

Senator Todd Weiler proposes the following substitute bill:

LICENSE PLATE READER AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to automatic license plate reader systems.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a person or governmental entity may not use an automatic license plate reader system except in certain circumstances;
- ▶ specifies circumstances when an automatic license plate reader system may be used by a person or governmental entity;
- ▶ provides that captured plate data is a private record under the Government Records Access and Management Act;
- ▶ provides that captured plate data may only be shared for specified purposes, may only be preserved for a certain time, and may only be disclosed pursuant to a disclosure order or a warrant;
- ▶ prohibits a person from selling captured plate data for any purpose;
- ▶ establishes procedures for a governmental entity to submit a preservation request for captured plate data; and
- ▶ provides a penalty for violating the provisions relating to automatic license plate



26 reader systems.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **63G-2-302**, as last amended by Laws of Utah 2012, Chapters 74, 145, and 202

34 ENACTS:

35 **41-6a-2001**, Utah Code Annotated 1953

36 **41-6a-2002**, Utah Code Annotated 1953

37 **41-6a-2003**, Utah Code Annotated 1953

38 **41-6a-2004**, Utah Code Annotated 1953

39 **41-6a-2005**, Utah Code Annotated 1953

40 **41-6a-2006**, Utah Code Annotated 1953



42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **41-6a-2001** is enacted to read:

44 **Part 20. Automatic License Plate Reader System Act**

45 **41-6a-2001. Title.**

46 This part is known as the "Automatic License Plate Reader System Act."

47 Section 2. Section **41-6a-2002** is enacted to read:

48 **41-6a-2002. Definitions.**

49 As used in this section:

50 (1) "Automatic license plate reader system" means a system of one or more mobile or
51 fixed automated high-speed cameras used in combination with computer algorithms to convert
52 an image of a license plate into computer-readable data.

53 (2) "Captured plate data" means the global positioning system coordinates, date and
54 time, photograph, license plate number, and any other data captured by or derived from an
55 automatic license plate reader system.

56 (3) "Governmental entity" has the same meaning as defined in Section 63G-2-103.

57 (4) "Secured area" means an area, enclosed by clear boundaries, to which access is
58 limited and not open to the public and entry is only obtainable through specific access-control
59 points.

60 Section 3. Section **41-6a-2003** is enacted to read:

61 **41-6a-2003. Automatic license plate reader systems -- Restrictions.**

62 (1) Except as provided in Subsection (2), a person or governmental entity may not use
63 an automatic license plate reader system.

64 (2) An automatic license plate reader system may be used:

65 (a) by a law enforcement agency for the purpose of protecting public safety, conducting
66 criminal investigations, or ensuring compliance with local, state, and federal laws;

67 (b) by a parking enforcement entity for regulating the use of a parking facility;

68 (c) for the purpose of controlling access to a secured area;

69 (d) for the purpose of collecting an electronic toll; or

70 (e) for the purpose of enforcing motor carrier laws.

71 Section 4. Section **41-6a-2004** is enacted to read:

72 **41-6a-2004. Captured plate data -- Preservation and disclosure.**

73 (1) Captured plate data obtained for the purposes described in Section 41-6a-2003:

74 (a) in accordance with Section 63G-2-302, is a private record under Title 63G, Chapter
75 2, Government Records Access and Management Act;

76 (b) may not be used or shared for any purpose other than the purposes described in
77 Section 41-6a-2003;

78 (c) may not be preserved for more than six months except pursuant to:

79 (i) a preservation request under Section 41-6a-2005;

80 (ii) a disclosure order under Subsection 41-6a-2005(2); or

81 (iii) a warrant issued under the Utah Rules of Criminal Procedure or an equivalent
82 federal warrant; and

83 (d) may only be disclosed:

84 (i) in accordance with the disclosure requirements for a private record under Section
85 63G-2-202;

86 (ii) pursuant to a disclosure order under Subsection 41-6a-2005(2); or

87 (iii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an

88 equivalent federal warrant.

89 (2) (a) A person or governmental entity that is authorized to use an automatic license
90 plate reader system under this part may not sell captured plate data for any purpose.

91 (b) A person or governmental entity that is authorized to use an automatic license plate
92 reader system under this part may not share captured plate data for a purpose not authorized
93 under Subsection 41-6a-2003(2).

94 (c) Notwithstanding the provisions of this section, a governmental entity may preserve
95 and disclose aggregate captured plate data for planning and statistical purposes if the
96 information identifying a specific license plate is not preserved or disclosed.

97 Section 5. Section **41-6a-2005** is enacted to read:

98 **41-6a-2005. Preservation request.**

99 (1) A person or governmental entity using an automatic license plate reader system
100 shall take all steps necessary to preserve captured plate data in its possession for 14 days after
101 the date the data is captured pending the issuance of a court order requiring the disclosure of
102 the captured plate data if a governmental entity requesting the captured plate data submits a
103 written statement to the person or governmental entity using an automatic license plate reader
104 system:

105 (a) requesting the person or governmental entity to preserve the captured plate data;

106 (b) identifying:

107 (i) the camera or cameras for which captured plate data shall be preserved;

108 (ii) the license plate for which captured plate data shall be preserved; or

109 (iii) the dates and time frames for which captured plate data shall be preserved; and

110 (c) notifying the person or governmental entity maintaining the captured plate data that
111 the governmental entity is applying for a court order for disclosure of the captured plate data.

112 (2) (a) A governmental entity may apply for a court order for the disclosure of captured
113 plate data.

114 (b) A court that is a court of competent jurisdiction shall issue a court order requiring
115 the disclosure of captured plate data if the governmental entity offers specific and articulable
116 facts showing that there are reasonable grounds to believe that the captured plate data is
117 relevant and material to an ongoing criminal or missing person investigation.

118 (3) Captured plate data that is the subject of an application for a disclosure order under

119 Subsection (2) may be destroyed at the later of:

120 (a) the date that an application for an order under Subsection (2) is denied;

121 (b) the end of 14 days, if the person or governmental entity does not otherwise preserve
122 the captured plate data; or

123 (c) the end of the period described in Subsection 41-6a-2004(1)(c).

124 Section 6. Section **41-6a-2006** is enacted to read:

125 **41-6a-2006. Penalties.**

126 A person who violates a provision under this part is guilty of a class C misdemeanor.

127 Section 7. Section **63G-2-302** is amended to read:

128 **63G-2-302. Private records.**

129 (1) The following records are private:

130 (a) records concerning an individual's eligibility for unemployment insurance benefits,
131 social services, welfare benefits, or the determination of benefit levels;

132 (b) records containing data on individuals describing medical history, diagnosis,
133 condition, treatment, evaluation, or similar medical data;

134 (c) records of publicly funded libraries that when examined alone or with other records
135 identify a patron;

136 (d) records received by or generated by or for:

137 (i) the Independent Legislative Ethics Commission, except for:

138 (A) the commission's summary data report that is required under legislative rule; and

139 (B) any other document that is classified as public under legislative rule; or

140 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
141 unless the record is classified as public under legislative rule;

142 (e) records received or generated for a Senate confirmation committee concerning
143 character, professional competence, or physical or mental health of an individual:

144 (i) if prior to the meeting, the chair of the committee determines release of the records:

145 (A) reasonably could be expected to interfere with the investigation undertaken by the
146 committee; or

147 (B) would create a danger of depriving a person of a right to a fair proceeding or
148 impartial hearing; and

149 (ii) after the meeting, if the meeting was closed to the public;

150 (f) employment records concerning a current or former employee of, or applicant for
151 employment with, a governmental entity that would disclose that individual's home address,
152 home telephone number, Social Security number, insurance coverage, marital status, or payroll
153 deductions;

154 (g) records or parts of records under Section 63G-2-303 that a current or former
155 employee identifies as private according to the requirements of that section;

156 (h) that part of a record indicating a person's Social Security number or federal
157 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
158 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

159 (i) that part of a voter registration record identifying a voter's:

160 (i) driver license or identification card number;

161 (ii) Social Security number, or last four digits of the Social Security number; or

162 (iii) email address;

163 (j) a record that:

164 (i) contains information about an individual;

165 (ii) is voluntarily provided by the individual; and

166 (iii) goes into an electronic database that:

167 (A) is designated by and administered under the authority of the Chief Information
168 Officer; and

169 (B) acts as a repository of information about the individual that can be electronically
170 retrieved and used to facilitate the individual's online interaction with a state agency;

171 (k) information provided to the Commissioner of Insurance under:

172 (i) Subsection 31A-23a-115(2)(a);

173 (ii) Subsection 31A-23a-302(3); or

174 (iii) Subsection 31A-26-210(3);

175 (l) information obtained through a criminal background check under Title 11, Chapter
176 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

177 (m) information provided by an offender that is:

178 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
179 Offender Registry; and

180 (ii) not required to be made available to the public under Subsection 77-41-110(4);

181 (n) a statement and any supporting documentation filed with the attorney general in
182 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
183 homeland security;

184 (o) electronic toll collection customer account information received or collected under
185 Section 72-6-118, including contact and payment information and customer travel data;

186 (p) an email address provided by a military or overseas voter under Section
187 20A-16-501;

188 (q) a completed military-overseas ballot that is electronically transmitted under Title
189 20A, Chapter 16, Uniform Military and Overseas Voters Act; [~~and~~]

190 (r) records received by or generated by or for the Political Subdivisions Ethics Review
191 Commission established in Section 11-49-201, except for:

192 (i) the commission's summary data report that is required in Section 11-49-202; and

193 (ii) any other document that is classified as public in accordance with Title 11, Chapter
194 49, Political Subdivisions Ethics Review Commission[~~;~~]; and

195 (s) captured plate data that is obtained through an automatic license plate reader system
196 used by a governmental entity as authorized in Section 41-6a-2003.

197 (2) The following records are private if properly classified by a governmental entity:

198 (a) records concerning a current or former employee of, or applicant for employment
199 with a governmental entity, including performance evaluations and personal status information
200 such as race, religion, or disabilities, but not including records that are public under Subsection
201 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

202 (b) records describing an individual's finances, except that the following are public:

203 (i) records described in Subsection 63G-2-301(2);

204 (ii) information provided to the governmental entity for the purpose of complying with
205 a financial assurance requirement; or

206 (iii) records that must be disclosed in accordance with another statute;

207 (c) records of independent state agencies if the disclosure of those records would
208 conflict with the fiduciary obligations of the agency;

209 (d) other records containing data on individuals the disclosure of which constitutes a
210 clearly unwarranted invasion of personal privacy;

211 (e) records provided by the United States or by a government entity outside the state

212 that are given with the requirement that the records be managed as private records, if the
213 providing entity states in writing that the record would not be subject to public disclosure if
214 retained by it; and

215 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
216 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
217 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

218 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
219 records, statements, history, diagnosis, condition, treatment, and evaluation.

220 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
221 doctors, or affiliated entities are not private records or controlled records under Section
222 63G-2-304 when the records are sought:

223 (i) in connection with any legal or administrative proceeding in which the patient's
224 physical, mental, or emotional condition is an element of any claim or defense; or

225 (ii) after a patient's death, in any legal or administrative proceeding in which any party
226 relies upon the condition as an element of the claim or defense.

227 (c) Medical records are subject to production in a legal or administrative proceeding
228 according to state or federal statutes or rules of procedure and evidence as if the medical
229 records were in the possession of a nongovernmental medical care provider.