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HOUSE BILL NO. 920
Offered January 10, 2024
Prefiled January 9, 2024

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; penalties.*

Patron—Shin

Referred to Committee on Public Safety

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 READERS.

§ 2.2-5517. Use of license plate readers; civil penalty.

A. *For the purposes of this section:*

"License plate reader" means a high-speed, computer-controlled camera system used to optically scan license plates for the purposes authorized pursuant to this section.

"Data trust" means the secure digital storage of images and other data collected by a license plate reader that is held by the owner of the license plate reader or other responsible non-law enforcement entity that may only be accessed by a law-enforcement officer as provided in this section.

B. Any state or local law-enforcement agency may install, maintain, and operate license plate readers as authorized pursuant to this section. Any license plate readers placed in the right-of-way of highways under the jurisdiction of the Commonwealth Transportation Board or the Department of Transportation shall comply with the regulations of the Board governing activities in the right-of-way as authorized pursuant to § 33.2-210.

C. Data and information collected by a license plate reader shall be limited exclusively to data and information about (i) the make, model, condition, location, and color of a vehicle and the information on the vehicle's license plate and (ii) the date and time the data and information were collected. License plate readers shall not be capable of photographing, recording, or producing images of the occupants of a motor vehicle. The use of a license plate reader and access to a data trust is restricted to law-enforcement agencies.

D. License plate readers shall only be used to scan, detect, and identify license plate numbers for the purpose of identifying:

- 1. Stolen vehicles;*
- 2. Vehicles associated with missing or endangered persons for whom a SP-67, SP-183, or equivalent State Police missing persons report has been submitted;*
- 3. Vehicles involved in human trafficking as described in § 18.2-355;*
- 4. Vehicles involved in the killing of a police animal as described in § 18.2-144.1;*
- 5. Vehicles involved in suspected acts of terrorism as described in § 18.2-46.4;*
- 6. Vehicles involved in violent felonies as described in § 19.2-297.1; and*
- 7. Vehicles involved in a violation of §§ 18.2-154, 18.2-279, 18.2-89, 18.2-90, 18.2-91, 18.2-93, and 18.2-423 through 18.2-423.2.*

However, license plate readers shall not be used for (i) identifying vehicles involved in suspected violations of probation or parole for the offenses listed in this subsection or (ii) enforcement of speed limits, traffic regulations, tolling requirements, or high-occupancy vehicle requirements.

E. The law-enforcement agency may enter into agreements with private vendors for the installation and maintenance of devices, including all related support services such as operations and administration. Any law-enforcement agency using a license plate reader shall enter into an agreement with such vendor or another responsible non-law-enforcement entity to operate and maintain a data trust. Images and data captured by such license plate reader shall be held in such data trust. Only law-enforcement officers may access such data trust and such access shall be limited as provided in this section. Upon application by an eligible law-enforcement officer for data and information related to a vehicle (i) involved in an investigation for an offense listed in subsection D or (ii) for which a search has been authorized pursuant to a search warrant or court order, the data trust may release relevant data and information related to such vehicle collected in the eight hours prior to such application, unless the search warrant or court order identifies a different search period. The data trust shall also establish an alert for any new data or information collected

59 related to such vehicle and shall provide such data to the requesting law-enforcement officer. In the affidavit
60 or application for such warrant or court order, the law-enforcement officer shall (a) define the geographic
61 area to be searched, (b) provide a description of the vehicle being searched for, and (c) identify the relevant
62 period of time to be searched.

63 Notwithstanding the provisions of this subsection, access to license plate reader and data trust records
64 shall be authorized on a case-by-case basis for audit verification purposes. All inquiries and access
65 permission or denial shall be recorded for audit verification purposes.

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

71 G. License plate reader data shall not be recorded or transmitted except as authorized pursuant to this
72 section and shall be purged from the system within 30 days of capture in such a manner as to be
73 unrecoverable. However, such data shall be retained if a positive match results in an arrest, citation, or
74 assignment to protective custody, or has identified a vehicle that was the subject of a missing person report.
75 Such data shall be retained until the final disposition of the case. Such data may also be retained if necessary
76 to comply with the requirements of subsection I.

77 H. Any law-enforcement agency using license plate readers shall administer a documented training
78 process for acquiring proficiency in the operation of such license plate readers and compliance with federal
79 and state laws and regulations and any other legal requirements related to license plate readers.

80 I. Any law-enforcement agency that uses license plate reader technology shall maintain records sufficient
81 to facilitate discovery in criminal proceedings, post-conviction proceedings, public reporting, and auditing of
82 compliance with this section. Such agency shall collect and maintain data pertaining to (i) a complete history
83 of each user's queries; (ii) the total number of queries conducted; (iii) the number of queries that resulted in
84 matches; (iv) the number of cases that were closed due to an investigative lead from license plate reader
85 technology; (v) the types of criminal offenses being investigated; (vi) demographic information for the
86 individuals whose license plates are queried; and (vii) if applicable, any other entities with which the agency
87 shared license plate reader data.

88 J. A law-enforcement agency that uses license plate readers shall publicly post and annually update by
89 April 1 of each year a report providing information to the public regarding the agency's use of license plate
90 readers. The report shall include all data required by clauses (ii) through (vii) of subsection I and (i) all
91 instances of unauthorized access of the license plate reader technology or data trust, including any
92 unauthorized access by employees of the agency, and (ii) vendor information, including the specific
93 technology employed. However, such agency may exclude from such report any information or data that (a)
94 contains an articulable concern for any person's safety, (b) is otherwise prohibited from public disclosure by
95 law, or (c) if disclosed, may compromise sensitive criminal justice information.

96 For the purposes of this subsection, "sensitive criminal justice information" means information related to
97 (1) an ongoing criminal investigation or proceeding, (2) the identity of a confidential source, or (3) law-
98 enforcement investigative techniques and procedures.

99 K. Notwithstanding any other provision of law, all videos, images, or other data or information collected
100 by license plate readers shall be used exclusively as provided in this section and shall not be (i) open to the
101 public; (ii) sold or used for sales, solicitation, or marketing purposes; (iii) disclosed to any other entity unless
102 such disclosure is consistent with the requirements of this section; or (iv) used in a court in a pending action
103 or proceeding unless the action or proceeding relates to a criminal violation or such data or information is
104 requested upon order from a court of competent jurisdiction. All data collected shall be confidential and for
105 law-enforcement purposes only. Such data may be only shared with other state, local, and federal law-
106 enforcement agencies for investigative purposes pursuant to a criminal or administrative warrant and a
107 written agreement with the agency or department collecting such data.

108 L. The chief law-enforcement officer of any law-enforcement agency using license plate readers shall
109 certify that the license plate readers and data trust meet all requirements of this section. Notwithstanding any
110 provision of this section, to ensure compliance with the provisions of this section and to investigate
111 complaints of misuse, the Attorney General, or a designee thereof, may examine and audit any license plate
112 reader, data trust, or server used to store data collected by a license plate reader pursuant to this section and
113 any records pertaining to the use of such license plate reader. The Attorney General may seek an injunction
114 banning the use of a license plate reader against any law-enforcement agency found to have misused a device
115 or the data collected therein. If such an injunction is granted, the Attorney General, or a designee thereof,
116 may confiscate such license plate readers to deter future violations of this section.

117 M. In addition to any other penalty under law, any person that violates the data and information
118 collection and destruction requirements of this section or discloses personal information in violation of this
119 section shall be subject to a civil penalty of \$10,000 per disclosure, and such violation shall be grounds for

120 *revocation by the Commonwealth Transportation Board of all permits for devices issued to such person.*

121 **§ 33.2-210. Traffic regulations; penalty.**

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

126 B. The regulations, together with any additions or amendments thereto, prescribed by the Board under the
127 authority of this section shall have the force and effect of law, and any person, firm, or corporation violating
128 any such regulation or any addition or amendment thereto is guilty of a misdemeanor punishable by a fine of
129 not less than \$5 nor more than \$100 for each offense. Such person shall be civilly liable to the
130 Commonwealth for the actual damage sustained by the Commonwealth by reason of his wrongful act. Such
131 damages may be recovered at the suit of the Board and, when collected, paid into the state treasury to the
132 credit of the Department. Any regulations promulgated by the Board shall be developed in accordance with
133 the Administrative Process Act (§ 2.2-4000 et seq.) except when specifically exempted by law.

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