

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 646

BY SENATORS CLEMENTS AND MARONEY

[Introduced February 18, 2019; Referred
to the Committee on Government Organization; and then
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §17C-6A-1, §17C-6A-2, §17C-6A-3, §17C-6A-4, §17C-6A-5, and §17C-6A-6,
 3 all relating to providing for automated license plate reader systems; providing for required
 4 training; providing for use of captured data; and imposing a misdemeanor penalty for
 5 violations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6A. AUTOMATED LICENSE PLATE READER SYSTEMS.

§17C-6A-1. Definitions.

1 The following words and phrases when used in this article have the meanings given to
 2 them in this section unless the context clearly indicates otherwise:

3 “Automated license plate reader system” means:

4 (1) A system:

5 (A) Of one or more mobile or fixed high-speed cameras combined with computer
 6 algorithms to convert images of registration plates into computer-readable data; and

7 (B) Used by a state, county or local law-enforcement agency or a government entity.

8 (2) The term does not include a violation enforcement system or a system used in
 9 electronic toll collection.

10 (3) The term does not include an automated red light enforcement system.

11 “Captured data” means the global positioning system coordinates, dates and times,
 12 photographs, registration plate numbers and any other data collected by or derived from an
 13 automated license plate reader system.

14 “Government entity” means an office, agency, board, bureau, department, commission or
 15 authority established by statute to carry out a government function.

16 “Secured area” means an area, enclosed by clear boundaries, to which access is limited
 17 and entry is only obtainable through specific access-control points.

§17C-6A-2. Use of automated license plate reader systems.

1 (a) Authorized purposes.--

2 (1) A state or local law-enforcement agency may only use an automated license plate
3 reader system for legitimate law-enforcement purposes, conducting criminal investigations or
4 ensuring compliance with federal, state and local laws.

5 (2) In addition to the purposes under subdivision (1) of this section, a government entity
6 may use an automated license plate reader system for the purpose of controlling access to a
7 secured area.

8 (b) Prohibition.-- Except as authorized under subsection (a) of this section, the use of an
9 automated license plate reader system is prohibited.

10 (c) Manual entries.-- Any state, county or local law-enforcement agency or government
11 entity that manually enters license plate numbers into an automated license plate reader system
12 must document the reason for the entry to ensure use for a legitimate law-enforcement purpose.

13 (d) Training required.-- Prior to using an automated license plate reader system for a
14 purpose identified in subsection (a) of this section, an individual shall complete a training course
15 approved by the Superintendent of State Police and the Law-Enforcement Professional Standards
16 Subcommittee. Individuals who use an automated license plate reader system in the discharge
17 of their official duties for a purpose identified in subsection (a) of this section on the effective date
18 of this section shall have six months from the effective date of this section to complete the required
19 training course.

20 (e) Use of registered vehicle owner information.-- Notwithstanding any other provision of
21 law, registered vehicle owner information obtained as a result of the operation of an automated
22 license plate reader system may not be the property of the manufacturer nor vendor of the
23 automated license plate reader system and may not be used for any purpose other than
24 prescribed in this section.

25 (f) Further restrictions.-- Notwithstanding any other provision of law, camera equipment
26 deployed as part of an automated license plate reader system shall be incapable of automated or

27 user-controlled remote surveillance by means of recorded video images except for legitimate law-
28 enforcement purposes. The restrictions set forth in this subsection may not be considered to
29 preclude a court of competent jurisdiction from issuing an order directing that information obtained
30 through the use of an automated license plate reader system be provided to law-enforcement
31 officials if the information is reasonably described and is requested solely in connection with a
32 criminal law-enforcement action.

§17C-6A-3. Preservation and disclosure of captured data.

1 (a) Location of captured data.--

2 (1) All captured data collected through the use of an automated license plate reader
3 system in this state shall be stored at the Criminal Identification Bureau.

4 (2) Law-enforcement agencies and government agencies maintaining a separate
5 database on the effective date of this section shall have one year from the effective date of this
6 section to arrange for the sharing of captured data with the State Police in accordance with
7 subdivision (1) of this section.

8 (b) Confidentiality of captured data.--

9 (1) Except as provided in subdivision (2) or (3):

10 (A) A law-enforcement agency or government entity authorized to use an automated
11 license plate reader system may not sell, trade, disseminate or exchange captured data for any
12 purpose.

13 (B) Captured data collected or retained through the use of an automated license plate
14 reader system is confidential and is only available for use by a law-enforcement agency in carrying
15 out its functions, by a government entity collecting information for its intended purpose and in any
16 related civil or criminal proceeding.

17 (2) The restrictions set forth in this subsection shall not be considered to preclude a court
18 of competent jurisdiction from issuing an order directing that captured data obtained through the
19 use of an automated license plate reader system be provided to law-enforcement officials if the

20 information is reasonably described and is requested solely in connection with a criminal law
21 enforcement action.

22 (3) Captured data may be shared with law-enforcement agencies and with criminal justice
23 agencies in the performance of their official duties.

24 (c) Applicability of Freedom of Information Law. -- Captured data collected or retained
25 through the use of an automated license plate reader system is not subject to disclosure under
26 §29B-1-1 et seq. of this code, known as the Freedom of Information law.

§17C-6A-4. Destruction of captured data.

1 (a) Destruction of captured data.-- The following apply:

2 Except as otherwise provided for by this code relating to criminal history record
3 information, captured data obtained through the use of automated license plate reader systems
4 deployed shall be destroyed:

5 (1) Within one year of final disposition of any case involving a recorded event; or

6 (2) Within one year of any recorded event which is not directly related to a violation or an
7 active criminal investigation.

8 (b) Captured data previously collected.-- Captured data collected before the effective date
9 of this section must be destroyed, if required by this section, no later than 60 days after the
10 effective date of this section.

11 (c) Shared data.-- If captured data collected by an automated license plate reader system
12 are shared with another law-enforcement agency or government entity, the agency or entity that
13 receives the data must comply with the requirements of this section.

14 (d) Notification.-- The law-enforcement agency or government entity which obtained
15 recorded images through the use of an automated license plate reader system shall annually file
16 notice with the Secretary of State that the records have been destroyed in accordance with this
17 section no later than December 15 of each year.

§17C-6A-5. Automated license plate reader system policy.

1 A state or local law-enforcement agency or government entity that maintains an automated
 2 license plate reader system shall establish, make public and enforce a written policy governing
 3 the use of the automated license plate reader system. Use of an automated license plate reader
 4 system without adoption of a written policy under this section is prohibited. The policy shall include
 5 the following:

6 (1) Which law-enforcement agency or government entity personnel are authorized to
 7 query captured data obtained by an automated license plate reader system;

8 (2) An audit process to ensure that information obtained through the use of an automated
 9 license plate reader system is used only for legitimate law-enforcement purposes, including audits
 10 of requests made by individual law-enforcement agencies or government entities or individual law
 11 enforcement or government entity personnel; and

12 (3) Procedures and safeguards to ensure that other employees with access to the
 13 automated license plate reader system database are adequately screened and trained.

§17C-6A-6. Penalty.

1 An individual who violates this article relating to use of automated license plate reader
 2 systems is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than
 3 \$500 or confined in jail not more than one year, or both fined and confined.

NOTE: The purpose of this bill is to provide for the use of automated license plate reader systems in this state.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.