

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 829  
PROPOSED COMMITTEE SUBSTITUTE H829-PCS40442-SU-19

Short Title: Automatic License Plate Readers.

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE THE USE OF AUTOMATIC LICENSE PLATE READER  
3 SYSTEMS BY STATE GOVERNMENTAL ENTITIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 20 of the General Statutes is amended by adding a new  
6 Article to read:

7 "Article 3D.

8 "Automatic License Plate Reader Systems.

9 **"§ 20-183.22. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Automatic license plate reader system. – A system of one or more mobile or  
12 fixed automated high-speed cameras used in combination with computer  
13 algorithms to convert images of license plates into computer-readable data.  
14 This term shall not include a traffic control photographic system, as that  
15 term is defined in G.S. 160A-300.1(a).  
16 (2) Captured plate data. – The global positioning system (GPS) coordinates, date  
17 and time, photograph, license plate number, and any other data captured by  
18 or derived from any automatic license plate reader system.  
19 (3) Governmental entity. – Any State department, institution, agency, or any  
20 political subdivision of the State or any person that is an employee or agent  
21 of a State department, institution, agency, or political subdivision of the  
22 State.  
23 (4) Investigative or law enforcement officer. – Any officer of the State, or any  
24 political subdivision thereof, who is empowered by the laws of this State to  
25 conduct investigations or to make arrests and any attorney authorized by the  
26 laws of this State to prosecute or participate in the prosecution of those  
27 persons arrested, including the Attorney General of North Carolina.  
28 (5) Secured area. – An area enclosed by clear boundaries to which access is  
29 limited and not open to the public and entry is only obtainable through  
30 specific access-control points.

31 **"§ 20-183.23. Restrictions on use.**

32 (a) Except as provided for in subsection (b) of this section, it shall be unlawful for a  
33 governmental entity to use an automatic license plate reader system.

34 (b) An automatic license plate reader system may be used for each of the following:

- 35 (1) A municipal, county, or State law enforcement agency for the comparison of  
36 captured plate data with data held by the Division, the State Criminal Justice



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1 Information Network, the National Crime Information Center, the FBI's  
2 Kidnappings and Missing Persons list, and the North Carolina Center for  
3 Missing Persons for the purpose of identifying any of the following:

4 a. Outstanding parking or traffic violations.

5 b. A violation of vehicle registration requirements.

6 c. A violation of the inspection requirements in Article 3A of Chapter  
7 20 of the General Statutes.

8 d. A stolen vehicle or stolen license plate.

9 e. A vehicle registered to an individual for whom there is an  
10 outstanding warrant for arrest or order of arrest for a felony violation  
11 in this State or another jurisdiction.

12 f. A vehicle associated with a missing person.

13 (2) For the purpose of enforcing parking laws and ordinances.

14 (3) For the purpose of controlling access to secured areas.

15 (4) For the purpose of electronic toll collection.

16 **"§ 20-183.24. Preservation and disclosure of records.**

17 (a) Captured plate data obtained pursuant to G.S. 20-183.23(b) shall not be used or  
18 shared for any other purpose and, except pursuant to any of the following, shall not be  
19 preserved for more than 60 days after the date the data is captured, or 120 days for the purpose  
20 of electronic toll collection:

21 (1) A preservation request under subsection (b) of this section.

22 (2) A disclosure order under subsection (c) of this section.

23 (3) A search warrant issued pursuant to Article 11 of Chapter 15A of the  
24 General Statutes.

25 (4) A federal search warrant issued in compliance with the Federal Rules of  
26 Criminal Procedure.

27 (b) Upon the request of an investigative or law enforcement officer, a private person or  
28 governmental entity using an automatic license plate reader system shall take all necessary  
29 steps to immediately preserve captured plate data in its possession pending the issuance of a  
30 disclosure order pursuant to subsection (c) of this section. A requesting officer must specify in  
31 a written, sworn statement (i) the particular camera or cameras for which captured plate data  
32 must be preserved or the particular license plate for which captured plate data must be  
33 preserved, (ii) the date or dates and time frames for which captured plate data must be  
34 preserved, and (iii) that the requesting officer is applying for a court order compelling  
35 disclosure under subsection (c) of this section.

36 (c) An investigative or law enforcement officer may apply to a court of competent  
37 jurisdiction for a court order compelling disclosure of captured plate data. A court shall issue  
38 the order if the requesting officer offers specific and articulable facts showing that there are  
39 reasonable grounds to believe that the captured plate data is relevant and material to an ongoing  
40 criminal or missing persons investigation. If an application for a disclosure order under this  
41 subsection is denied, or if the investigative or law enforcement officer who made the initial  
42 preservation request under subsection (b) of this section fails to apply to a court of competent  
43 jurisdiction for a disclosure order under this subsection within 60 days of the date of the initial  
44 preservation request, the private person or governmental entity using the automatic license  
45 plate reader system shall destroy the captured plate data according to the private person's or  
46 governmental entity's own record or data retention policy, unless the private person or  
47 governmental entity receives within that period another preservation request under subsection  
48 (b) of this section, in which case the retention period established under this subsection shall  
49 reset.

50 (d) A governmental entity may obtain, receive, or use privately held captured plate data  
51 for the purposes described in G.S. 20-183.23(b) only pursuant to the orders and warrants listed

1 in subdivision (2), (3), or (4) of subsection (a) of this section, and only if the private automatic  
2 license plate reader system retains captured plate data for 60 days or fewer. Nothing in this  
3 subsection shall be construed as exempting captured plate data obtained, received, or used  
4 under this subsection from the limitations and restrictions set forth in subsection (f) of this  
5 section.

6 (e) A governmental entity that uses an automatic license plate reader system pursuant to  
7 G.S. 20-183.23(b) shall update the system from the databases specified therein every 24 hours  
8 if such updates are available or as soon as practicable after such updates become available.

9 (f) Captured plate data obtained for the purposes described in G.S. 20-183.23(b) is  
10 confidential and not a public record as that term is defined in G.S. 132-1. Except as otherwise  
11 provided in this Article, captured plate data obtained for the purposes described in  
12 G.S. 20-183.23(b) may only be disclosed to or with the prior written consent of the person to  
13 whom the vehicle is registered and shall not be sold, traded, or exchanged for any purpose.  
14 Nothing in this subsection shall be construed as requiring the disclosure of captured plate data  
15 if an investigative or law enforcement officer determines that disclosure will compromise an  
16 ongoing investigation.

17 **"§ 20-183.25. Reporting requirement.**

18 (a) A governmental entity that uses an automatic license plate reader system pursuant to  
19 G.S. 20-183.23(b) shall do the following:

- 20 (1) Adopt a policy governing use of the automatic license plate reader system  
21 and conspicuously post the policy on the governmental entity's Web site.
- 22 (2) Adopt a privacy policy to ensure that captured plate data is not shared in  
23 violation of this Article or any other applicable law and conspicuously post  
24 the privacy policy on the governmental entity's Web site.
- 25 (3) Beginning July 1, 2016, and continuing every year thereafter, report to the  
26 Attorney General on its automatic license plate reader practices and usage  
27 and conspicuously post the report on the governmental entity's Web site. The  
28 report shall include each of the following:
  - 29 a. The number of license plates scanned.
  - 30 b. The (i) names of the databases containing the data against which the  
31 captured plate data was compared, (ii) the number of confirmed  
32 matches, and (iii) the number of confirmed matches resulting in  
33 criminal charges.
  - 34 c. The number of preservation requests under G.S. 20-183.24(a).
  - 35 d. The number of disclosure orders under G.S. 20-183.24(b), including  
36 the number of applications for disclosure orders that were denied.
  - 37 e. Any changes in policy that affect privacy concerns.

38 (b) Beginning October 1, 2016, and continuing every year thereafter, the Attorney  
39 General shall compile the information received pursuant to subdivision (3) of subsection (a) of  
40 this section and submit a report in writing to the General Assembly.

41 **"§ 20-183.26. Penalties; suppression.**

42 (a) An aggrieved party may bring a civil action against any person who violates the  
43 provisions of G.S. 20-183.23 or G.S. 20-183.24. In any civil action alleging a violation of  
44 G.S. 20-183.23 or G.S. 20-183.24, the court may award the following to a prevailing plaintiff:

- 45 (1) The greater of (i) actual damages or (ii) liquidated damages in the amount of  
46 one thousand dollars (\$1,000).
- 47 (2) Reasonable attorneys' fees and other costs of litigation.
- 48 (3) Injunctive relief against any person who commits or proposes to commit a  
49 violation of this Article.

50 (b) Any person who willfully and knowingly violates G.S. 20-183.23 is guilty of a  
51 Class 1 misdemeanor.

1       (c) Any data or information captured in violation of G.S. 20-183.23 or G.S. 20-183.24  
2 shall not be admissible as evidence in any criminal, civil, or administrative proceeding."

3       **SECTION 2.** G.S. 136-18 is amended by adding a new subdivision to read:

4       "(46) For purposes of this subdivision, the term "public utility" means any of the  
5 following: a public utility, as defined in G.S. 62-3(23); an electric  
6 membership corporation; telephone membership corporation; a joint  
7 municipal power agency; or a city or county engaged in producing,  
8 generating, transmitting, delivering, or furnishing electricity for private or  
9 public use. The Department shall have the following powers related to public  
10 safety technology:

11       a. To enter into agreements with municipalities, counties, and other  
12 governmental entities for the use of and encroachment upon the  
13 right-of-way of any road designated as part of the State highway  
14 system for the installation and use of aboveground law enforcement,  
15 fire suppression service, emergency medical response service, and  
16 related public safety technology; provided that (i) such agreements  
17 do not unreasonably interfere with the use of such right-of-way by a  
18 public utility with facilities already located within said right-of-way,  
19 (ii) such use shall immediately be terminated and any public safety  
20 technology and related equipment removed upon request by any  
21 affected public utility, and (iii) any entity installing such public  
22 safety technology complies with the provisions of Article 8A of  
23 Chapter 87 of the General Statutes.

24       b. To approve requests by municipalities, counties, and other  
25 governmental entities to use land or right-of-way owned by the  
26 Department of Transportation that is encumbered by utility  
27 easements, or otherwise being lawfully occupied by a public utility,  
28 for the installation and use of aboveground law enforcement, fire  
29 suppression service, emergency medical response service, and related  
30 public safety technology, provided that (i) such use of the land or  
31 right-of-way is temporary in nature; (ii) all public safety technology  
32 permitted hereunder shall be completely aboveground, easily  
33 moveable, and contain no combustible fuel; (iii) such use shall not  
34 unreasonably interfere with the operation and maintenance of said  
35 utility facilities or cause said utility facilities to fail to comply with  
36 all applicable laws, codes, and regulatory requirements; (iv) such use  
37 shall immediately be terminated and any public safety technology  
38 and related equipment removed upon request by any affected public  
39 utility; and (v) such use shall comply with provisions of Article 8A  
40 of Chapter 87 of the General Statutes. The affected public utility  
41 shall have the right to move the public safety technology in the event  
42 that said public utility needs immediate access to its utility facilities  
43 and, in such event, shall only be liable for damages to said public  
44 safety technology caused solely by its gross negligence or willful  
45 misconduct.

46       c. Nothing in this subdivision shall relieve any entity, public or private,  
47 of its obligation to comply with the provisions of Article 8A of  
48 Chapter 87 of the General Statutes."

49       **SECTION 3.** This act becomes effective December 1, 2015, and applies to  
50 offenses committed on or after that date.