WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 2

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[Introduced January 8, 2020; 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   As used in this article:

2   "Automated license plate reader system" means:

3   (A) A system:

4   (i) Of one or more mobile or fixed high-speed cameras combined with computer algorithms

5   to convert images of registration plates into computer-readable data; and

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

7   (B) The term does not include a violation enforcement system or a system used in

8   electronic toll collection.

9   (C) The term does not include an automated red light enforcement system.

10   "Captured data" means the global positioning system coordinates, dates and times,

11   photographs, registration plate numbers and any other data collected by or derived from an

12   automated license plate reader system.

13   "Government entity" means an office, agency, board, bureau, department, commission, or

14   authority established by statute to carry out a government function.

15   "Secured area" means an area, enclosed by clear boundaries, to which access is limited

16   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) of this subsection:

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.