

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 829
Committee Substitute Favorable 4/28/15

Short Title: Automatic License Plate Readers.

(Public)

Sponsors:

Referred to:

April 15, 2015

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

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 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) Governmental entity. – Any State department, institution, agency, or any
20 political subdivision of the State or any person that is an employee or agent
21 of a State department, institution, agency, or political subdivision of the
22 State.
23 (4) Investigative or law enforcement officer. – Any officer of the State, or any
24 political subdivision thereof, who is empowered by the laws of this State to
25 conduct investigations or to make arrests and any attorney authorized by the
26 laws of this State to prosecute or participate in the prosecution of those
27 persons arrested, including the Attorney General of North Carolina.
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 a
33 governmental entity 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



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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 pursuant to G.S. 20-183.23(b) shall not be used or
18 shared for any other purpose and, except pursuant to any of the following, shall not be
19 preserved for more than 60 days after the date the data is captured, or 120 days for the purpose
20 of electronic toll collection:

21 (1) A preservation request under subsection (b) of this section.

22 (2) A disclosure order under subsection (c) of this section.

23 (3) A search warrant issued pursuant to Article 11 of Chapter 15A of the
24 General Statutes.

25 (4) A federal search warrant issued in compliance with the Federal Rules of
26 Criminal Procedure.

27 (b) Upon the request of an investigative or law enforcement officer, a private person or
28 governmental entity using an automatic license plate reader system shall take all necessary
29 steps to immediately preserve captured plate data in its possession pending the issuance of a
30 disclosure order pursuant to subsection (c) of this section. A requesting officer must specify in
31 a written, sworn statement (i) the particular camera or cameras for which captured plate data
32 must be preserved or the particular license plate for which captured plate data must be
33 preserved, (ii) the date or dates and time frames for which captured plate data must be
34 preserved, and (iii) that the requesting officer is applying for a court order compelling
35 disclosure under subsection (c) of this section.

36 (c) An investigative or law enforcement officer may apply to a court of competent
37 jurisdiction for a court order compelling disclosure of captured plate data. A court shall issue
38 the order if the requesting officer offers specific and articulable facts showing that there are
39 reasonable grounds to believe that the captured plate data is relevant and material to an ongoing
40 criminal or missing persons investigation. If an application for a disclosure order under this
41 subsection is denied, or if the investigative or law enforcement officer who made the initial
42 preservation request under subsection (b) of this section fails to apply to a court of competent
43 jurisdiction for a disclosure order under this subsection within 60 days of the date of the initial
44 preservation request, the private person or governmental entity using the automatic license
45 plate reader system shall destroy the captured plate data according to the private person's or
46 governmental entity's own record or data retention policy, unless the private person or
47 governmental entity receives within that period another preservation request under subsection
48 (b) of this section, in which case the retention period established under this subsection shall
49 reset.

50 (d) A governmental entity may obtain, receive, or use privately held captured plate data
51 for the purposes described in G.S. 20-183.23(b) only pursuant to the orders and warrants listed

1 in subdivision (2), (3), or (4) of subsection (a) of this section, and only if the private automatic
2 license plate reader system retains captured plate data for 60 days or fewer. Nothing in this
3 subsection shall be construed as exempting captured plate data obtained, received, or used
4 under this subsection from the limitations and restrictions set forth in subsection (f) of this
5 section.

6 (e) A governmental entity that uses an automatic license plate reader system pursuant to
7 G.S. 20-183.23(b) shall update the system from the databases specified therein every 24 hours
8 if such updates are available or as soon as practicable after such updates become available.

9 (f) Captured plate data obtained for the purposes described in G.S. 20-183.23(b) is
10 confidential and not a public record as that term is defined in G.S. 132-1. Except as otherwise
11 provided in this Article, captured plate data obtained for the purposes described in
12 G.S. 20-183.23(b) may only be disclosed to or with the prior written consent of the person to
13 whom the vehicle is registered and shall not be sold, traded, or exchanged for any purpose.
14 Nothing in this subsection shall be construed as requiring the disclosure of captured plate data
15 if an investigative or law enforcement officer determines that disclosure will compromise an
16 ongoing investigation.

17 **"§ 20-183.25. Reporting requirement.**

18 (a) A governmental entity that uses an automatic license plate reader system pursuant to
19 G.S. 20-183.23(b) shall do the following:

20 (1) Adopt a policy governing use of the automatic license plate reader system
21 and conspicuously post the policy on the governmental entity's Web site.

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

25 (3) Beginning July 1, 2016, and continuing every year thereafter, report to the
26 Attorney General on its automatic license plate reader practices and usage
27 and conspicuously post the report on the governmental entity's Web site. The
28 report shall include each of the following:

29 a. The number of license plates scanned.

30 b. The (i) names of the databases containing the data against which the
31 captured plate data was compared, (ii) the number of confirmed
32 matches, and (iii) the number of confirmed matches resulting in
33 criminal charges.

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

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

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

38 (b) Beginning October 1, 2016, and continuing every year thereafter, the Attorney
39 General shall compile the information received pursuant to subdivision (3) of subsection (a) of
40 this section and submit a report in writing to the General Assembly.

41 **"§ 20-183.26. Penalties; suppression.**

42 (a) An aggrieved party may bring a civil action against any person who violates the
43 provisions of G.S. 20-183.23 or G.S. 20-183.24. In any civil action alleging a violation of
44 G.S. 20-183.23 or G.S. 20-183.24, the court may award the following to a prevailing plaintiff:

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

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

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

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

1 (c) Any data or information captured in violation of G.S. 20-183.23 or G.S. 20-183.24
2 shall not be admissible as evidence in any criminal, civil, or administrative proceeding."

3 **SECTION 2.** G.S. 136-18 is amended by adding a new subdivision to read:

4 "(46) For purposes of this subdivision, the term "public utility" means any of the
5 following: a public utility, as defined in G.S. 62-3(23); an electric
6 membership corporation; telephone membership corporation; a joint
7 municipal power agency; or a city or county engaged in producing,
8 generating, transmitting, delivering, or furnishing electricity for private or
9 public use. The Department shall have the following powers related to public
10 safety technology:

11 a. To enter into agreements with municipalities, counties, and other
12 governmental entities for the use of and encroachment upon the
13 right-of-way of any road designated as part of the State highway
14 system for the installation and use of aboveground law enforcement,
15 fire suppression service, emergency medical response service, and
16 related public safety technology; provided that (i) such agreements
17 do not unreasonably interfere with the use of such right-of-way by a
18 public utility with facilities already located within said right-of-way,
19 (ii) such use shall immediately be terminated and any public safety
20 technology and related equipment removed upon request by any
21 affected public utility, and (iii) any entity installing such public
22 safety technology complies with the provisions of Article 8A of
23 Chapter 87 of the General Statutes.

24 b. To approve requests by municipalities, counties, and other
25 governmental entities to use land or right-of-way owned by the
26 Department of Transportation that is encumbered by utility
27 easements, or otherwise being lawfully occupied by a public utility,
28 for the installation and use of aboveground law enforcement, fire
29 suppression service, emergency medical response service, and related
30 public safety technology, provided that (i) such use of the land or
31 right-of-way is temporary in nature; (ii) all public safety technology
32 permitted hereunder shall be completely aboveground, easily
33 moveable, and contain no combustible fuel; (iii) such use shall not
34 unreasonably interfere with the operation and maintenance of said
35 utility facilities or cause said utility facilities to fail to comply with
36 all applicable laws, codes, and regulatory requirements; (iv) such use
37 shall immediately be terminated and any public safety technology
38 and related equipment removed upon request by any affected public
39 utility; and (v) such use shall comply with provisions of Article 8A
40 of Chapter 87 of the General Statutes. The affected public utility
41 shall have the right to move the public safety technology in the event
42 that said public utility needs immediate access to its utility facilities
43 and, in such event, shall only be liable for damages to said public
44 safety technology caused solely by its gross negligence or willful
45 misconduct.

46 c. Nothing in this subdivision shall relieve any entity, public or private,
47 of its obligation to comply with the provisions of Article 8A of
48 Chapter 87 of the General Statutes."

49 **SECTION 3.** This act becomes effective December 1, 2015, and applies to
50 offenses committed on or after that date.