

SENATE BILL NO. 539

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation

on February 8, 2024)

(Patron Prior to Substitute--Senator Bagby)

A BILL to amend and reenact § 33.2-210 of the Code of Virginia and to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 55.6, consisting of a section numbered 2.2-5517, relating to license plate reader systems; civil penalty.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-210 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 55.6, consisting of a section numbered 2.2-5517, as follows:**

CHAPTER 55.6.

USE OF LICENSE PLATE READER SYSTEMS.

**§ 2.2-5517. Use of license plate reader systems; civil penalty.**

A. For the purposes of this section:

"License plate reader system" means a system of automated high-speed cameras used in combination with computer algorithms to convert images of vehicles and license plates into computer-readable data that can be queried by an individually authenticated user using auditable queries and that shall not be used for bulk downloads or bulk queries. "License plate reader system" does not refer to electronic devices used solely (i) for the purposes of enforcement of parking, speed limits, traffic laws, tolling requirements, high-occupancy vehicle requirements, or on-road emissions monitoring; (ii) by the Virginia Port Authority for terminal operations; or (iii) by the Department of Motor Vehicles at permanent weighing stations and in mobile weighing operations to identify commercial motor vehicles with unpaid liquidated damages for weight violations pursuant to § 46.2-1131 or commercial motor vehicles with out-of-service orders or in need of a safety inspection.

27 "License plate reader system data" means data collected by a license plate reader system.

28 B. Operation of and access to a license plate reader system by any law-enforcement agency shall  
29 be for official law-enforcement purposes only and shall only be used to scan, detect, and record data about  
30 vehicles and license plate numbers for the purpose of identifying a vehicle that is (i) associated with a  
31 wanted, missing, or endangered person or human trafficking; (ii) stolen; (iii) involved in an active law-  
32 enforcement investigation; or (iv) in the vicinity of a recent crime and may be connected to that crime.

33 C. All state and local law-enforcement agencies are prohibited from using license plate reader  
34 systems or license plate reader system data for the purpose of interfering with individuals engaged in  
35 lawful activities or tracking individuals on the basis of the content of lawfully protected speech.

36 D. Pursuant to § 2.2-1112, the Division of Purchases and Supply (the Division) shall determine  
37 the appropriate license plate reader system technology for use in accordance with this section. The  
38 Division shall not approve any license plate reader system technology unless the Division has certified  
39 that such system will not share any law-enforcement data gathered in the Commonwealth with any third  
40 party other than as authorized in subsection I. The Division shall require approved vendors to annually  
41 confirm continued compliance with this section. Law-enforcement agencies may enter into agreements  
42 with private vendors for the installation and maintenance of license plate reader systems approved by the  
43 Division, including all support services, such as operations and administration for compensation.

44 E. The Department of State Police (the Department) shall create a model policy regarding the use  
45 of license plate reader systems, which shall be known as the State Police Model License Plate Reader  
46 Systems Technology Policy, and shall, as a part of such model policy, administer protocols for handling  
47 requests for assistance in the use of license plate reader systems technology made to the Department by  
48 local law-enforcement agencies. The Department shall publicly post such policy no later than July 1, 2024,  
49 and such policy shall be updated annually thereafter and shall include:

50 1. Requirements for training, including the nature and frequency of specialized training required  
51 for an individual to be authorized by a law-enforcement agency to utilize license plate reader systems as  
52 authorized by this section;

53 2. The extent to which a law-enforcement agency shall document instances when license plate  
54 reader systems are used and how long such information is retained;

55 3. Procedures for the confirmation of any match generated by license plate reader systems as  
56 provided in subsection G; and

57 4. Promulgation of standing orders, policies, or public materials by law-enforcement agencies that  
58 use license plate reader systems.

59 F. Any local or state law-enforcement agency that intends to use a license plate reader system shall  
60 (i) confirm that such system meets all requirements of this section and is approved by the Division; (ii)  
61 establish a policy governing such system's use in accordance with this section and with the State Police  
62 Model License Plate Reader Systems Technology Policy that includes training requirements for the  
63 officers that will use such system, an internal auditing schedule that occurs at least quarterly to ensure  
64 proper use of such system, and data retention limits that conform with subsection H; and (iii) obtain a  
65 permit from the Commonwealth Transportation Board before installing a license plate reader system on a  
66 state highway right-of-way.

67 G. Following a positive match by a license plate reader system, the law-enforcement officer shall  
68 attempt to visually verify that the image of the license plate displayed by the license plate reader system  
69 matches the vehicle for which such search has been authorized. A positive match alone shall not constitute  
70 reasonable suspicion as grounds for a law-enforcement officer to stop a vehicle. The officer must develop  
71 independent reasonable suspicion for the stop, which may include visually confirming the license plate  
72 number on the vehicle.

73 H. License plate reader system data shall be purged from the database or system within 30 days of  
74 its capture in such a manner that such data is destroyed and not recoverable. However, if such data is part  
75 of an ongoing investigation, the data may be retained until final disposition of the matter in accordance  
76 with applicable records retention law and policy. If the final disposition of the matter was a conviction,  
77 then such data shall be retained until the conclusion of all appeals and any other post-conviction  
78 proceedings in accordance with applicable records retention law and policy.

79 I. Law-enforcement agencies and their private vendors shall not share law-enforcement license  
80 plate reader system data except with other law-enforcement agencies and shall not sell license plate reader  
81 system data for any purpose. Law-enforcement agencies shall individually query license plate reader  
82 system data stored and maintained by the private vendor operating such license plate reader system, and  
83 any individual accessing such system data shall certify electronically or in writing that such access is for  
84 an authorized law-enforcement purpose. No law-enforcement agency shall engage in bulk downloads,  
85 storage, or sharing of such data unrelated to a specific purpose identified in subsection B.

86 J. Any law-enforcement agency that installs or uses any license plate reader system shall (i) publish  
87 its license plate reader system policy on its website, if any, and make hard copies of such policy available  
88 at the office of such agency; (ii) maintain records sufficient to facilitate discovery in criminal proceedings,  
89 post-conviction proceedings, public reporting, and auditing of compliance with such agency's license plate  
90 reader system policies unless such data is required to be purged pursuant to subsection H; and (iii) make  
91 public a log of the use of such system, to be updated on a monthly basis, displaying: (a) the aggregate  
92 number of vehicles on which license plate reader system data is collected for each month of use; (b) a list  
93 of all state and federal databases with which the data were compared, unless the existence of any such  
94 database itself is not public; (c) instances of unauthorized access to the license plate reader system  
95 technology, including any unauthorized access by employees of such agency; (d) how many times an  
96 officer utilized an investigative lead based on license plate reader system data; (e) how many cases were  
97 closed due to an investigative lead from a license plate reader system; (f) what types of criminal offenses  
98 were investigated or closed; and (g) demographic information for cases closed.

99 K. Any person employed by a law-enforcement agency or their private vendor who violates this  
100 section or the agency's policy for the use of a license plate reader system for the first time shall be subject  
101 to a civil penalty of up to \$1,000 per disclosure and shall be required to complete training on the agency's  
102 license plate reader system policy before being reinstated to operate such technology. Any person  
103 employed by a law-enforcement agency or their private vendor who violates this section or the agency's  
104 license plate reader system policy for a second time shall be subject to a civil penalty of up to \$2,500 per  
105 disclosure, and such law-enforcement agency shall terminate such person's employment or, if such person

106 is employed by such private vendor, terminate the access of such person to such license plate reader system  
107 and any data from such system.

108 L. Any state or local law-enforcement agency that places and operates a license plate reader system  
109 pursuant to the provisions of this section shall report to the Department of State Police, in a format to be  
110 determined by the Department of State Police, by January 15 of each year on the use of license plate reader  
111 systems, including (i) the aggregate number of vehicles on which license plate reader system data is  
112 collected for each year; (ii) a list of all state and federal databases with which the data was compared,  
113 unless the existence of any such database itself is not public; (iii) how many times an officer utilized an  
114 investigative lead based on license plate reader system data; (iv) how many cases were closed due to an  
115 investigative lead from a license plate reader system; (v) what types of criminal offenses were investigated  
116 or closed; (vi) demographic information for cases closed; and (vii) instances of unauthorized access to the  
117 license plate reader system technology, including any unauthorized access by employees of such agency  
118 or the Department of State Police. If any information or data (a) contains an articulable concern for any  
119 person's safety; (b) is otherwise prohibited from public disclosure by federal or state statute; or (c) if  
120 disclosed, may compromise sensitive criminal justice information, such information or data may be  
121 excluded from public disclosure. The Department of State Police shall aggregate such information by law-  
122 enforcement agency and report it to the General Assembly and the State Crime Commission by March 15  
123 of each year.

124 **§ 33.2-210. Traffic regulations; penalty.**

125 A. The Board shall have the power and duty to make regulations that are not in conflict with the  
126 laws of the Commonwealth for the protection of and covering traffic on and for the use of systems of state  
127 highways, including for the placement of license plate reader systems as authorized by § 2.2-5517, and  
128 shall have the authority to add to, amend, or repeal such regulations.

129 B. The regulations, together with any additions or amendments thereto, prescribed by the Board  
130 under the authority of this section shall have the force and effect of law, and any person, firm, or  
131 corporation violating any such regulation or any addition or amendment thereto is guilty of a misdemeanor  
132 punishable by a fine of not less than \$5 nor more than \$100 for each offense. Such person shall be civilly

133 liable to the Commonwealth for the actual damage sustained by the Commonwealth by reason of his  
134 wrongful act. Such damages may be recovered at the suit of the Board and, when collected, paid into the  
135 state treasury to the credit of the Department. Any regulations promulgated by the Board shall be  
136 developed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) except when specifically  
137 exempted by law.

138 C. The provisions of this section shall not prevent or limit the use of any device that is authorized  
139 for use by any other provision of law.

140 **2. That any law-enforcement agency operating a license plate reader system, as defined in § 2.2-**  
141 **5517 of the Code of Virginia, as created by this act, prior to July 1, 2024, shall be exempt from the**  
142 **provisions of this act until January 1, 2025. Any such law-enforcement agency shall ensure that such**  
143 **license plate reader system and the associated agency policies comply with the provisions of § 2.2-**  
144 **5517 of the Code of Virginia, as created by this act, by January 1, 2025, or discontinue the use of**  
145 **such system.**

146 **3. That the State Crime Commission shall review and report on the implementation of the provisions**  
147 **of this act by reviewing the annual data collected by the Department of State Police pursuant to**  
148 **subsection L of § 2.2-5517 of the Code of Virginia, as created by this act. Such report shall be made**  
149 **publicly available by July 1, 2027.**

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