

SENATE BILL 208

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Peter Wirth

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO LAW ENFORCEMENT; ENACTING THE AUTOMATIC LICENSE PLATE READER ACT; PERMITTING LICENSE PLATE DATA TO BE USED FOR LAW ENFORCEMENT INVESTIGATIONS; LIMITING THE RETENTION OF LICENSE PLATE DATA; PROTECTING THE SECURITY OF THE COLLECTED DATA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be

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cited as the "Automatic License Plate Reader Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Automatic License Plate Reader Act:

A. "alert" means a notification that occurs when data contained in an automatic license plate reader system matches data found in a New Mexico or national crime investigation database;

B. "automatic license plate reader system" means high-speed cameras attached to law enforcement vehicles or mounted on street poles, highway overpasses or mobile trailers, used to convert images of license plates into computer-readable data and includes license plate data manually entered by law enforcement officers;

C. "license plate data" means a vehicle's characteristics, including make, model, color and license plate number, a photo of the vehicle, driver or passengers, the global positioning system coordinates and date and time of travel; and

D. "law enforcement agency" means an agency of the state or local political subdivision of the state SHPAC→of New Mexico←SHPAC that employs certified law enforcement officers or the police department of a tribe that has entered into an agreement with the department of public safety pursuant to Section 29-1-11 NMSA 1978.

SECTION 3. [NEW MATERIAL] PERMITTED USE OF AUTOMATIC

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LICENSE PLATE READERS AND LICENSE PLATE DATA.--

A. For law enforcement investigatory purposes, a law enforcement agency may compare license plate data in the automatic license plate reader system with data from:

- (1) the motor vehicle division of the taxation and revenue department;
- (2) the New Mexico criminal justice information system;
- (3) the national crime information center;
- (4) the national center for missing and exploited children;
- (5) the New Mexico missing persons clearinghouse;
- (6) the federal department of homeland security watchlist service; and
- (7) the state SHPAC→of New Mexico←SHPAC or federal department of transportation commercial vehicle compliance database.

B. License plate data shall be manually entered into the automatic license plate reader system and compared with data from state SHPAC→of New Mexico←SHPAC and federal law enforcement databases when an officer determines that a vehicle is:

- (1) unregistered, uninsured or stolen;
- (2) registered to a person who has a New

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Mexico outstanding felony warrant, is associated with a missing person or is committing a felony;

(3) a commercial vehicle that is unsafe, carrying contraband or not registered with the federal or state SHPAC of New Mexico SHPAC department of transportation; or

(4) parked illegally in an area that is not open to the public and secured by clear boundaries.

SECTION 4. [NEW MATERIAL] RETENTION OF AUTOMATIC LICENSE PLATE READER DATA.--

A. License plate data in an automatic license plate reader system shall be retained by a law enforcement agency for one year if there is an alert that the vehicle may be connected to a criminal or missing persons investigation.

B. License plate data in an automatic license plate reader system shall be deleted after SHPAC seven SHPAC SHPAC fourteen SHPAC days if there is not an alert, except that the data shall be retained:

(1) if a law enforcement agency determines the data is material to an ongoing criminal or missing persons investigation;

(2) upon written request of a law enforcement agency, a prosecutor or a defendant in a criminal case to preserve the data; or

(3) upon issuance of a probable cause warrant.

C. A law enforcement agency that uses an automatic

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license plate reader system shall protect the security of the data collected and adopt a policy prohibiting:

(1) sharing data with third parties within the state SHPAC→of New Mexico←SHPAC or outside of the state unless the third parties have policies that conform to the requirements of the Automated License Plate Reader Act;

(2) selling or making available data to non-law enforcement officers or agencies;

(3) sharing of data by third-party vendors;
and

(4) collection and retention of data that is not defined as license plate data in the Automated License Plate Reader Act.

D. A law enforcement agency that uses an automatic license plate reader system shall:

(1) promulgate rules concerning retaining and deleting license plate data; and

(2) report annually to the legislature on its automatic license plate reader practices and usage, including:

(a) the number of license plates scanned;

(b) the number of matches that resulted in arrest and prosecution;

(c) the number of times license plate data was exculpatory in a criminal proceeding;

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(d) the number of preservation requests received; and

(e) any changes in policy that affect privacy concerns.

E. An automatic license plate reader system shall not be used by a law enforcement agency to intentionally target an individual, group, community or geographic location based on race, ethnicity, national origin, ancestry, religion, age, physical or mental handicap, serious medical condition, sex, spousal affiliation, gender identity, sexual orientation, pregnancy or pregnancy-related condition.

F. Automatic license plate reader system data is confidential and not considered a public record for the purposes of the Inspection of Public Records Act; provided that the data may be disclosed to the person to whom the vehicle is registered or with the written consent of the person to whom the vehicle is registered unless there is an outstanding protection order protecting the driver of a vehicle jointly registered with or registered solely in the name of the person against whom the protective order was issued.