



HOUSE BILL 829: Automatic License Plate Readers

2013-2014 General Assembly

Committee:	Transportation, if favorable, Judiciary IV, if favorable, Rules, Calendar, and Operations of the House	Date:	April 28, 2015
Introduced by:	Reps. B. Turner, Speciale, Hardister, Glazier	Prepared by:	Wendy Graf Ray Committee Counsel
Analysis of:	PCS to First Edition H829-CSSU-19		

SUMMARY: *The Proposed Committee Substitute for House Bill 829 would:*

- *Create a new article in the General Statutes regulating the use of automatic license plate reader systems by governmental entities.*
- *Authorize the Department of Transportation to enter into agreements with local governments and other governmental entities for encroachment to right of way, and to approve requests by local governments and public entities for encroachments to Department-granted utility easements, for the purpose of installing public safety technology.*

BILL ANALYSIS:

Automatic License Plate Readers. North Carolina does not currently regulate the use of automatic license plate reader systems. Section 1 of the PCS for House Bill 829 would regulate the use of automatic license plate reader systems by governmental entities and the use of captured plate data. Automatic license plate reader systems use cameras to capture images of license plates and convert them into computer-readable data.

Use of system unlawful except for specified purposes. The PCS would make it unlawful for a governmental entity to use an automatic license plate reader system except for the following purposes:

- Law enforcement agencies using captured data for comparison with databases in order to identify outstanding parking or traffic violations, violation of vehicle registration requirements, violation of inspection requirements, stolen vehicles and plates, vehicles registered to persons with outstanding warrants or arrest orders for felonies, and vehicles associated with missing persons.
- Enforcing parking laws and ordinances.
- Controlling access to secured areas.
- Electronic toll collection.

Preservation and disclosure of data. The PCS would prohibit preservation of the captured data for more than 60 days (120 days for the purpose of electronic toll collection), except pursuant to a preservation request, disclosure order, or search warrant.

Upon written request of an investigative or law enforcement officer, a private person or governmental entity using a reader system would be required to take all necessary steps to preserve captured data

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pending issuance of a disclosure order. The request would have to specify that the officer is applying for a court order compelling disclosure.

A court would be required to issue a disclosure order for the data if the requesting officer offers specific and articulable facts showing that there are reasonable grounds to believe that the data is relevant and material to an ongoing criminal or missing person investigation. If the disclosure order is denied or the officer does not apply for a disclosure order within 60 days of making a preservation request, the captured data would be destroyed according to the person's or entity's data retention policy.

Captured data would be confidential and not a public record. Except as provided, the data could only be disclosed to or with prior written consent of the person to whom the vehicle is registered.

Notice of policies. The PCS would require any governmental entity using an automatic license plate reader system to adopt policies governing privacy and use of the system and post those policies conspicuously on the entity's Web site.

Reporting. The PCS would require any governmental entity using an automatic license plate reader system to report on its usage to the Attorney General on July 1 every year beginning in 2016, including information on the number of plates scanned, the databases used to compare data, number of matches, number of matches resulting in criminal charges, number of preservation requests, number of disclosure orders, and any changes in policy that affect privacy concerns. On October 1 of every year beginning in 2016, the Attorney General would be required to compile the information and report it to the General Assembly.

Violation and penalties. A person violating the act would be subject to a civil action by the aggrieved party, and the court could award damages up to \$1000, attorneys' fees and costs, and injunctive relief. A person who willfully and knowingly violates restrictions on use of a plate reader system would be guilty of a Class 1 misdemeanor.

Any data captured in violation of the act would not be admissible as evidence in any criminal, civil, or administrative proceeding.

Public safety technology in State right of way. Under current law, the Department of Transportation is authorized to enter into agreements for the use of State right of way for utilities. Section 2 of the PCS would amend the powers of the Department to authorize it to:

- Enter into agreements with municipalities, counties, and other governmental entities for the use of and encroachment upon the right of way of any road designated as part of the State highway system for the installation and use of law enforcement, fire suppression service, emergency medical response service, and related public safety technology.
- Approve requests by municipalities, counties, and other public entities for the use and encroachment upon utility easements previously granted by the Department to the utility for purposes of installing public safety technology.

The agreements authorized must not interfere with use of the right of way by a utility.

EFFECTIVE DATE: The act would become effective December 1, 2015, and would apply to offenses committed on or after that date.