

CONFERENCE COMMITTEE REPORT

SB 250

2015 Regular Session

Johns

June 10, 2015

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 250 by Senator Johns, recommend the following concerning the Reengrossed bill:

1. That the House Committee Amendments Nos. 1 Through 4 proposed by the House Committee on Transportation, Highways, and Public Works and adopted by the House of Representatives on May 27, 2015, be adopted.
2. That the House Committee Amendments Nos. 1, 2, 3, 4, 5, 6, and 7 proposed by the House Committee on House and Governmental Affairs and adopted by the House of Representatives on May 27, 2015, be adopted.
3. The House Committee Amendment Nos. 8 and 9 proposed by the House Committee on House and Governmental Affairs and adopted by the House of Representatives on May 27, 2015 be rejected.
4. That Legislative Bureau Amendments Nos. 1 and 3 proposed by the Legislative Bureau and adopted by the House of Representatives on June 4, 2015, be adopted.
5. That the Legislative Bureau Amendment No. 2 proposed by the Legislative Bureau and adopted by the House of Representatives on June 4, 2015, be rejected.
6. That the House Floor Amendment No. 1 proposed by Representative Schroeder and adopted by the House of Representatives on June 8, 2015, be adopted.
7. That the House Floor Amendment No. 2 proposed by Representative Schroeder and adopted by the House of Representatives on June 8, 2015, be rejected.
8. That the following amendments to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 5, line 17, after "**recognition system**" insert "**pursuant to this program**"

AMENDMENT NO. 2

On page 6, between lines 13 and 14, insert:

"(5) Under no circumstances shall the Statewide Motor Vehicle Theft and Uninsured Motorists Identification Program authorized by this Act be used for civil traffic enforcement purposes."

AMENDMENT NO. 3

On page 6, after line 16, insert the following:

"J. The provisions of this Part shall apply only to law enforcement agencies, other entities, and authorized users and shall not apply to or be construed or interpreted in a manner to prohibit the use of any other automated license plate recognition system by an individual or private legal entity for purposes not otherwise prohibited by law."

K. On or before January 15, 2016, and annually thereafter, the Department of Public Safety and Corrections shall submit a written report concerning the program to the Senate and House Select Committees on Homeland Security. The report shall comprise an evaluation of program operations, and may include any information and recommendations for improvement of the program deemed appropriate by the secretary of the department.

L. The provisions of this Part shall terminate and be null, void, and without effect on and after January 1, 2021.

Section 2. R.S. 44:4.1(B)(19) is hereby amended and reenacted to read as follows:

§4.1 Exceptions

* * *

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

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(19) R.S. 32:~~46~~, 398, 707.2, 1254

* * *"

CONFERENCE COMMITTEE REPORT DIGEST

SB No. 250 by Senator Johns

Keyword and summary of the bill as proposed by the Conference Committee

LAW ENFORCEMENT. Creates a pilot program (Statewide Motor Vehicle Theft and Uninsured Motorists Identification Program) involving the use of license plate recognition devices for certain purposes. (8/1/15)

Report Adopts House Amendments to:

1. Provide that each definition in proposed law shall apply to all of proposed law.
2. Add that the definition of "automatic license plate recognition system" shall not include a traffic camera as referenced in proposed law.
3. Remove phrase "including a traffic violation" from the definition of "legitimate purpose".
4. Provide that if a law enforcement officer by using this system is able to determine that the owner, rather than the operator, of a motor vehicle lacks the compulsory insurance required by present law, the determination constitutes probable cause to issue a citation to the owner of the motor vehicle, rather than the operator, for the compulsory insurance violation.
5. Remove reference limiting to "state" public highways in proposed law.
6. Remove language providing that data collected or retained through the use of an automated license plate recognition system, including both historical and active data, is confidential and available for use only by a law enforcement agency participating in the pilot program and by any other entity agency with which the participating law enforcement agency contracts for purposes of the pilot program's operation.

7. Remove language that any and all information concerning operation of the pilot program is exempt from the Public Records Law.
8. Add provisions that all data collected, retained, or shared through the use of the program shall be exempt from the Public Records Law except data retained as evidence of a violation of compulsory motor vehicle insurance law or a felony being investigated.
9. Add provision that specifies that proposed law applies only to law enforcement agencies, other entities, and authorized users and shall not apply to or be construed or interpreted in a manner to prohibit the use of any other automated license plate recognition system by an individual or private legal entity for purposes not otherwise prohibited by law.

Report rejects House Amendments which would have:

1. Added a prohibition on law enforcement agency, other entity, or other person from using an automated license plate recognition system to enforce civil traffic citations by any method including towing or booking.

Report Amends the bill to:

1. Require the Department of Public Safety and Corrections to submit a written report concerning the program to the Senate and House Select Committees on Homeland Security on or before January 15, 2016, and annually thereafter.
2. Terminate the pilot program on January 1, 2021.

Digest of the bill as proposed by the Conference Committee

Proposed law creates and provides relative to a program for using an automatic license plate recognition system to identify uninsured motorists and stolen vehicles.

Proposed law provides that the automatic license plate recognition system may be used as follows:

- (1) If a law enforcement officer is able to determine that a motor vehicle is stolen or that the owner of a motor vehicle lacks the compulsory insurance required by present law, the determination constitutes probable cause to arrest the operator of the stolen motor vehicle or to issue a citation to the owner of the motor vehicle for the compulsory insurance violation.
- (2) A law enforcement officer may verify by sworn affidavit that a photograph generated by an automatic license plate reader system unit identifies a particular vehicle operating on a public highway and that the database shows that the vehicle was uninsured or stolen at the time such vehicle was being operated, which affidavit constitutes probable cause for prosecution under any applicable present law.

Proposed law authorizes the sheriff's office in each parish of the state, in cooperation with that parish's district attorney's office to participate in the program by entering into an agreement to participate with appropriate agencies and other entities in each jurisdiction.

Proposed law further provides that to implement the program, the use of technology and software to aid in detection of offenses involving motor vehicle theft and uninsured motorists is necessary and desirable, and participating law enforcement agencies in these parishes have the authority to enter into contractual agreements with other entities.

Proposed law authorizes the use of automatic license plate recognition systems, utilizing individual automatic license plate reader system units, by participating law enforcement

agencies and other entities with which those law enforcement agencies contract to implement and operate the program.

Proposed law provides that an authorized user may use an automated license plate recognition system only for the official and legitimate purposes of the user's employer.

Proposed law provides the following definitions:

- (1) "Active data" means data uploaded to an individual automatic license plate reader system unit before operation, as well as data gathered during the operation of an automated license plate reader system unit.
- (2) "Authorized user" means an employee of the participating law enforcement agency or an employee of the other entity authorized by that entity to use the system for a legitimate purpose.
- (3) "Automatic license plate recognition system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data. This definition does not include a traffic camera as referenced in R.S. 32:393(I).
- (4) "Captured plate data" means the global positioning system coordinates, date and time, photograph, license plate number, and any other data captured by or derived from an automatic license plate recognition system, and includes both historical and active data.
- (5) "Historical data" means any data collected by an individual automatic license plate reader system unit and stored in a database.
- (6) "Law enforcement agency," except as provided elsewhere in proposed law, includes a district attorney's office of any parish, the sheriff's office of any parish, the police department of any municipality, the attorney general's office, the Dept. of Public Safety and Corrections, office of state police and office of motor vehicles, and the Dept. of Wildlife and Fisheries.
- (7) "Legitimate purpose" for law enforcement agencies means access to collected data for the investigation, detection, analysis, or enforcement of the law regarding a criminal offense.
- (8) "Legitimate purpose" for the entities that are a party to an agreement or contract with the participating law enforcement agencies includes the collection and storage of data to assist the participating law enforcement agency in developing, utilizing, and managing the pilot program.
- (9) "Other entity" means an entity with which a participating law enforcement agency contracts to implement and administer the pilot program.
- (10) "Participating law enforcement agency" means the law enforcement agency operating the pilot program in one of the pilot program parishes established by proposed law, and is limited to the respective sheriff's offices and district attorney's offices in the pilot program parishes.
- (11) "Pilot program" or "program" means the State Motor Vehicle Theft and Uninsured Motorists Identification Program.

Proposed law provides that a central database for the collection, storage, and dissemination of data captured by an automatic license plate recognition system is to be established and operated by the participating law enforcement agencies, which database must be located in a secure area. Proposed law further provides that the central database must fully comply with all National Law Enforcement Telecommunications System (NLETS) and FBI hosting and security standards, and access to the database is to be restricted to authorized law

enforcement agency users and to entities with whom the law enforcement agencies contract to establish and operate the program.

Proposed law provides that the Dept. of Public Safety and Corrections, public safety services, shall allow access to the vehicle registration and compulsory motor vehicle insurance databases to be used only in connection with the automatic license plate recognition system established pursuant to proposed law.

Proposed law requires the Dept. of Public Safety and Corrections, public safety services to allow access to the data from the databases in accordance with a memorandum of understanding to be executed between the department, sheriffs, and district attorneys in the state.

Proposed law provides that data collected or retained through the use of an automated license plate recognition system may be retained by a law enforcement agency for not more than 60 days, except when the data is being used as evidence of a violation of the compulsory motor vehicle insurance law or for felonies being investigated, including motor vehicle theft, homicide, kidnaping, and burglary, or for the purpose of AMBER Alerts and Blue Alerts.

Proposed law provides that data collected or retained through the use of an automated license plate recognition system cannot be used by any individual or agency for purposes other than law enforcement.

Proposed law provides that no law enforcement agency or other entity authorized to operate under this program may sell captured plate data for any purpose, or share it for any purpose not expressly authorized by proposed law. Proposed law further provides that a participating law enforcement agency may provide data to another law enforcement agency upon written request when that agency is engaged in an ongoing investigation or prosecution of a felony.

Proposed law further provides that any and all data collected, retained, or shared through the use of an automated license plate recognition system, except data retained as evidence of a violation of compulsory motor vehicle insurance law or a felony shall be exempt from disclosure under present law (Public Records Law).

Proposed law provides that any person who violates any provision of proposed law relative to use of automated license plate recognition system and use of data may be imprisoned for up to six months, or fined up to \$1,000, or both.

Proposed law specifies that, except for the prohibition on use to enforce civil traffic citations, proposed law applies only to law enforcement agencies, other entities, and authorized users and shall not apply to or be construed or interpreted in a manner to prohibit the use of any other automated license plate recognition system by an individual or private legal entity for purposes not otherwise prohibited by law.

Effective August 1, 2015.

(Amends R.S. 44:4.1(B)(19); Adds R.S. 32:46)

Respectfully submitted,

Senators:

Representatives:

Senator Ronnie Johns

Representative Timothy G. Burns

Senator Dan "Blade" Morrish

Representative Jeffery "Jeff" J. Arnold

Senator Rick Ward, III

Representative Karen G. St. Germain

