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SENATE DRS15207-ML-94A (2/26)

Short Title: Automatic License Plate Readers. (Public)

Sponsors: Senators McKissick and Bingham (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE USE OF AUTOMATIC LICENSE PLATE READER
3 SYSTEMS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 20 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 3D.

8 "Automatic License Plate Reader Systems.

9 **§ 20-183.22. Definitions.**

10 (a) The following definitions apply in this Article:

11 (1) Automatic license plate reader system. – A system of one or more mobile or
12 fixed automated high-speed cameras used in combination with computer
13 algorithms to convert images of license plates into computer-readable data.
14 This term shall not include a traffic control photographic system, as that
15 term is defined in G.S. 160A-300.1(a).

16 (2) Captured plate data. – The global positioning system (GPS) coordinates, date
17 and time, photograph, license plate number, and any other data captured by
18 or derived from any automatic license plate reader system.

19 (3) Investigative or law enforcement officer. – Any officer of the State of North
20 Carolina or any political subdivision thereof who is empowered by the laws
21 of this State to conduct investigations or to make arrests and any attorney
22 authorized by the laws of this State to prosecute or participate in the
23 prosecution of those persons arrested, including the Attorney General of
24 North Carolina.

25 (4) Person. – Any employee or agent of the United States or any state or any
26 political subdivision thereof and any individual, partnership, association,
27 business establishment, or any other legal or commercial entity.

28 (5) Secured area. – An area enclosed by clear boundaries to which access is
29 limited and not open to the public and entry is only obtainable through
30 specific access-control points.

31 **§ 20-183.23. Restrictions on use.**

32 (a) Except as provided for in subsection (b) of this section, it shall be unlawful for any
33 person to use an automatic license plate reader system.

34 (b) An automatic license plate reader system may be used for each of the following:

35 (1) A municipal, county, or State law enforcement agency for the comparison of
36 captured plate data with data held by the Division, the State Criminal Justice



1 Information Network, the National Crime Information Center, the FBI's
2 Kidnappings and Missing Persons list, and the North Carolina Center for
3 Missing Persons for the purpose of identifying any of the following:

4 a. Outstanding parking or traffic violations.

5 b. A violation of vehicle registration requirements.

6 c. A violation of the inspection requirements in Article 3A of Chapter
7 20 of the General Statutes.

8 d. A stolen vehicle or stolen license plate.

9 e. A vehicle registered to an individual for whom there is an
10 outstanding warrant for arrest or order of arrest for a felony violation
11 in this State or another jurisdiction.

12 f. A vehicle associated with a missing person.

13 (2) For the purpose of enforcing parking laws and ordinances.

14 (3) For the purpose of controlling access to secured areas.

15 (4) For the purpose of electronic toll collection.

16 **"§ 20-183.24. Preservation and disclosure of records.**

17 (a) Captured plate data obtained for the purposes described in G.S. 20-183.23(b) shall
18 not be used or shared for any other purpose and shall not be preserved for more than 10 days
19 except pursuant to (i) a preservation request under subsection (b) of this section, (ii) a
20 disclosure order under subsection (c) of this section, (iii) a search warrant issued pursuant to
21 Article 11 of Chapter 15A of the General Statutes, or (iv) a federal search warrant issued in
22 compliance with the Federal Rules of Criminal Procedure.

23 (b) Upon the request of an investigative or law enforcement officer, a person using an
24 automatic license plate reader system shall take all necessary steps to immediately preserve
25 captured plate data in its possession pending the issuance of a disclosure order pursuant to
26 subsection (c) of this section. A requesting officer must specify in a written, sworn statement (i)
27 the particular camera or cameras for which captured plate data must be preserved or the
28 particular license plate for which captured plate data must be preserved and (ii) the date or
29 dates and time frames for which captured plate data must be preserved.

30 (c) An investigative or law enforcement officer may apply to a court of competent
31 jurisdiction for a court order compelling disclosure of captured plate data. A court shall issue
32 the order if the requesting officer offers specific and articulable facts showing that there are
33 reasonable grounds to believe that the captured plate data is relevant and material to an ongoing
34 criminal or missing persons investigation. Captured plate data shall be destroyed by the person
35 using the automatic license plate reader system if the application for a disclosure order is
36 denied or at the end of 14 days from the date the person using the automatic license plate reader
37 system received a preservation request pursuant to subsection (b) of this section, whichever
38 date is later.

39 (d) Any person that uses an automatic license plate reader system pursuant to
40 G.S. 20-183.23(b) shall update the system from the databases specified therein every 24 hours
41 if such updates are available or as soon as practicable after such updates become available.

42 (e) Any person that uses an automatic license plate reader system pursuant to
43 G.S. 20-183.23(b) shall not sell, trade, or exchange captured plate data for any purpose.

44 (f) Captured plate data is confidential and not a public record as that term is defined in
45 G.S. 132-1. Except as otherwise provided in this Article, captured plate data may only be
46 disclosed to or with the prior written consent of the person to whom the vehicle is registered.

47 **"§ 20-183.25. Reporting requirement.**

48 (a) Any person that uses an automatic license plate reader system pursuant to
49 G.S. 20-183.23(b) shall do the following:

50 (1) Adopt a policy governing use of the automatic license plate reader system
51 and conspicuously post the policy on the person's Web site.

1 (2) Adopt a privacy policy to ensure that captured plate data is not shared in
2 violation of this Article or any other applicable law and conspicuously post
3 the privacy policy on the person's Web site.

4 (3) Beginning July 1, 2014, and continuing every year thereafter, report to the
5 Attorney General on its automatic license plate reader practices and usage
6 and conspicuously post the report on the person's Web site. The report shall
7 include each of the following:

8 a. The number of license plates scanned.

9 b. The (i) names of the databases containing the data against which the
10 captured plate data was compared, (ii) the number of confirmed
11 matches, and (iii) the number of confirmed matches resulting in
12 criminal charges and the number of such charges resulting in
13 conviction.

14 c. The number of preservation requests under G.S. 20-183.24(a).

15 d. The number of disclosure orders under G.S. 20-183.24(b), including
16 the number of applications for disclosure orders that were denied.

17 e. Any changes in policy that affect privacy concerns.

18 (b) Beginning October 1, 2014, and continuing every year thereafter, the Attorney
19 General shall compile the information received pursuant to subdivision (3) of subsection (a) of
20 this section and submit a report in writing to the General Assembly.

21 "**§ 20-183.26. Penalties; suppression.**

22 (a) An aggrieved party may bring a civil action against any person who violates the
23 provisions of this Article. In any civil action alleging a violation of this Article, the court may
24 award the following to a prevailing plaintiff:

25 (1) The greater of (i) actual damages or (ii) liquidated damages in the amount of
26 one thousand dollars (\$1,000).

27 (2) Reasonable attorneys' fees and other costs of litigation.

28 (3) Injunctive relief against any person who commits or proposes to commit a
29 violation of this Article.

30 (b) Any person who willfully and knowingly violates G.S. 20-183.23(b) is guilty of a
31 Class 1 misdemeanor.

32 (c) Any data or information captured in violation of this Article shall not be admissible
33 as evidence in any criminal, civil, or administrative proceeding."

34 **SECTION 2.** This act becomes effective December 1, 2013, and applies to
35 offenses committed on or after that date.