



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3272

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 140/7

from Ch. 116, par. 207

Creates the Automated License Plate Recognition System Data Act. Provides a law enforcement agency may only use recorded automated license plate recognition system (ALPR) data and historical ALPR system data for a legitimate law enforcement purpose. ALPR system data and historical ALPR system data may not be used, shared, sold, traded, or exchanged for any other purpose. Requires law enforcement agencies using a automated license plate recognition system to adopt a policy governing use of the system; adopt a privacy policy to ensure that ALPR system data and historical ALPR system data is not used or shared in violation of this Act; adopt audit procedures relating to use of ALPR system data and historical ALPR system data; and adopt and periodically update a comprehensive training program for agency employees who use or have access to ALPR system data and historical ALPR system data, which fully trains the employees on safeguards in use of ALPR system data or historical ALPR system data and procedures to adhere to policies and procedures governing use of ALPR system data or historical ALPR system data. Requires law enforcement agencies to report to the Department of State Police requests for data, any data breach, and audit results. Establishes Department of State Police responsibilities. Prohibits admission of data in a court or administrative proceeding which is used in violation of the Act. Prohibits less restrictive local regulation, including home rule units. Defines terms. Amends the Freedom of Information Act to exempt ALPR system data and historical ALPR system data from disclosure under the Act.

LRB099 10893 MRW 31220 b

1 AN ACT concerning automated license plate recognition
2 systems.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

5 Section 1. Short title. This Act may be cited as the
6 Automated License Plate Recognition System Data Act.

7 Section 5. Definitions. For the purpose of this Act:

8 "ALPR system data" means data packets representing
9 interpretation by ALPR systems of recorded vehicle license
10 plates affixed to vehicles in the field of view of ALPR system
11 cameras, with associated global positioning system (GPS)
12 coordinates, time and date stamps associated with the recording
13 of the data.

14 "Automated license plate recognition system" or "ALPR
15 system" means a system of one or more mobile, portable, or
16 fixed video cameras using computer algorithms to convert images
17 of license plates into automated computer-recognized
18 searchable alphanumeric data, including associated servers,
19 data normalization technologies, and similar technologies.

20 "Historical ALPR system data" means data recorded by ALPR
21 systems that are stored in an authorized ALPR system platform
22 superintended by a sanctioned law enforcement agency.

23 "Law enforcement agency" means an agency of this State,

1 another state within the United States, a unit of local
2 government, or a political subdivision of any of the preceding,
3 which is vested by law or ordinance with the duty to maintain
4 public order or to enforce criminal laws and ordinances.

5 "Legitimate law enforcement purpose" means for the purpose
6 of the investigation of a criminal offense or violation of
7 federal, State, or local law or ordinance by a law enforcement
8 agency.

9 "Secured area" means an area, enclosed by clear boundaries,
10 to which access is limited and not open to the public and entry
11 is only obtainable through specific access-control points.

12 Section 10. ALPR system data and historical ALPR system
13 data protections.

14 (a) A law enforcement agency may only use recorded ALPR
15 system data and historical ALPR system data for a legitimate
16 law enforcement purpose. ALPR system data and historical ALPR
17 system data may not be used, shared, sold, traded, or exchanged
18 for any other purpose.

19 (b) ALPR system data and historical ALPR system data shall
20 be considered and treated by a law enforcement agency as
21 sensitive data, but the data is not in the same category as
22 personally identifying information (PII).

23 (c) ALPR system data and historical ALPR system data are
24 not subject to disclosure under the Freedom of Information Act.

25 (d) This Act does not apply to automated license plate

1 recognition systems or similar systems:

2 (1) used for electronic toll collection and
3 enforcement;

4 (2) used in government buildings and other locations
5 for security purposes or controlling access to a secured
6 area; and

7 (3) used for private sector collection activities
8 permitted by law or ordinance.

9 Section 15. Use and privacy policy. Any law enforcement
10 agency that uses automated license plate recognition systems
11 shall:

12 (1) adopt a policy governing use of the system;

13 (2) adopt a privacy policy to ensure that ALPR system
14 data and historical ALPR system data is not used or shared
15 in violation of this Act;

16 (3) adopt audit procedures relating to use of ALPR
17 system data and historical ALPR system data; and

18 (4) adopt and periodically update a comprehensive
19 training program for agency employees who use or have
20 access to ALPR system data and historical ALPR system data,
21 which fully trains the employees on safeguards in use of
22 ALPR system data or historical ALPR system data and
23 procedures to adhere to policies and procedures governing
24 use of ALPR system data or historical ALPR system data.

1 Section 20. Law enforcement agency reports. Each law
2 enforcement agency using an automated license plate
3 recognition system shall prepare and submit to the Department
4 of State Police a report on the system and use of data from the
5 system on or before October 1 of each calendar year the system
6 is used by the agency. The report shall include, but is not
7 limited to:

8 (1) the number of requests that resulted in release of
9 ALPR system data or historical ALPR system data;

10 (2) the number of out-of-state requests for ALPR system
11 data or historical ALPR system data;

12 (3) the number of federal agency requests for ALPR
13 system data or historical ALPR system data;

14 (4) information on any data breach that resulted in
15 unauthorized release of ALPR system data or historical ALPR
16 system data; and

17 (5) results of any audits conducted on agency use of
18 ALPR system data or historical ALPR system data.

19 Section 25. Department of State Police responsibilities.

20 The Department of State Police shall:

21 (1) collect and compile reports required under Section
22 20 of this Act from each law enforcement agency using an
23 automated license plate recognition system and submit a
24 report summarizing those reports to the General Assembly on
25 or before January 1 of each calendar year;

1 (2) in cooperation with other law enforcement agencies
2 develop storage capacity for a statewide ALPR system data
3 or historical ALPR system data platform; and

4 (3) develop a model policy and audit procedures for
5 lawful use of automated license plate recognition systems,
6 ALPR system data, and historical ALPR system data for
7 adoption and use by other law enforcement agencies.

8 Section 30. Admissibility; penalties.

9 (a) If a court finds by a preponderance of the evidence
10 that ALPR system data or historical ALPR system data was
11 gathered, stored, used, or disclosed in violation of this Act,
12 then that information shall be presumed to be inadmissible in
13 any judicial or administrative proceeding. The party seeking
14 admission of the ALPR system data or historical ALPR system
15 data may overcome this presumption by proving the applicability
16 of a judicially recognized exception to the exclusionary rule
17 of the Fourth Amendment to the United States Constitution or
18 Article I, Section 6 of the Illinois Constitution, or by a
19 preponderance of the evidence that the law enforcement agency
20 was acting in good faith and reasonably believed that one or
21 more of the exceptions existed at the time that the ALPR system
22 data or historical ALPR system data was gathered, stored, used,
23 or disclosed.

24 (b) The Department of State Police shall adopt rules and
25 appropriate penalties for violations of this Act.

1 Section 35. Home rule and other local regulation. Any home
2 rule unit of local government, any non-home rule municipality,
3 or any non-home rule county within the unincorporated territory
4 of the county may regulate automated license plate recognition
5 systems and the use of ALPR system data and historical ALPR
6 system data, but that regulation must be no less restrictive
7 than this Act. This Section is a limitation on the concurrent
8 exercise of home rule power under subsection (i) of Section 6
9 of Article VII of the Illinois Constitution.

10 Section 100. The Freedom of Information Act is amended by
11 changing Section 7 as follows:

12 (5 ILCS 140/7) (from Ch. 116, par. 207)

13 Sec. 7. Exemptions.

14 (1) When a request is made to inspect or copy a public
15 record that contains information that is exempt from disclosure
16 under this Section, but also contains information that is not
17 exempt from disclosure, the public body may elect to redact the
18 information that is exempt. The public body shall make the
19 remaining information available for inspection and copying.
20 Subject to this requirement, the following shall be exempt from
21 inspection and copying:

22 (a) Information specifically prohibited from
23 disclosure by federal or State law or rules and regulations

1 implementing federal or State law.

2 (b) Private information, unless disclosure is required
3 by another provision of this Act, a State or federal law or
4 a court order.

5 (b-5) Files, documents, and other data or databases
6 maintained by one or more law enforcement agencies and
7 specifically designed to provide information to one or more
8 law enforcement agencies regarding the physical or mental
9 status of one or more individual subjects.

10 (c) Personal information contained within public
11 records, the disclosure of which would constitute a clearly
12 unwarranted invasion of personal privacy, unless the
13 disclosure is consented to in writing by the individual
14 subjects of the information. "Unwarranted invasion of
15 personal privacy" means the disclosure of information that
16 is highly personal or objectionable to a reasonable person
17 and in which the subject's right to privacy outweighs any
18 legitimate public interest in obtaining the information.
19 The disclosure of information that bears on the public
20 duties of public employees and officials shall not be
21 considered an invasion of personal privacy.

22 (d) Records in the possession of any public body
23 created in the course of administrative enforcement
24 proceedings, and any law enforcement or correctional
25 agency for law enforcement purposes, but only to the extent
26 that disclosure would:

1 (i) interfere with pending or actually and
2 reasonably contemplated law enforcement proceedings
3 conducted by any law enforcement or correctional
4 agency that is the recipient of the request;

5 (ii) interfere with active administrative
6 enforcement proceedings conducted by the public body
7 that is the recipient of the request;

8 (iii) create a substantial likelihood that a
9 person will be deprived of a fair trial or an impartial
10 hearing;

11 (iv) unavoidably disclose the identity of a
12 confidential source, confidential information
13 furnished only by the confidential source, or persons
14 who file complaints with or provide information to
15 administrative, investigative, law enforcement, or
16 penal agencies; except that the identities of
17 witnesses to traffic accidents, traffic accident
18 reports, and rescue reports shall be provided by
19 agencies of local government, except when disclosure
20 would interfere with an active criminal investigation
21 conducted by the agency that is the recipient of the
22 request;

23 (v) disclose unique or specialized investigative
24 techniques other than those generally used and known or
25 disclose internal documents of correctional agencies
26 related to detection, observation or investigation of

1 incidents of crime or misconduct, and disclosure would
2 result in demonstrable harm to the agency or public
3 body that is the recipient of the request;

4 (vi) endanger the life or physical safety of law
5 enforcement personnel or any other person; ~~or~~

6 (vii) obstruct an ongoing criminal investigation
7 by the agency that is the recipient of the request; or

8 (viii) disclose ALPR system data or historical
9 ALPR system data as those terms are defined in Section
10 5 of the Automated License Plate Recognition System
11 Data Act.

12 (d-5) A law enforcement record created for law
13 enforcement purposes and contained in a shared electronic
14 record management system if the law enforcement agency that
15 is the recipient of the request did not create the record,
16 did not participate in or have a role in any of the events
17 which are the subject of the record, and only has access to
18 the record through the shared electronic record management
19 system.

20 (e) Records that relate to or affect the security of
21 correctional institutions and detention facilities.

22 (e-5) Records requested by persons committed to the
23 Department of Corrections if those materials are available
24 in the library of the correctional facility where the
25 inmate is confined.

26 (e-6) Records requested by persons committed to the

1 Department of Corrections if those materials include
2 records from staff members' personnel files, staff
3 rosters, or other staffing assignment information.

4 (e-7) Records requested by persons committed to the
5 Department of Corrections if those materials are available
6 through an administrative request to the Department of
7 Corrections.

8 (f) Preliminary drafts, notes, recommendations,
9 memoranda and other records in which opinions are
10 expressed, or policies or actions are formulated, except
11 that a specific record or relevant portion of a record
12 shall not be exempt when the record is publicly cited and
13 identified by the head of the public body. The exemption
14 provided in this paragraph (f) extends to all those records
15 of officers and agencies of the General Assembly that
16 pertain to the preparation of legislative documents.

17 (g) Trade secrets and commercial or financial
18 information obtained from a person or business where the
19 trade secrets or commercial or financial information are
20 furnished under a claim that they are proprietary,
21 privileged or confidential, and that disclosure of the
22 trade secrets or commercial or financial information would
23 cause competitive harm to the person or business, and only
24 insofar as the claim directly applies to the records
25 requested.

26 The information included under this exemption includes

1 all trade secrets and commercial or financial information
2 obtained by a public body, including a public pension fund,
3 from a private equity fund or a privately held company
4 within the investment portfolio of a private equity fund as
5 a result of either investing or evaluating a potential
6 investment of public funds in a private equity fund. The
7 exemption contained in this item does not apply to the
8 aggregate financial performance information of a private
9 equity fund, nor to the identity of the fund's managers or
10 general partners. The exemption contained in this item does
11 not apply to the identity of a privately held company
12 within the investment portfolio of a private equity fund,
13 unless the disclosure of the identity of a privately held
14 company may cause competitive harm.

15 Nothing contained in this paragraph (g) shall be
16 construed to prevent a person or business from consenting
17 to disclosure.

18 (h) Proposals and bids for any contract, grant, or
19 agreement, including information which if it were
20 disclosed would frustrate procurement or give an advantage
21 to any person proposing to enter into a contractor
22 agreement with the body, until an award or final selection
23 is made. Information prepared by or for the body in
24 preparation of a bid solicitation shall be exempt until an
25 award or final selection is made.

26 (i) Valuable formulae, computer geographic systems,

1 designs, drawings and research data obtained or produced by
2 any public body when disclosure could reasonably be
3 expected to produce private gain or public loss. The
4 exemption for "computer geographic systems" provided in
5 this paragraph (i) does not extend to requests made by news
6 media as defined in Section 2 of this Act when the
7 requested information is not otherwise exempt and the only
8 purpose of the request is to access and disseminate
9 information regarding the health, safety, welfare, or
10 legal rights of the general public.

11 (j) The following information pertaining to
12 educational matters:

13 (i) test questions, scoring keys and other
14 examination data used to administer an academic
15 examination;

16 (ii) information received by a primary or
17 secondary school, college, or university under its
18 procedures for the evaluation of faculty members by
19 their academic peers;

20 (iii) information concerning a school or
21 university's adjudication of student disciplinary
22 cases, but only to the extent that disclosure would
23 unavoidably reveal the identity of the student; and

24 (iv) course materials or research materials used
25 by faculty members.

26 (k) Architects' plans, engineers' technical

1 submissions, and other construction related technical
2 documents for projects not constructed or developed in
3 whole or in part with public funds and the same for
4 projects constructed or developed with public funds,
5 including but not limited to power generating and
6 distribution stations and other transmission and
7 distribution facilities, water treatment facilities,
8 airport facilities, sport stadiums, convention centers,
9 and all government owned, operated, or occupied buildings,
10 but only to the extent that disclosure would compromise
11 security.

12 (l) Minutes of meetings of public bodies closed to the
13 public as provided in the Open Meetings Act until the
14 public body makes the minutes available to the public under
15 Section 2.06 of the Open Meetings Act.

16 (m) Communications between a public body and an
17 attorney or auditor representing the public body that would
18 not be subject to discovery in litigation, and materials
19 prepared or compiled by or for a public body in
20 anticipation of a criminal, civil or administrative
21 proceeding upon the request of an attorney advising the
22 public body, and materials prepared or compiled with
23 respect to internal audits of public bodies.

24 (n) Records relating to a public body's adjudication of
25 employee grievances or disciplinary cases; however, this
26 exemption shall not extend to the final outcome of cases in

1 which discipline is imposed.

2 (o) Administrative or technical information associated
3 with automated data processing operations, including but
4 not limited to software, operating protocols, computer
5 program abstracts, file layouts, source listings, object
6 modules, load modules, user guides, documentation
7 pertaining to all logical and physical design of
8 computerized systems, employee manuals, and any other
9 information that, if disclosed, would jeopardize the
10 security of the system or its data or the security of
11 materials exempt under this Section.

12 (p) Records relating to collective negotiating matters
13 between public bodies and their employees or
14 representatives, except that any final contract or
15 agreement shall be subject to inspection and copying.

16 (q) Test questions, scoring keys, and other
17 examination data used to determine the qualifications of an
18 applicant for a license or employment.

19 (r) The records, documents, and information relating
20 to real estate purchase negotiations until those
21 negotiations have been completed or otherwise terminated.
22 With regard to a parcel involved in a pending or actually
23 and reasonably contemplated eminent domain proceeding
24 under the Eminent Domain Act, records, documents and
25 information relating to that parcel shall be exempt except
26 as may be allowed under discovery rules adopted by the

1 Illinois Supreme Court. The records, documents and
2 information relating to a real estate sale shall be exempt
3 until a sale is consummated.

4 (s) Any and all proprietary information and records
5 related to the operation of an intergovernmental risk
6 management association or self-insurance pool or jointly
7 self-administered health and accident cooperative or pool.
8 Insurance or self insurance (including any
9 intergovernmental risk management association or self
10 insurance pool) claims, loss or risk management
11 information, records, data, advice or communications.

12 (t) Information contained in or related to
13 examination, operating, or condition reports prepared by,
14 on behalf of, or for the use of a public body responsible
15 for the regulation or supervision of financial
16 institutions or insurance companies, unless disclosure is
17 otherwise required by State law.

18 (u) Information that would disclose or might lead to
19 the disclosure of secret or confidential information,
20 codes, algorithms, programs, or private keys intended to be
21 used to create electronic or digital signatures under the
22 Electronic Commerce Security Act.

23 (v) Vulnerability assessments, security measures, and
24 response policies or plans that are designed to identify,
25 prevent, or respond to potential attacks upon a community's
26 population or systems, facilities, or installations, the

1 destruction or contamination of which would constitute a
2 clear and present danger to the health or safety of the
3 community, but only to the extent that disclosure could
4 reasonably be expected to jeopardize the effectiveness of
5 the measures or the safety of the personnel who implement
6 them or the public. Information exempt under this item may
7 include such things as details pertaining to the
8 mobilization or deployment of personnel or equipment, to
9 the operation of communication systems or protocols, or to
10 tactical operations.

11 (w) (Blank).

12 (x) Maps and other records regarding the location or
13 security of generation, transmission, distribution,
14 storage, gathering, treatment, or switching facilities
15 owned by a utility, by a power generator, or by the
16 Illinois Power Agency.

17 (y) Information contained in or related to proposals,
18 bids, or negotiations related to electric power
19 procurement under Section 1-75 of the Illinois Power Agency
20 Act and Section 16-111.5 of the Public Utilities Act that
21 is determined to be confidential and proprietary by the
22 Illinois Power Agency or by the Illinois Commerce
23 Commission.

24 (z) Information about students exempted from
25 disclosure under Sections 10-20.38 or 34-18.29 of the
26 School Code, and information about undergraduate students

1 enrolled at an institution of higher education exempted
2 from disclosure under Section 25 of the Illinois Credit
3 Card Marketing Act of 2009.

4 (aa) Information the disclosure of which is exempted
5 under the Viatical Settlements Act of 2009.

6 (bb) Records and information provided to a mortality
7 review team and records maintained by a mortality review
8 team appointed under the Department of Juvenile Justice
9 Mortality Review Team Act.

10 (cc) Information regarding interments, entombments, or
11 inurnments of human remains that are submitted to the
12 Cemetery Oversight Database under the Cemetery Care Act or
13 the Cemetery Oversight Act, whichever is applicable.

14 (dd) Correspondence and records (i) that may not be
15 disclosed under Section 11-9 of the Public Aid Code or (ii)
16 that pertain to appeals under Section 11-8 of the Public
17 Aid Code.

18 (ee) The names, addresses, or other personal
19 information of persons who are minors and are also
20 participants and registrants in programs of park
21 districts, forest preserve districts, conservation
22 districts, recreation agencies, and special recreation
23 associations.

24 (ff) The names, addresses, or other personal
25 information of participants and registrants in programs of
26 park districts, forest preserve districts, conservation

1 districts, recreation agencies, and special recreation
2 associations where such programs are targeted primarily to
3 minors.

4 (gg) Confidential information described in Section
5 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

6 (hh) The report submitted to the State Board of
7 Education by the School Security and Standards Task Force
8 under item (8) of subsection (d) of Section 2-3.160 of the
9 School Code and any information contained in that report.

10 (1.5) Any information exempt from disclosure under the
11 Judicial Privacy Act shall be redacted from public records
12 prior to disclosure under this Act.

13 (2) A public record that is not in the possession of a
14 public body but is in the possession of a party with whom the
15 agency has contracted to perform a governmental function on
16 behalf of the public body, and that directly relates to the
17 governmental function and is not otherwise exempt under this
18 Act, shall be considered a public record of the public body,
19 for purposes of this Act.

20 (3) This Section does not authorize withholding of
21 information or limit the availability of records to the public,
22 except as stated in this Section or otherwise provided in this
23 Act.

24 (Source: P.A. 97-333, eff. 8-12-11; 97-385, eff. 8-15-11;
25 97-452, eff. 8-19-11; 97-783, eff. 7-13-12; 97-813, eff.
26 7-13-12; 97-847, eff. 9-22-12; 97-1065, eff. 8-24-12; 97-1129,

1 eff. 8-28-12; 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
2 98-695, eff. 7-3-14.)