this Act.

2 Section 35. Home rule and other local regulation. Any home
3 rule unit of local government, any non-home rule municipality,
4 or any non-home rule county within the unincorporated territory
5 of the county may regulate automated license plate recognition
6 systems and the use of ALPR system data and historical ALPR
7 system data, but that regulation must be no less restrictive
8 than this Act. This Section is a limitation on the concurrent
9 exercise of home rule power under subsection (i) of Section 6
10 of Article VII of the Illinois Constitution.

11 Section 100. The Freedom of Information Act is amended by
12 changing Section 7 as follows:

13 (5 ILCS 140/7) (from Ch. 116, par. 207)

14 Sec. 7. Exemptions.

15 (1) When a request is made to inspect or copy a public
16 record that contains information that is exempt from disclosure
17 under this Section, but also contains information that is not
18 exempt from disclosure, the public body may elect to redact the
19 information that is exempt. The public body shall make the
20 remaining information available for inspection and copying.
21 Subject to this requirement, the following shall be exempt from
22 inspection and copying:

23 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and regulations
2 implementing federal or State law.

3 (b) Private information, unless disclosure is required
4 by another provision of this Act, a State or federal law or
5 a court order.

6 (b-5) Files, documents, and other data or databases
7 maintained by one or more law enforcement agencies and
8 specifically designed to provide information to one or more
9 law enforcement agencies regarding the physical or mental
10 status of one or more individual subjects.

11 (c) Personal information contained within public
12 records, the disclosure of which would constitute a clearly
13 unwarranted invasion of personal privacy, unless the
14 disclosure is consented to in writing by the individual
15 subjects of the information. "Unwarranted invasion of
16 personal privacy" means the disclosure of information that
17 is highly personal or objectionable to a reasonable person
18 and in which the subject's right to privacy outweighs any
19 legitimate public interest in obtaining the information.
20 The disclosure of information that bears on the public
21 duties of public employees and officials shall not be
22 considered an invasion of personal privacy.

23 (d) Records in the possession of any public body
24 created in the course of administrative enforcement
25 proceedings, and any law enforcement or correctional
26 agency for law enforcement purposes, but only to the extent

1 that disclosure would:

2 (i) interfere with pending or actually and
3 reasonably contemplated law enforcement proceedings
4 conducted by any law enforcement or correctional
5 agency that is the recipient of the request;

6 (ii) interfere with active administrative
7 enforcement proceedings conducted by the public body
8 that is the recipient of the request;

9 (iii) create a substantial likelihood that a
10 person will be deprived of a fair trial or an impartial
11 hearing;

12 (iv) unavoidably disclose the identity of a
13 confidential source, confidential information
14 furnished only by the confidential source, or persons
15 who file complaints with or provide information to
16 administrative, investigative, law enforcement, or
17 penal agencies; except that the identities of
18 witnesses to traffic accidents, traffic accident
19 reports, and rescue reports shall be provided by
20 agencies of local government, except when disclosure
21 would interfere with an active criminal investigation
22 conducted by the agency that is the recipient of the
23 request;

24 (v) disclose unique or specialized investigative
25 techniques other than those generally used and known or
26 disclose internal documents of correctional agencies

1 related to detection, observation or investigation of
2 incidents of crime or misconduct, and disclosure would
3 result in demonstrable harm to the agency or public
4 body that is the recipient of the request;

5 (vi) endanger the life or physical safety of law
6 enforcement personnel or any other person; ~~or~~

7 (vii) obstruct an ongoing criminal investigation
8 by the agency that is the recipient of the request; or

9 (viii) disclose ALPR system data or historical
10 ALPR system data as those terms are defined in Section
11 5 of the Automated License Plate Recognition System
12 Data Act.

13 (d-5) A law enforcement record created for law
14 enforcement purposes and contained in a shared electronic
15 record management system if the law enforcement agency that
16 is the recipient of the request did not create the record,
17 did not participate in or have a role in any of the events
18 which are the subject of the record, and only has access to
19 the record through the shared electronic record management
20 system.

21 (e) Records that relate to or affect the security of
22 correctional institutions and detention facilities.

23 (e-5) Records requested by persons committed to the
24 Department of Corrections if those materials are available
25 in the library of the correctional facility where the
26 inmate is confined.

1 (e-6) Records requested by persons committed to the
2 Department of Corrections if those materials include
3 records from staff members' personnel files, staff
4 rosters, or other staffing assignment information.

5 (e-7) Records requested by persons committed to the
6 Department of Corrections if those materials are available
7 through an administrative request to the Department of
8 Corrections.

9 (f) Preliminary drafts, notes, recommendations,
10 memoranda and other records in which opinions are
11 expressed, or policies or actions are formulated, except
12 that a specific record or relevant portion of a record
13 shall not be exempt when the record is publicly cited and
14 identified by the head of the public body. The exemption
15 provided in this paragraph (f) extends to all those records
16 of officers and agencies of the General Assembly that
17 pertain to the preparation of legislative documents.

18 (g) Trade secrets and commercial or financial
19 information obtained from a person or business where the
20 trade secrets or commercial or financial information are
21 furnished under a claim that they are proprietary,
22 privileged or confidential, and that disclosure of the
23 trade secrets or commercial or financial information would
24 cause competitive harm to the person or business, and only
25 insofar as the claim directly applies to the records
26 requested.

1 The information included under this exemption includes
2 all trade secrets and commercial or financial information
3 obtained by a public body, including a public pension fund,
4 from a private equity fund or a privately held company
5 within the investment portfolio of a private equity fund as
6 a result of either investing or evaluating a potential
7 investment of public funds in a private equity fund. The
8 exemption contained in this item does not apply to the
9 aggregate financial performance information of a private
10 equity fund, nor to the identity of the fund's managers or
11 general partners. The exemption contained in this item does
12 not apply to the identity of a privately held company
13 within the investment portfolio of a private equity fund,
14 unless the disclosure of the identity of a privately held
15 company may cause competitive harm.

16 Nothing contained in this paragraph (g) shall be
17 construed to prevent a person or business from consenting
18 to disclosure.

19 (h) Proposals and bids for any contract, grant, or
20 agreement, including information which if it were
21 disclosed would frustrate procurement or give an advantage
22 to any person proposing to enter into a contractor
23 agreement with the body, until an award or final selection
24 is made. Information prepared by or for the body in
25 preparation of a bid solicitation shall be exempt until an
26 award or final selection is made.

1 (i) Valuable formulae, computer geographic systems,
2 designs, drawings and research data obtained or produced by
3 any public body when disclosure could reasonably be
4 expected to produce private gain or public loss. The
5 exemption for "computer geographic systems" provided in
6 this paragraph (i) does not extend to requests made by news
7 media as defined in Section 2 of this Act when the
8 requested information is not otherwise exempt and the only
9 purpose of the request is to access and disseminate
10 information regarding the health, safety, welfare, or
11 legal rights of the general public.

12 (j) The following information pertaining to
13 educational matters:

14 (i) test questions, scoring keys and other
15 examination data used to administer an academic
16 examination;

17 (ii) information received by a primary or
18 secondary school, college, or university under its
19 procedures for the evaluation of faculty members by
20 their academic peers;

21 (iii) information concerning a school or
22 university's adjudication of student disciplinary
23 cases, but only to the extent that disclosure would
24 unavoidably reveal the identity of the student; and

25 (iv) course materials or research materials used
26 by faculty members.

1 (k) Architects' plans, engineers' technical
2 submissions, and other construction related technical
3 documents for projects not constructed or developed in
4 whole or in part with public funds and the same for
5 projects constructed or developed with public funds,
6 including but not limited to power generating and
7 distribution stations and other transmission and
8 distribution facilities, water treatment facilities,
9 airport facilities, sport stadiums, convention centers,
10 and all government owned, operated, or occupied buildings,
11 but only to the extent that disclosure would compromise
12 security.

13 (1) Minutes of meetings of public bodies closed to the
14 public as provided in the Open Meetings Act until the
15 public body makes the minutes available to the public under
16 Section 2.06 of the Open Meetings Act.

17 (m) Communications between a public body and an
18 attorney or auditor representing the public body that would
19 not be subject to discovery in litigation, and materials
20 prepared or compiled by or for a public body in
21 anticipation of a criminal, civil or administrative
22 proceeding upon the request of an attorney advising the
23 public body, and materials prepared or compiled with
24 respect to internal audits of public bodies.

25 (n) Records relating to a public body's adjudication of
26 employee grievances or disciplinary cases; however, this

1 exemption shall not extend to the final outcome of cases in
2 which discipline is imposed.

3 (o) Administrative or technical information associated
4 with automated data processing operations, including but
5 not limited to software, operating protocols, computer
6 program abstracts, file layouts, source listings, object
7 modules, load modules, user guides, documentation
8 pertaining to all logical and physical design of
9 computerized systems, employee manuals, and any other
10 information that, if disclosed, would jeopardize the
11 security of the system or its data or the security of
12 materials exempt under this Section.

13 (p) Records relating to collective negotiating matters
14 between public bodies and their employees or
15 representatives, except that any final contract or
16 agreement shall be subject to inspection and copying.

17 (q) Test questions, scoring keys, and other
18 examination data used to determine the qualifications of an
19 applicant for a license or employment.

20 (r) The records, documents, and information relating
21 to real estate purchase negotiations until those
22 negotiations have been completed or otherwise terminated.
23 With regard to a parcel involved in a pending or actually
24 and reasonably contemplated eminent domain proceeding
25 under the Eminent Domain Act, records, documents and
26 information relating to that parcel shall be exempt except

1 as may be allowed under discovery rules adopted by the
2 Illinois Supreme Court. The records, documents and
3 information relating to a real estate sale shall be exempt
4 until a sale is consummated.

5 (s) Any and all proprietary information and records
6 related to the operation of an intergovernmental risk
7 management association or self-insurance pool or jointly
8 self-administered health and accident cooperative or pool.
9 Insurance or self insurance (including any
10 intergovernmental risk management association or self
11 insurance pool) claims, loss or risk management
12 information, records, data, advice or communications.

13 (t) Information contained in or related to
14 examination, operating, or condition reports prepared by,
15 on behalf of, or for the use of a public body responsible
16 for the regulation or supervision of financial
17 institutions or insurance companies, unless disclosure is
18 otherwise required by State law.

19 (u) Information that would disclose or might lead to
20 the disclosure of secret or confidential information,
21 codes, algorithms, programs, or private keys intended to be
22 used to create electronic or digital signatures under the
23 Electronic Commerce Security Act.

24 (v) Vulnerability assessments, security measures, and
25 response policies or plans that are designed to identify,
26 prevent, or respond to potential attacks upon a community's

1 population or systems, facilities, or installations, the
2 destruction or contamination of which would constitute a
3 clear and present danger to the health or safety of the
4 community, but only to the extent that disclosure could
5 reasonably be expected to jeopardize the effectiveness of
6 the measures or the safety of the personnel who implement
7 them or the public. Information exempt under this item may
8 include such things as details pertaining to the
9 mobilization or deployment of personnel or equipment, to
10 the operation of communication systems or protocols, or to
11 tactical operations.

12 (w) (Blank).

13 (x) Maps and other records regarding the location or
14 security of generation, transmission, distribution,
15 storage, gathering, treatment, or switching facilities
16 owned by a utility, by a power generator, or by the
17 Illinois Power Agency.

18 (y) Information contained in or related to proposals,
19 bids, or negotiations related to electric power
20 procurement under Section 1-75 of the Illinois Power Agency
21 Act and Section 16-111.5 of the Public Utilities Act that
22 is determined to be confidential and proprietary by the
23 Illinois Power Agency or by the Illinois Commerce
24 Commission.

25 (z) Information about students exempted from
26 disclosure under Sections 10-20.38 or 34-18.29 of the

1 School Code, and information about undergraduate students
2 enrolled at an institution of higher education exempted
3 from disclosure under Section 25 of the Illinois Credit
4 Card Marketing Act of 2009.

5 (aa) Information the disclosure of which is exempted
6 under the Viatical Settlements Act of 2009.

7 (bb) Records and information provided to a mortality
8 review team and records maintained by a mortality review
9 team appointed under the Department of Juvenile Justice
10 Mortality Review Team Act.

11 (cc) Information regarding interments, entombments, or
12 inurnments of human remains that are submitted to the
13 Cemetery Oversight Database under the Cemetery Care Act or
14 the Cemetery Oversight Act, whichever is applicable.

15 (dd) Correspondence and records (i) that may not be
16 disclosed under Section 11-9 of the Public Aid Code or (ii)
17 that pertain to appeals under Section 11-8 of the Public
18 Aid Code.

19 (ee) The names, addresses, or other personal
20 information of persons who are minors and are also
21 participants and registrants in programs of park
22 districts, forest preserve districts, conservation
23 districts, recreation agencies, and special recreation
24 associations.

25 (ff) The names, addresses, or other personal
26 information of participants and registrants in programs of

1 park districts, forest preserve districts, conservation
2 districts, recreation agencies, and special recreation
3 associations where such programs are targeted primarily to
4 minors.

5 (gg) Confidential information described in Section
6 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

7 (hh) The report submitted to the State Board of
8 Education by the School Security and Standards Task Force
9 under item (8) of subsection (d) of Section 2-3.160 of the
10 School Code and any information contained in that report.

11 (1.5) Any information exempt from disclosure under the
12 Judicial Privacy Act shall be redacted from public records
13 prior to disclosure under this Act.

14 (2) A public record that is not in the possession of a
15 public body but is in the possession of a party with whom the
16 agency has contracted to perform a governmental function on
17 behalf of the public body, and that directly relates to the
18 governmental function and is not otherwise exempt under this
19 Act, shall be considered a public record of the public body,
20 for purposes of this Act.

21 (3) This Section does not authorize withholding of
22 information or limit the availability of records to the public,
23 except as stated in this Section or otherwise provided in this
24 Act.

25 (Source: P.A. 97-333, eff. 8-12-11; 97-385, eff. 8-15-11;
26 97-452, eff. 8-19-11; 97-783, eff. 7-13-12; 97-813, eff.

1 7-13-12; 97-847, eff. 9-22-12; 97-1065, eff. 8-24-12; 97-1129,
2 eff. 8-28-12; 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
3 98-695, eff. 7-3-14.)