

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 777

Introduced by Bostar, 29.

Read first time January 18, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Automatic License Plate Reader Privacy
2 Act; to amend sections 60-3203, 60-3204, 60-3205, 60-3206, 60-3207,
3 and 60-3208, Reissue Revised Statutes of Nebraska; to provide for
4 use of automatic license plate reader systems to investigate
5 misdemeanors and felonies, recording of manual entry logs, and use
6 of captured plate data and evidence derived from captured plate data
7 as evidence as prescribed; to provide a penalty; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-3203, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 60-3203 (1) Except as otherwise provided in this section or in
4 section 60-3204, the use of an automatic license plate reader system by a
5 governmental entity is prohibited.

6 (2) An automatic license plate reader system may be used when such
7 use is:

8 (a) By a law enforcement agency of a governmental entity for the
9 purpose of identifying:

10 (i) ~~Traffic Outstanding parking or traffic~~ violations;

11 (ii) An unregistered or uninsured vehicle;

12 (iii) A vehicle in violation of the vehicle equipment requirements
13 set forth under the Nebraska Rules of the Road;

14 (iv) A vehicle in violation of any other vehicle registration
15 requirement;

16 (v) A vehicle registered to an individual for whom there is an
17 outstanding warrant;

18 (vi) A vehicle associated with a missing person;

19 (vii) A vehicle that has been reported as stolen; or

20 (viii) A vehicle that is relevant and material to an ongoing
21 criminal investigation;

22 ~~(b) By a law enforcement agency of a governmental entity to~~
23 ~~investigate a misdemeanor or felony;~~

24 ~~(b) By a parking enforcement entity for regulating the use of a~~
25 ~~parking facility;~~

26 (c) For the purpose of controlling access to a secured area;

27 (d) For the purpose of electronic toll collection; or

28 (e) To assist weighing stations in performing their duties under
29 section 60-1301.

30 Sec. 2. Section 60-3204, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 60-3204 (1) A governmental entity shall not retain captured plate
2 data obtained under subsection (2) of section 60-3203 for more than one
3 hundred eighty days unless the captured plate data is:

4 (a) Evidence related to a purpose listed in subsection (2) of
5 section 60-3203;

6 (b) Subject to a preservation request under subsection (1) of
7 section 60-3205; or

8 (c) The subject of a warrant, subpoena, or court order.

9 (2) Any governmental entity that uses automatic license plate reader
10 systems pursuant to subsection (2) of section 60-3203 ~~shall must~~ update
11 such systems from the databases used by the governmental entities
12 enumerated in such subsection at the beginning of each law enforcement
13 agency shift if such updates are available.

14 (3) Any governmental entity that uses automatic license plate reader
15 systems pursuant to subsection (2) of section 60-3203 may manually query
16 captured plate data only when a law enforcement officer determines that
17 the vehicle or individuals associated with the license plate number are
18 relevant and material to an ongoing criminal or missing persons
19 investigation subject to the following limitations:

20 (a) Any manual entry ~~shall must~~ document the reason for the entry;
21 ~~and~~

22 (b) Manual entries ~~shall must~~ be recorded in an automatic digital
23 log; and automatically purged at the end of each law enforcement agency
24 shift, unless the criminal investigation or missing persons investigation
25 remains ongoing.

26 (c) Any log created under this subsection shall be audited at least
27 once each year to examine queries in the log and the use of the
28 information in the log.

29 Sec. 3. Section 60-3205, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 60-3205 (1)(a) An operator of an automatic license plate reader

1 system shall, upon the request of a governmental entity or a defendant in
2 a criminal case, take all necessary steps to preserve captured plate data
3 in its possession pending the issuance of a warrant, subpoena, or order
4 of a court.

5 (b) A requesting governmental entity or defendant in a criminal case
6 shall ~~must~~ specify in a written sworn statement:

7 (i) The particular camera or cameras for which captured plate data
8 shall ~~must~~ be preserved or the particular license plate for which
9 captured plate data shall ~~must~~ be preserved; and

10 (ii) The date or dates and timeframes for which captured plate data
11 shall ~~must~~ be preserved.

12 (2) A governmental entity or defendant in a criminal case may apply
13 for a court order for disclosure of captured plate data, which shall be
14 issued by the court if the governmental entity or defendant in a criminal
15 case offers specific and articulable facts showing there are reasonable
16 grounds to believe the captured plate data is relevant and material to
17 the criminal or civil action. Nothing in this subsection shall prevent
18 the governmental entity from disclosing any captured plate data: (a) To
19 the parties to a criminal or civil action; (b) for administrative
20 purposes; (c) to alert the public of an emergency situation; or (d)
21 relating to a missing person.

22 Sec. 4. Section 60-3206, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 60-3206 Except as otherwise provided in subdivision (3)(b) of this
25 section, any governmental entity that uses an automatic license plate
26 reader system shall:

27 (1) Adopt a policy governing use of the system and conspicuously
28 post the policy on the governmental entity's Internet website or, if no
29 website is available, in its main office;

30 (2) Adopt a privacy policy to ensure that captured plate data is not
31 shared in violation of the Automatic License Plate Reader Privacy Act or

1 any other law and conspicuously post the privacy policy on its Internet
2 website or, if no website is available, in its main governmental office;
3 and

4 (3)(a) Report annually to the Nebraska Commission on Law Enforcement
5 and Criminal Justice on its automatic license plate reader practices and
6 usage. The report shall also be conspicuously posted on the governmental
7 entity's Internet website or, if no website is available, in its main
8 office. The report shall include the following information, if captured
9 by the automatic license plate reader system:

10 (i) The names of each list against which captured plate data was
11 checked, the number of confirmed matches, and the number of matches that
12 upon further investigation did not correlate to an alert; and

13 (ii) The number of manually-entered license plate numbers under
14 subsection (3) of section 60-3204, the number of confirmed matches, and
15 the number of matches that upon further investigation did not correlate
16 to an alert.

17 (b) The reporting requirements of this subsection shall not apply to
18 governmental entities using an automatic license plate reader system
19 pursuant to subdivisions ~~(2)(c)~~ ~~(2)(b)~~ through ~~(f)~~ ~~(e)~~ of section
20 60-3203.

21 Sec. 5. Section 60-3207, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 60-3207 Captured ~~No captured~~ plate data and ~~no~~ evidence derived
24 from such captured plate data therefrom may be received in evidence in
25 any trial, hearing, or other proceeding before any court, grand jury,
26 department, officer, agency, regulatory body, legislative committee, or
27 other authority of this state, or a political subdivision thereof, ~~if the~~
28 ~~disclosure of that information would be in violation of the Automatic~~
29 ~~License Plate Reader Privacy Act.~~

30 Sec. 6. Section 60-3208, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 60-3208 (1) Any person who violates the Automatic License Plate
2 Reader Privacy Act shall be liable for damages ~~that~~ proximately caused by
3 ~~cause~~ injury to the business, person, or reputation of any person ~~another~~
4 ~~individual or entity~~.

5 (2) An intentional violation of the Automatic License Plate Reader
6 Privacy Act is a Class IV felony.

7 Sec. 7. Original sections 60-3203, 60-3204, 60-3205, 60-3206,
8 60-3207, and 60-3208, Reissue Revised Statutes of Nebraska, are repealed.