

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 86

(SENATE AUTHORS: LATZ)

| DATE | D-PG | OFFICIAL STATUS |
|------------|------|--|
| 01/12/2015 | 54 | Introduction and first reading Referred to Judiciary |
| 01/29/2015 | 139a | Comm report: To pass as amended Rule 21, referred to Rules and Administration |
| 02/19/2015 | 340 | Comm report: Amend previous comm report Re-referred to Transportation and Public Safety |
| 03/04/2015 | 517a | Comm report: To pass as amended and re-refer to Finance |
| 05/06/2015 | 3306 | Comm report: To pass |
| | 3392 | Second reading |
| 05/07/2015 | | Special Order: Amended Motion did not prevail to lay on the table Third reading Passed |

A bill for an act

1.1 relating to data practices; classifying data related to automated license plate
 1.2 readers; requiring a log of use; requiring data to be destroyed in certain
 1.3 circumstances; amending Minnesota Statutes 2014, section 13.82, by adding a
 1.4 subdivision; proposing coding for new law in Minnesota Statutes, chapter 626.
 1.5

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 13.82, is amended by adding a subdivision
 1.8 to read:

1.9 Subd. 31. Automated license plate reader. (a) As used in this subdivision,
 1.10 "automated license plate reader" means an electronic device mounted on a law
 1.11 enforcement vehicle or positioned in a stationary location that is capable of recording data
 1.12 on, or taking a photograph of, a vehicle or its license plate and comparing the collected
 1.13 data and photographs to existing law enforcement databases for investigative purposes.
 1.14 Automated license plate reader includes a device that is owned or operated by a person
 1.15 who is not a government entity to the extent that data collected by the reader are shared
 1.16 with a law enforcement agency.

1.17 (b) Unless the data are public under subdivision 2, 3, or 6, or active criminal
 1.18 investigative data, the following data collected by an automated license plate reader are
 1.19 private data on individuals or nonpublic data:

1.20 (1) license plate numbers;

1.21 (2) date, time, and location data on vehicles; and

1.22 (3) pictures of license plates, vehicles, and areas surrounding the vehicles.

1.23 (c) Notwithstanding section 138.17, data collected by an automated license plate
 1.24 reader must be destroyed:

2.1 (1) 90 days from the time of collection, if the data are classified under paragraph
2.2 (b), provided that if the law enforcement agency has received a written request that the
2.3 data be preserved from an individual who is the subject of a pending criminal charge or
2.4 complaint that includes the case or complaint number and a statement that the data may be
2.5 used as exculpatory evidence, the data must not be destroyed until the criminal charge
2.6 or complaint is resolved or dismissed; or

2.7 (2) upon request of a program participant under chapter 5B, at the time of collection
2.8 or upon receipt of the request, whichever occurs later, unless the data are active criminal
2.9 investigative data.

2.10 Data on a request of a program participant under clause (2) are private data on individuals.
2.11 If data collected by an automated license plate reader are shared with another law
2.12 enforcement agency, the agency that receives the data must comply with the data
2.13 destruction requirements of this paragraph.

2.14 (d) A law enforcement agency that installs or uses an automated license plate reader
2.15 must maintain a log of its use, including:

2.16 (1) specific times of day that the reader actively collected data;

2.17 (2) the aggregate number of vehicles or license plates on which data are collected for
2.18 each period of active use and a list of all state and federal databases with which data that
2.19 were collected were compared unless the existence of the database itself is not public;

2.20 (3) for each period of active use, the number of vehicles or license plates in each of
2.21 the following categories where the data identify a vehicle or license plate that has been
2.22 stolen, a warrant for the arrest of the owner of the vehicle or an owner with a suspended or
2.23 revoked driver's license, or are active investigative data; and

2.24 (4) for a reader at a stationary location, the location at which the reader actively
2.25 collected data.

2.26 Data in a log required under this paragraph are public.

2.27 (e) In addition to the log required under paragraph (d), the law enforcement agency
2.28 must maintain records showing the date the data were collected and the applicable
2.29 classification of the data. The law enforcement agency shall arrange for an independent,
2.30 triennial audit of the records to determine whether data currently in the records are
2.31 classified and destroyed as required under this subdivision and to verify compliance with
2.32 paragraph (f). Data in the records required under this paragraph are classified as provided
2.33 in paragraph (b). The results of the audit are public.

2.34 (f) A law enforcement agency must comply with sections 13.05, subdivision 5, and
2.35 13.055 in the operation of automated license plate readers and access to the data. The
2.36 responsible authority for a law enforcement agency must establish written procedures to

3.1 ensure that law enforcement personnel have access to the data only if authorized in writing
 3.2 by the chief of police, sheriff, or head of the law enforcement agency, or their designee,
 3.3 to obtain access to data collected by an automated license plate reader for a legitimate,
 3.4 specified, and documented law enforcement purpose. Access to the data must be based
 3.5 only on a reasonable suspicion that the data are pertinent to a criminal investigation,
 3.6 and a request for access must include a record of the factual basis for the request and
 3.7 any associated case number, complaint, or incident that is the basis for the request.
 3.8 Notwithstanding subdivision 24, a law enforcement agency may share data that are
 3.9 classified under paragraph (b) with another law enforcement agency only if that agency
 3.10 complies with the requirements of this paragraph.

3.11 (g) Within ten days of the installation or current use of an automated license plate
 3.12 reader, a law enforcement agency must notify the Bureau of Criminal Apprehension of
 3.13 any fixed location of a stationary automated license plate reader and, if applicable, if the
 3.14 agency uses any other automated license plate reader or any other type of electronic
 3.15 device or technology that collects data on motor vehicles or occupants that may be used
 3.16 for identification purposes or for tracking activities of motor vehicles or individuals.
 3.17 The Bureau of Criminal Apprehension must maintain a list of law enforcement agencies
 3.18 using automated license plate readers, including locations of any fixed stationary
 3.19 automated license plate readers. Except to the extent that the bureau, upon request from
 3.20 the responsible authority of the law enforcement agency, determines that the location of a
 3.21 specific reader is security information, as defined in section 13.37, this list is accessible
 3.22 to the public and must be available on the bureau's Web site. In addition, the law
 3.23 enforcement agency must maintain a list of the current and previous locations, including
 3.24 dates at those locations, of any fixed stationary automated license plate readers used by the
 3.25 agency, which is accessible to the public.

3.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.
 3.27 Data collected before the effective date of this section must be destroyed, if required by
 3.28 this section, no later than 15 days after the date this section becomes effective.

3.29 Sec. 2. **[626.8472] AUTOMATED LICENSE PLATE READER POLICY.**

3.30 Subdivision 1. **Statewide model policy.** The board, in consultation with
 3.31 representatives of law enforcement agencies and the commissioner of administration shall
 3.32 adopt and disseminate a model policy governing the use and operation of automated
 3.33 license plate readers and standards and procedures for compliance with section 13.82,
 3.34 subdivision 31. The board shall seek and consider comments of members of the public
 3.35 when adopting the policy.

4.1 Subd. 2. **Agency policies required.** The chief law enforcement officer of every
4.2 state and local law enforcement agency shall establish and enforce a written policy
4.3 governing automated license plate readers that is identical or substantially similar to the
4.4 model policy adopted by the board. A law enforcement agency that does not comply with
4.5 this subdivision must not use an automated license plate reader.

4.6 Sec. 3. **EFFECTIVE DATE; APPLICATION.**

4.7 (a) The Board of Peace Officer Standards and Training shall adopt the model policy
4.8 under section 2, subdivision 1, by October 1, 2015.

4.9 (b) Chief law enforcement officers shall adopt the policy under section 2, subdivision
4.10 2, by January 15, 2016.