

LFC Requester: Ginger Anderson

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 01/29/2024
Bill No: SB 208A

Agency Name and Code Number: 790-Department of Public Safety

Sponsor: Senator Peter Wirth

Person Writing Analysis: Travis Skinner

Short Title: AUTOMATIC LICENSE PLATE
 READER ACT, HIGH-SPEED
 CAMERAS

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
400.0	0.0	Nonrecurring	Section 5 Special Appropriation
539.0	0.0	Nonrecurring	NMEO

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0.0	0.0	0.0		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$400.0	\$0.0	\$0.0	\$400.0	Nonrecurring	Section 5 Special Approp
Total	\$539.0	\$0.0	\$0.0	\$539.0	Nonrecurring	NMEO
Total	\$0.0	\$117.6	\$ 108.1	\$225.7	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

SB 208A authorizes the use of high-speed cameras to convert images of license plates into computer-readable data so that law enforcement may be alerted when “license plate data” matches information in a state or national crime investigation database. The cameras would be attached to law enforcement vehicles or mounted on street poles, highway overpasses, or mobile trailers. “License plate data”—which includes the make, model, color and license plate number, vehicle photo, driver or passengers, global positioning system coordinates, and date and time of travel—would be manually entered into a database by law enforcement officers. Ostensibly, the data would be held for fourteen days, however, there are several broad-based exceptions to the seven-day holding period.

FISCAL IMPLICATIONS

The Department of Public Safety (DPS) received \$400,000 during FY23 for the purpose of starting a statewide License Plate Reader (LPR) program as part of DPS’ intelligence lead policing initiative. In addition, in October of 2023, DPS received \$539,000 for operational costs associated with law enforcement operations designed to reduce violent crime in Bernalillo County. These funds are to be spent on LPRs in furtherance of investigations, intelligence gathering, coordination, operational planning, patrol, enforcement or prosecution related to violent crimes in the Bernalillo County Metro area.

The department would need to fund 1 full time employee, Data Analyst II pay band 75, to compile data and provide annual reports to the legislature as required in this bill at an initial cost of \$117.6 in FY 2025 and a recurring annual cost of \$108.1 in FY 2026 and future years.

SIGNIFICANT ISSUES

Retention Date is Unfeasible:

The amended retention schedule of 14 days is still unworkable. The retention schedule for missing persons and criminal investigations will be maintained until the conclusion of the investigation and the case has been adjudicated through all courts. DPS recommends that LPR reads be stored for at least 90 days. Retained LPR information does not include specific identification of

individuals or personally identifiable information. Potential evidentiary value may affect the length of retention of certain serious criminal investigations such as human trafficking, child abductions, homicide, stolen vehicles, and other violent crimes. Having this data available when a serious crime occurs can substantially enhance the investigative capacity of law enforcement and greatly contribute to public safety and preservation of life. LPRs also assist in protecting critical infrastructure and providing situational awareness for law enforcement related to public safety.

License Plate Data is Typically Not Considered to be Personally Identifiable: The International Association of Chiefs of Police completed a privacy impact assessment of LPR uses and concluded that LPR data is not personally identifiable information. A license plate number identifies a specific vehicle, not a specific person. Although a license plate number may be linked or otherwise associated with an identifiable person, this potential can only be realized through a distinct, separate step (using NCIC or MVD database systems). Absent this extra step, the license plate number and the time and location data attached to it are not personally identifiable. Thus, even though LPR systems automate the collection of license plate numbers, it is the investigative process by law enforcement that identifies individuals.

Minimal Privacy Interest: Information accessed through LPRs contains images of license plates that are available in plain view. The public display of a license plate exists in part so that law enforcement can easily verify that the vehicle complies with state law. Furthermore, the New Mexico Court of Appeals has ruled that an individual does not have a reasonable expectation of privacy in his or her license plate number. *See State v. Herrera* (2009). *See also New York v. Class*, 475 U.S. 106, 106 (1986) (holding that an individual does not have a reasonable expectation of privacy in his or her VIN).

DPS Would Not Enter Data Manually:

While information could be entered manually, DPS downloads the hotlist from the FBI, DPS then pushes the hotlist to the vendor who is CJIS compliant. Law enforcement officers are often searching for vehicles that have been reported stolen, are suspected of being involved in criminal or terrorist activities, are owned by persons who are wanted by authorities, etc. Law enforcement agencies throughout the nation are increasing adopting the used LPR technologies. The use of LPR enhances investigative capabilities, expands collection of relevant data, and expedites the tedious and time-consuming process of manually comparing vehicle license plate with list of potential interest.

Exculpatory Data is Difficult to Collect: This would be difficult, if not impossible for the law enforcement agency to gather given that an LPR only contains the contextual image of a license plate. This image alone is not probable cause for an arrest. A hit from an LPR must be confirmed by a dispatcher through NCIC. If an out of state fugitive was arrested and returned to the state of original charges, we would not have access to this information.

PERFORMANCE IMPLICATIONS

None at this time.

ADMINISTRATIVE IMPLICATIONS

None at this time.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None at this time.

TECHNICAL ISSUES

Senate Bill 208A Section 2 Item C. reads: *"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.* This language needs revision to specify *the cameras are aimed to photograph the license plate and NOT people or passengers.*

Exculpatory data-

OTHER SUBSTANTIVE ISSUES

None at this time.

ALTERNATIVES

None at this time.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None at this time.

AMENDMENTS

None proposed.