



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5558

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. 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 16348 AXK 40680 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, and time and date stamps associated with the
13 recording 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;

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

9 (4) used permissibly under the authority of 18 U.S.C.
10 2721.

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

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

15 (2) adopt a privacy policy to ensure strict access and
16 control of the data so that ALPR system data and historical
17 ALPR system data are not used or shared in violation of
18 this Act;

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

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

1 procedures to adhere to policies and procedures governing
2 use of ALPR system data or historical ALPR system data.

3 Section 20. Admissibility; penalties.

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

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

21 Section 25. Home rule and other local regulation. Any home
22 rule unit of local government, any non-home rule municipality,
23 or any non-home rule county within the unincorporated territory
24 of the county may regulate automated license plate recognition

1 systems and the use of ALPR system data and historical ALPR
2 system data, but that regulation must be no less restrictive
3 than this Act. This Section is a limitation on the concurrent
4 exercise of home rule power under subsection (i) of Section 6
5 of Article VII of the Illinois Constitution.

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

8 (5 ILCS 140/7) (from Ch. 116, par. 207)

9 Sec. 7. Exemptions.

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

18 (a) Information specifically prohibited from
19 disclosure by federal or State law or rules and regulations
20 implementing federal or State law.

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

24 (b-5) Files, documents, and other data or databases

1 maintained by one or more law enforcement agencies and
2 specifically designed to provide information to one or more
3 law enforcement agencies regarding the physical or mental
4 status of one or more individual subjects.

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

17 (d) Records in the possession of any public body
18 created in the course of administrative enforcement
19 proceedings, and any law enforcement or correctional
20 agency for law enforcement purposes, but only to the extent
21 that disclosure would:

22 (i) interfere with pending or actually and
23 reasonably contemplated law enforcement proceedings
24 conducted by any law enforcement or correctional
25 agency that is the recipient of the request;

26 (ii) interfere with active administrative

1 enforcement proceedings conducted by the public body
2 that is the recipient of the request;

3 (iii) create a substantial likelihood that a
4 person will be deprived of a fair trial or an impartial
5 hearing;

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

18 (v) disclose unique or specialized investigative
19 techniques other than those generally used and known or
20 disclose internal documents of correctional agencies
21 related to detection, observation or investigation of
22 incidents of crime or misconduct, and disclosure would
23 result in demonstrable harm to the agency or public
24 body that is the recipient of the request;

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

1 (vii) obstruct an ongoing criminal investigation
2 by the agency that is the recipient of the request; ~~or-~~

3 (viii) disclose ALPR system data or historical
4 ALPR system data as those terms are defined in Section
5 5 of the Automated License Plate Recognition System
6 Data Act.

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

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

17 (e-5) Records requested by persons committed to the
18 Department of Corrections if those materials are available
19 in the library of the correctional facility where the
20 inmate is confined.

21 (e-6) Records requested by persons committed to the
22 Department of Corrections if those materials include
23 records from staff members' personnel files, staff
24 rosters, or other staffing assignment information.

25 (e-7) Records requested by persons committed to the
26 Department of Corrections if those materials are available

1 through an administrative request to the Department of
2 Corrections.

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

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

21 The information included under this exemption includes
22 all trade secrets and commercial or financial information
23 obtained by a public body, including a public pension fund,
24 from a private equity fund or a privately held company
25 within the investment portfolio of a private equity fund as
26 a result of either investing or evaluating a potential

1 investment of public funds in a private equity fund. The
2 exemption contained in this item does not apply to the
3 aggregate financial performance information of a private
4 equity fund, nor to the identity of the fund's managers or
5 general partners. The exemption contained in this item does
6 not apply to the identity of a privately held company
7 within the investment portfolio of a private equity fund,
8 unless the disclosure of the identity of a privately held
9 company may cause competitive harm.

10 Nothing contained in this paragraph (g) shall be
11 construed to prevent a person or business from consenting
12 to disclosure.

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

21 (i) Valuable formulae, computer geographic systems,
22 designs, drawings and research data obtained or produced by
23 any public body when disclosure could reasonably be
24 expected to produce private gain or public loss. The
25 exemption for "computer geographic systems" provided in
26 this paragraph (i) does not extend to requests made by news

1 media as defined in Section 2 of this Act when the
2 requested information is not otherwise exempt and the only
3 purpose of the request is to access and disseminate
4 information regarding the health, safety, welfare, or
5 legal rights of the general public.

6 (j) The following information pertaining to
7 educational matters:

8 (i) test questions, scoring keys and other
9 examination data used to administer an academic
10 examination;

11 (ii) information received by a primary or
12 secondary school, college, or university under its
13 procedures for the evaluation of faculty members by
14 their academic peers;

15 (iii) information concerning a school or
16 university's adjudication of student disciplinary
17 cases, but only to the extent that disclosure would
18 unavoidably reveal the identity of the student; and

19 (iv) course materials or research materials used
20 by faculty members.

21 (k) Architects' plans, engineers' technical
22 submissions, and other construction related technical
23 documents for projects not constructed or developed in
24 whole or in part with public funds and the same for
25 projects constructed or developed with public funds,
26 including but not limited to power generating and

1 distribution stations and other transmission and
2 distribution facilities, water treatment facilities,
3 airport facilities, sport stadiums, convention centers,
4 and all government owned, operated, or occupied buildings,
5 but only to the extent that disclosure would compromise
6 security.

7 (l) Minutes of meetings of public bodies closed to the
8 public as provided in the Open Meetings Act until the
9 public body makes the minutes available to the public under
10 Section 2.06 of the Open Meetings Act.

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

19 (n) Records relating to a public body's adjudication of
20 employee grievances or disciplinary cases; however, this
21 exemption shall not extend to the final outcome of cases in
22 which discipline is imposed.

23 (o) Administrative or technical information associated
24 with automated data processing operations, including but
25 not limited to software, operating protocols, computer
26 program abstracts, file layouts, source listings, object

1 modules, load modules, user guides, documentation
2 pertaining to all logical and physical design of
3 computerized systems, employee manuals, and any other
4 information that, if disclosed, would jeopardize the
5 security of the system or its data or the security of
6 materials exempt under this Section.

7 (p) Records relating to collective negotiating matters
8 between public bodies and their employees or
9 representatives, except that any final contract or
10 agreement shall be subject to inspection and copying.

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

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

25 (s) Any and all proprietary information and records
26 related to the operation of an intergovernmental risk

1 management association or self-insurance pool or jointly
2 self-administered health and accident cooperative or pool.
3 Insurance or self insurance (including any
4 intergovernmental risk management association or self
5 insurance pool) claims, loss or risk management
6 information, records, data, advice or communications.

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

13 (u) Information that would disclose or might lead to
14 the disclosure of secret or confidential information,
15 codes, algorithms, programs, or private keys intended to be
16 used to create electronic or digital signatures under the
17 Electronic Commerce Security Act.

18 (v) Vulnerability assessments, security measures, and
19 response policies or plans that are designed to identify,
20 prevent, or respond to potential attacks upon a community's
21 population or systems, facilities, or installations, the
22 destruction or contamination of which would constitute a
23 clear and present danger to the health or safety of the
24 community, but only to the extent that disclosure could
25 reasonably be expected to jeopardize the effectiveness of
26 the measures or the safety of the personnel who implement

1 them or the public. Information exempt under this item may
2 include such things as details pertaining to the
3 mobilization or deployment of personnel or equipment, to
4 the operation of communication systems or protocols, or to
5 tactical operations.

6 (w) (Blank).

7 (x) Maps and other records regarding the location or
8 security of generation, transmission, distribution,
9 storage, gathering, treatment, or switching facilities
10 owned by a utility, by a power generator, or by the
11 Illinois Power Agency.

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

19 (z) Information about students exempted from
20 disclosure under Sections 10-20.38 or 34-18.29 of the
21 School Code, and information about undergraduate students
22 enrolled at an institution of higher education exempted
23 from disclosure under Section 25 of the Illinois Credit
24 Card Marketing Act of 2009.

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

1 (bb) Records and information provided to a mortality
2 review team and records maintained by a mortality review
3 team appointed under the Department of Juvenile Justice
4 Mortality Review Team Act.

5 (cc) Information regarding interments, entombments, or
6 inurnments of human remains that are submitted to the
7 Cemetery Oversight Database under the Cemetery Care Act or
8 the Cemetery Oversight Act, whichever is applicable.

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

13 (ee) The names, addresses, or other personal
14 information of persons who are minors and are also
15 participants and registrants in programs of park
16 districts, forest preserve districts, conservation
17 districts, recreation agencies, and special recreation
18 associations.

19 (ff) The names, addresses, or other personal
20 information of participants and registrants in programs of
21 park districts, forest preserve districts, conservation
22 districts, recreation agencies, and special recreation
23 associations where such programs are targeted primarily to
24 minors.

25 (gg) Confidential information described in Section
26 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

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

5 (ii) Records requested by persons committed to or
6 detained by the Department of Human Services under the
7 Sexually Violent Persons Commitment Act or committed to the
8 Department of Corrections under the Sexually Dangerous
9 Persons Act if those materials: (i) are available in the
10 library of the facility where the individual is confined;
11 (ii) include records from staff members' personnel files,
12 staff rosters, or other staffing assignment information;
13 or (iii) are available through an administrative request to
14 the Department of Human Services or the Department of
15 Corrections.

16 (jj) ~~(ii)~~ Confidential information described in
17 Section 5-535 of the Civil Administrative Code of Illinois.

18 (1.5) Any information exempt from disclosure under the
19 Judicial Privacy Act shall be redacted from public records
20 prior to disclosure under this Act.

21 (2) A public record that is not in the possession of a
22 public body but is in the possession of a party with whom the
23 agency has contracted to perform a governmental function on
24 behalf of the public body, and that directly relates to the
25 governmental function and is not otherwise exempt under this
26 Act, shall be considered a public record of the public body,

1 for purposes of this Act.

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

6 (Source: P.A. 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
7 98-695, eff. 7-3-14; 99-298, eff. 8-6-15; 99-346, eff. 1-1-16;
8 revised 1-11-16.)