2015 Regular Session

SENATE BILL NO. 250

BY SENATOR JOHNS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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)

1 AN ACT

2 To enact Part II-A of Chapter 1 of Title 32 of the Louisiana Revised Statutes of 1950, to be

3 comprised of R.S. 32:26, relative to motor vehicles and traffic regulation; to create

4 the Statewide Motor Vehicle Theft and Uninsured Motorists Identification Program;

5 to provide relative to a pilot program using automatic license plate recognition

6 systems to identify stolen vehicles and uninsured motorists; to provide definitions;

7 to provide penalties; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part II-A of Chapter 1 of Title 32 of the Louisiana Revised Statutes of

10 1950, comprised of R.S. 32:26, is hereby enacted to read as follows:

11 **PART II-A. STATEWIDE MOTOR VEHICLE THEFT AND UNINSURED**

12 **MOTORISTS IDENTIFICATION PROGRAM**

13 **§26. Pilot program; Statewide Motor Vehicle Theft and Uninsured Motorists**

14 **Identification Program**

15 **A. The Legislature of Louisiana recognizes the critical need for the**

16 **criminal justice system to be able to reduce the incidence of crimes involving**

17 **motor vehicle theft and uninsured motorists, which adversely affect public**

1   **safety and the finances of both the state and individuals. The legislature also**

2   **acknowledges that there is a need for the identification of persons committing**

3   **those crimes by the most expeditious means available in order to detect and**

4   **prevent both motor vehicle theft and the operation of motor vehicles on**

5   **Louisiana highways by uninsured motorists, and to ensure compliance with**

6   **local, state, and federal laws. Technology can be of great assistance in ensuring**

7   **public safety, and the criminal justice system should be permitted to utilize such**

8   **technology in deterring motor vehicle theft and in the identification of**

9   **uninsured motorists. Accordingly, the legislature hereby creates a pilot**

10   **program to be known as the State Motor Vehicle Theft and Uninsured**

11   **Motorists Identification Program.**

12   **B. The pilot program created by this Section shall be implemented and**

13   **administered solely by the participating law enforcement agencies. The sheriff's**

14   **office in each parish of the state, in cooperation with that parish's district**

15   **attorney's office, is authorized to participate in the pilot program by entering**

16   **into an agreement to participate with appropriate agencies and other entities**

17   **in each jurisdiction. In order to implement this pilot program, the use of**

18   **technology and software to aid in detection of offenses involving motor vehicle**

19   **theft and uninsured motorists is necessary and desirable, and in order to**

20   **effectuate the program participating law enforcement agencies shall have the**

21   **authority to enter into contractual agreements with other entities.**

22   **C.(1) The use of an automatic license plate recognition system utilizing**

23   **individual automatic license plate reader system units is authorized for those**

24   **law enforcement agencies participating in the pilot program, as well as other**

25   **entities with which those participating law enforcement agencies contract in**

26   **order to implement and operate the pilot program.**

27   **(2) An authorized user under this Subsection may use an automated**

28   **license plate recognition system only for the official and legitimate purposes of**

29   **the user's employer.**

1　　　　　　　**(3) For purposes of this Subsection:**

2　　　　　　　**(a) "Authorized user" means an employee of the participating law**

3　**enforcement agency or an employee of the other entity authorized by that entity**

4　**to use the system for a legitimate purpose.**

5　　　　　　　**(b) "Automatic license plate recognition system" means a system of one**

6　**or more mobile or fixed high-speed cameras combined with computer**

7　**algorithms to convert images of registration plates into computer-readable data.**

8　　　　　　　**(c) "Legitimate purpose" for law enforcement agencies means access to**

9　**collected data for the investigation, detection, analysis, or enforcement of the**

10　**law regarding a criminal offense, including a traffic violation.**

11　　　　　　　**(d) "Legitimate purpose" for the entities that are a party to an**

12　**agreement or contract with the participating law enforcement agencies includes**

13　**the collection and storage of data to assist the participating law enforcement**

14　**agency in developing, utilizing, and managing the pilot program.**

15　　　　　　　**D. For purposes of this Section:**

16　　　　　　　**(1) "Active data" means data uploaded to an individual automatic**

17　**license plate reader system unit before operation, as well as data gathered**

18　**during the operation of an automated license plate reader system unit.**

19　　　　　　　**(2) "Captured plate data" means the global positioning system**

20　**coordinates, date and time, photograph, license plate number, and any other**

21　**data captured by or derived from an automatic license plate recognition system,**

22　**and includes both historical and active data.**

23　　　　　　　**(3) "Historical data" means any data collected by an individual**

24　**automatic license plate reader system unit and stored in a database.**

25　　　　　　　**(4) "Law enforcement agency", except as provided in Paragraph (6) of**

26　**this Subsection, includes a district attorney's office of any parish, the sheriff's**

27　**office of any parish, the police department of any municipality, the attorney**

28　**general's office, the Department of Public Safety and Corrections, office of state**

29　**police and office of motor vehicles, and the Department of Wildlife and**

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1 **Fisheries.**

2 **(5) "Other entity" means an entity with which a participating law**

3 **enforcement agency contracts to implement and administer the pilot program.**

4 **(6) "Participating law enforcement agency" means the law enforcement**

5 **agency operating the pilot program, and is limited to the respective sheriff's**

6 **offices and district attorney's offices in the pilot program parishes.**

7 **(7) "Pilot program" or "program" means the State Motor Vehicle Theft**

8 **and Uninsured Motorists Identification Program.**

9 **E. A central database for the collection, storage, and dissemination of**

10 **data captured by an automatic license plate recognition system shall be**

11 **established and operated by participating law enforcement agencies, which**

12 **database shall be located in a secure area.**

13 **(1) The central database shall fully comply with all National Law**

14 **Enforcement Telecommunications System (NLETS) and Federal Bureau of**

15 **Investigation hosting and security standards.**

16 **(2) Access to the database shall be restricted to authorized law**

17 **enforcement agency users in the pilot program and to any entities with whom**

18 **the participating law enforcement agencies contract to establish and operate the**

19 **program.**

20 **F. To accomplish the purposes of the pilot program, the Department of**

21 **Public Safety and Corrections, public safety services, shall allow access to the**

22 **vehicle registration and compulsory motor vehicle insurance databases to be**

23 **used only in connection with the automatic license plate recognition system**

24 **established pursuant to this Part. The Department of Public Safety and**

25 **Corrections, public safety services shall allow access to the data from the**

26 **databases in accordance with a memorandum of understanding to be executed**

27 **between the Department of Public Safety and Corrections, sheriffs, and district**

28 **attorneys in the state.**

29 **G. The automatic license plate recognition system may be used by a law**

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1   **enforcement officer or other authorized user employed by a participating law**

2   **enforcement agency in the jurisdictions of the pilot program as follows:**

3   **(1) If a law enforcement officer, by using this system, is able to determine**

4   **that a motor vehicle is stolen or that the operator of a motor vehicle lacks the**

5   **compulsory insurance required by R.S. 32:861, through the process of accessing**

6   **information from the central database referred to in Subsection E of this**

7   **Section, such determination shall constitute probable cause to arrest the**

8   **operator of the stolen motor vehicle or to issue a citation for the compulsory**

9   **insurance violation.**

10   **(2) A law enforcement officer may verify by sworn affidavit that a**

11   **photograph generated by an automatic license plate reader system unit**

12   **identifies a particular vehicle operating on a state public highway and that the**

13   **database shows that the vehicle was uninsured or stolen at the time such vehicle**

14   **was being operated. Such affidavit shall constitute probable cause for**

15   **prosecution under any applicable state law.**

16   **H. Data collected or retained through the use of an automated license**

17   **plate recognition system may be retained by a law enforcement agency for not**

18   **more than sixty days, except when the data is being used as evidence of a**

19   **violation of the compulsory motor vehicle insurance law or for felonies being**

20   **investigated, including but not limited to motor vehicle theft, homicide,**

21   **kidnapping, and burglary, or for the purpose of AMBER Alerts and Blue**

22   **Alerts.**

23   **I.(1) Data collected or retained through the use of an automated license**

24   **plate recognition system, including both historical and active data, is**

25   **confidential and available for use only by a law enforcement agency**

26   **participating in the pilot program and by any other entity agency with which**

27   **the participating law enforcement agency contracts for purposes of the pilot**

28   **program's operation.**

29   **(2) Data collected or retained through the use of an automated license**

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1   **plate recognition system shall not be used by any individual or agency for**

2   **purposes other than law enforcement.**

3   **(3) No law enforcement agency or other entity authorized to operate**

4   **under this program shall sell captured plate data for any purpose, or share it**

5   **for any purpose not expressly authorized by this Section.**

6   **(4) A participating law enforcement agency may provide data to another**

7   **law enforcement agency, as defined in Subsection D of this Section, upon**

8   **written request of the other law enforcement agency when that agency is**

9   **engaged in an ongoing investigation or prosecution of a felony offense.**

10   **(5) Any and all data collected, retained, or shared through the use of an**

11   **automated license plate recognition system and any and all information**

12   **concerning the operation of the pilot program is exempt from the Public**

13   **Records Law in accordance with R.S. 44:3.**

14   **(6) Any person who violates any provision of this Subsection may be**

15   **imprisoned for not more than six months, or fined not more than one thousand**

16   **dollars, or both.**

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl Cooper.

DIGEST

SB 250 Engrossed   2015 Regular Session   Johns

Proposed law creates and provides relative to a pilot program to be known as the State Motor Vehicle Theft and Uninsured Motorists Identification Program.

Proposed law sets forth the legislative intent and purposes for proposed law, including:

(1)   Recognition of the critical need for the criminal justice system to be able to reduce the incidence of crimes involving motor vehicle theft and uninsured motorists.

(2)   The need to identify persons committing those crimes by the most expeditious means available in order to detect and prevent both motor vehicle theft and the operation of motor vehicles by uninsured motorists.

Proposed law notes that technology can be of great assistance in ensuring public safety, and the criminal justice system should be permitted to utilize such technology in deterring motor vehicle theft and in the identification of uninsured motorists.

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 pilot program by entering into an

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agreement to participate with appropriate agencies and other entities in each jurisdiction. Proposed law further provides that to implement this pilot 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 for those law enforcement agencies participating in the pilot program, as well as other entities with which those participating law enforcement agencies contract in order to implement and operate the pilot 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) "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.

(2) "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.

(3) "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, including a traffic violation.

(4) "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.

(5) "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.

(6) "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.

(7) "Historical data" means any data collected by an individual automatic license plate reader system unit and stored in a database.

(8) "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.

(9) "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.

(10) "Pilot program" or "program" means the State Motor Vehicle Theft and Uninsured Motorists Identification Program.

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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 in the pilot program and to any other entities with whom the participating law enforcement agencies contract to establish and operate the program.

Proposed law provides that in order to accomplish the purposes of the pilot program, the Department 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 Department 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 of Public Safety, sheriffs, and district attorneys in the state.

Proposed law provides that the automatic license plate recognition system may be used by a law enforcement officer or other authorized user employed by the participating law enforcement agency in the jurisdictions of the pilot program as follows:

(1)   If a law enforcement officer by using this system is able to determine that a motor vehicle is stolen or that the operator of a motor vehicle lacks the compulsory insurance required by present law, such determination constitutes probable cause to arrest the operator of the stolen motor vehicle or to issue a citation 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 state 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 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 but not limited to motor vehicle theft, homicide, kidnapping, 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, 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.

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 can 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 of the other law enforcement agency when that agency is engaged in an ongoing investigation or prosecution of a felony offense. Proposed law further provides that any and

all data collected, retained, or shared through the use of an automated license plate recognition system and any and all information concerning the operation of the pilot program is 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 data and confidentiality may be imprisoned for up to six months, or fined up to $1,000, or both.

Effective August 1, 2015.

(Adds R.S. 32:26)

Summary of Amendments Adopted by Senate

> Committee Amendments Proposed by Senate Committee on Insurance to the original bill

> 1. Requires the Department of Public Safety and Corrections, public safety services to allow access to the vehicle registration and compulsory motor vehicle insurance databases to be used in connection with the automatic license plate recognition system.

> 2. Requires the Department of Public Safety and Corrections, public safety services to allow access to the data from the databases in accordance with a memorandum of understanding between the Department of Public Safety and Corrections, sheriffs, and district attorneys in the state.

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