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HOUSE BILL NO. 2724

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice on February 17, 2025)

(Patron Prior to Substitute—Delegate Herring)

A BILL to amend and reenact § 52-30.2 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 use of automatic license plate recognition systems; reports; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 52-30.2 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 AUTOMATIC LICENSE PLATE RECOGNITION SYSTEMS.

§ 2.2-5517. Use of automatic license plate recognition systems by law-enforcement agencies.

A. For purposes of this section:

"Audit trail" means all records of queries and responses in an automatic license plate recognition system, and all records of actions in which system data is accessed, entered, updated, shared, or disseminated, including the (i) date and time of access; (ii) license plate number or other data elements used to query the system; (iii) specific purpose, as set forth in subsection D, for accessing or querying the system, including the offense type for any criminal investigation; (iv) associated call for service or case number; and (v) username of the person or persons who accessed or queried the system.

"Audit trail data" means all forms of data collected or generated by an automatic license plate recognition system for purposes of producing an audit trail.

"Automatic license plate recognition system" or "system" means a system of one or more high-speed cameras used in combination with computer algorithms to convert images of license plates, vehicles, or a combination of both into computer-readable data.

"Division" means the Division of Purchases and Supply of the Department of General Services.

"Law-enforcement agency" means any agency or entity that employs law-enforcement officers as defined in § 9.1-101.

"Missing or endangered person" means a person who has been identified as missing or endangered based on information provided by the National Criminal Information Center, the National Center for Missing and Exploited Children, or the Missing Children Information Clearinghouse (§ 52-31 et seq.) or pursuant to a Virginia Amber Alert (§ 52-34.1 et seq.), a Virginia Critical Operation for a Disappeared Child Initiative Alert (§ 52-34.3:1 et seq.), a Virginia Senior Alert (§ 52-34.4 et seq.), a Virginia Blue Alert (§ 52-34.7 et seq.), a Virginia Critically Missing Adult Alert (§ 52-34.10 et seq.), a Virginia Missing Person with Autism Alert (§ 52-34.13 et seq.), or any substantially similar alert under the laws of another state or territory of the United States, the District of Columbia, or the United States.

"Notification" means an alert from an automatic license plate recognition system that a license plate or vehicle matches a license plate or vehicle in a database utilized by the automatic license plate recognition system for comparison purposes.

"Person associated with human trafficking" means a person who is either a suspected victim or an alleged perpetrator of either commercial sex trafficking or labor trafficking.

"Publicly post" means to post on a website that is maintained by the agency or on any other website on which the agency generally posts information and that is available to the public or that clearly describes how the public may access such information.

"Query" means a search of automatic license plate recognition system data based on information entered by the user, including a full or partial license plate number, any identifying characteristics of a vehicle, the date, time, or location of an image, or any other data that is searchable within the automatic license plate recognition system.

"System data" means all forms of data collected or generated by an automatic license plate recognition system, including images of license plates, vehicles, any identifying characteristics of vehicles, the date, time, and location of an image, and any peripheral images collected from which analytical data may be extracted.

"Vendor" means a business, company, corporation, or other nongovernmental entity that contracts with a law-enforcement agency for the installation, use, or maintenance of an automatic license plate recognition system.

B. Pursuant to § 2.2-1112, the Division of Purchases and Supply shall determine the automatic license plate recognition systems for use in the Commonwealth in accordance with this section. An automatic license plate recognition system shall not be approved by the Division for use by a law-enforcement agency unless:

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60 1. The vendor certifies that it will not sell or share any system data or audit trail data gathered in the  
61 Commonwealth, except upon request of the contracting law-enforcement agency for a purpose set forth in  
62 subsection F, and will only access system data or audit trail data upon request of the contracting law-  
63 enforcement agency for maintenance and quality assurance purposes;

64 2. The vendor certifies that its system is capable of purging system data collected or generated in the  
65 Commonwealth after 21 days of the date of its capture, or earlier if requested by the contracting law-  
66 enforcement agency, in such a manner that the system data is destroyed and not recoverable by either the  
67 vendor or the contracting law-enforcement agency;

68 3. The vendor certifies that its system is capable of producing an audit trail and purging audit trail data  
69 collected or generated in the Commonwealth after two years of the date of its capture in such a manner that  
70 the audit trail data is destroyed and not recoverable by either the vendor or the contracting law-enforcement  
71 agency;

72 4. The databases used by the system to provide notifications as set forth in subsection D are updated at  
73 least every 24 hours, or as soon as practicable after such updates become available; and

74 5. The system meets information security standards as established by the Virginia Information  
75 Technologies Agency.

76 C. A law-enforcement agency may enter into a contract with a vendor for the installation, use, or  
77 maintenance of a system approved by the Division. The contract shall specify that system data and audit trail  
78 data will be the property of the law-enforcement agency and that the system meets the requirements set forth  
79 in subsection B. The contract shall further specify that the vendor will immediately notify the law-  
80 enforcement agency upon receipt of any subpoena duces tecum, execution of any search warrant, or any  
81 other request from a third party for such system data or audit trail data, unless disclosure of such subpoena  
82 duces tecum, search warrant, or request is otherwise prohibited by law.

83 D. A law-enforcement agency may use a system only (i) as part of a criminal investigation into an alleged  
84 violation of the Code of Virginia or any ordinance of any county, city, or town where there is a reasonable  
85 suspicion that a crime was committed; (ii) as part of an active investigation related to a missing or  
86 endangered person, including whether to issue an alert for such person, or a person associated with human  
87 trafficking; or (iii) to receive notifications related to a missing or endangered person, a person with an  
88 outstanding warrant, a person associated with human trafficking, a stolen vehicle, or a stolen license plate.  
89 All information necessary for the creation of an audit trail shall be entered in order to query system data. A  
90 law-enforcement agency shall not query or download system data unless such data is related to at least one  
91 of these purposes. A law-enforcement agency may download audit trail data for purposes of generating audit  
92 reports. A stop of a motor vehicle based on a notification from the system shall be consistent with subsection  
93 M.

94 E. System data shall be purged after 21 days of the date of its capture in such a manner that such data is  
95 destroyed and not recoverable by either the vendor or the law-enforcement agency. Audit trail data shall be  
96 purged after two years of the date of its capture in such a manner that such data is destroyed and not  
97 recoverable by either the vendor or the law-enforcement agency. However, if the system data or the audit  
98 trail data is part of an ongoing investigation, prosecution, or civil action, such data shall be retained by the  
99 law-enforcement agency until (i) the investigation concludes without any criminal charges or (ii) the final  
100 disposition of any criminal or civil matter related to the data, including any direct appeals and any writs of  
101 habeas corpus pursuant to Article 3 (§ 8.01-654 et seq.) of Chapter 25 of Title 8.01 or federal law, in  
102 accordance with applicable records retention law and policy.

103 F. System data and audit trail data shall not be subject to disclosure under the Virginia Freedom of  
104 Information Act (§ 2.2-3700 et seq.). A law-enforcement agency shall not sell any system data or audit trail  
105 data. A law-enforcement agency shall not share system data or audit trail data with, or disseminate such data  
106 to, any database of any other state, federal, private, or commercial entity. A law-enforcement agency may  
107 share system data or audit trail data for the following purposes:

108 1. With another law-enforcement agency for purposes set forth in subsection D, which may include  
109 allowing another law-enforcement agency to query system data, provided that the agency receiving such data  
110 shall comply with all of the provisions of this section;

111 2. With the attorney for the Commonwealth for purposes set forth in subsection D or for complying with  
112 discovery or a court order in a criminal proceeding;

113 3. With a defendant or his counsel for purposes of complying with discovery or a court order in a criminal  
114 proceeding;

115 4. Pursuant to a court order or a court-issued subpoena duces tecum in any criminal or civil proceeding;

116 5. With the vendor for maintenance or quality assurance purposes; or

117 6. To alert the public to an emergency situation, a missing or endangered person, a person associated  
118 with human trafficking, or a person with an outstanding warrant.

119 In addition, the Department of State Police shall share system data obtained from any system installed,  
120 maintained, and operated on any limited access highway or any bridge, tunnel, or special structure under the  
121 jurisdiction of the Commonwealth Transportation Board or the Department of Transportation with any law-

122 enforcement agency in the locality where such system is installed, maintained, or operated, and such law-  
123 enforcement may share such system data for the purposes set forth in this subsection.

124 G. A law-enforcement agency that uses a system shall maintain records sufficient to facilitate public  
125 reporting as required by this section, the production of an audit trail, and discovery in criminal and civil  
126 proceedings, appeals, and post-conviction proceedings.

127 H. A law-enforcement agency that uses a system shall establish a policy governing such use that is  
128 consistent with this section that includes:

129 1. Training requirements for individuals who will use or access the system;

130 2. The purposes for which the system can be used or accessed;

131 3. Procedures to ensure that the databases used by the system to provide notifications as set forth in  
132 subsection D are updated at least every 24 hours, or as soon as practicable after such updates become  
133 available;

134 4. Procedures to confirm the accuracy of any notifications made by the system before stopping a vehicle  
135 that are consistent with subsection M;

136 5. A prohibition against downloading system data that is not related to at least one of the purposes set  
137 forth in subsection D, except for downloads of audit trail data for purposes of generating audit reports;

138 6. An internal auditing procedure that occurs at least once every 30 days;

139 7. Procedures for the retention and destruction of system data and audit trail data that are consistent with  
140 subsection E;

141 8. A prohibition on the sale of system data and audit trail data and restrictions on the sharing of system  
142 data and audit trail data that are consistent with subsection F; and

143 9. Security procedures to protect the system, system data, and audit trail data from unauthorized access,  
144 destruction, use, modification, or disclosure.

145 I. A law-enforcement agency that uses a system shall report to the Department of State Police by April 1  
146 of each year, in a format to be determined by the Department of State Police, on its use of the system during  
147 the preceding calendar year, which shall include the following data:

148 1. The total number of cameras owned or leased by an agency as part of a system at the conclusion of  
149 each calendar year, including the number of such cameras designed to be affixed inside or on a motor  
150 vehicle, permanently affixed adjacent to a highway, or temporarily affixed or placed adjacent to a highway  
151 for purposes of capturing system data;

152 2. A list of all state and federal databases with which the system data was compared, unless the existence  
153 of any such database itself is not public;

154 3. The total number of times the system was queried, including the specific purposes of the queries, as set  
155 forth in subsection D, and the offense types for any criminal investigation;

156 4. The race, ethnicity, age, and gender of any individual identified as a suspect and charged with a  
157 criminal offense as a result of a query of the system as part of a criminal investigation;

158 5. The number of motor vehicles stopped based on notifications from the system, including the specific  
159 reasons for the notifications as set forth in subsection D;

160 6. The race, ethnicity, age, and gender of the driver of any motor vehicle stopped based on a notification  
161 from the system;

162 7. Whether the agency allows any other law-enforcement agencies to access its system data, and if so,  
163 which other agencies have been granted such access;

164 8. The number of identified instances of unauthorized use of or access to the system, including the nature  
165 and circumstances of such instances; and

166 9. The number of subpoena duces tecum, search warrants, and any other requests received from a third  
167 party for system data or audit trail data, including the identity of the entity that requested the issuance of  
168 such subpoena duces tecum, executed such search warrant, or requested such data, and whether any data  
169 was provided to such entity, unless disclosure of such subpoena duces tecum, search warrant, or request is  
170 otherwise prohibited by law.

171 J. The Department of State Police shall aggregate the data provided pursuant to subsection I and report it  
172 to the Governor, the General Assembly, and the Virginia State Crime Commission by July 1 of each year.

173 K. A law-enforcement agency that uses a system shall publicly post the policy set forth in subsection H  
174 and the report set forth in subsection I. Data shall not be publicly posted if it contains personal or case  
175 identifying information. If any data (i) contains an articulable concern for any person's safety, (ii) is  
176 otherwise prohibited from public disclosure by federal or state statute, or (iii) may compromise sensitive  
177 criminal justice information if disclosed, such data may be excluded from being publicly posted.

178 L. A law-enforcement agency shall not use a system for the purpose of interfering with individuals  
179 engaged in lawful activities or tracking individuals on the basis of the content of lawfully protected speech.

180 M. A notification by a system for purposes set forth in subsection D does not, by itself, constitute  
181 reasonable suspicion as grounds for law enforcement to stop a vehicle. Prior to stopping a vehicle based on a  
182 notification, a law-enforcement officer shall:

183 1. Develop independent reasonable suspicion for the stop; or

184 2. Confirm that the license plate or identifying characteristics of a vehicle match the information  
185 contained in the database used to generate the notification.

186 N. Any person who willfully and intentionally queries, accesses, or uses a system for a purpose other than  
187 set forth in subsection D, or who willfully and intentionally sells, shares, or disseminates system data or audit  
188 trail data in violation of subsection F, is guilty of a Class 1 misdemeanor.

189 O. Any evidence obtained as the result of a violation of subsection D, F, L, or M is not admissible by the  
190 Commonwealth in any criminal or civil proceeding, but such evidence may be admitted by a defendant in a  
191 criminal proceeding or a litigant, other than the Commonwealth, in a civil proceeding.

192 P. This section does not apply to systems used:

193 1. For the enforcement of traffic laws, which includes parking regulations, speed limits, tolling  
194 requirements, high-occupancy vehicle requirements, or on-road emissions monitoring;

195 2. By the Department of Motor Vehicles at permanent weighing stations and in mobile weighing  
196 operations; or

197 3. By any state or local agency or any private entity for non-criminal justice purposes.

198 Q. A law-enforcement agency shall obtain a permit from the Department of Transportation in accordance  
199 with regulations of the Commonwealth Transportation Board before installing a system on a state right-of-  
200 way. The Department of State Police shall have sole and exclusive authority to install, maintain, and operate  
201 systems for law-enforcement purposes in the right-of-way of any limited access highway or any bridge,  
202 tunnel, or special structure under the jurisdiction of the Commonwealth Transportation Board or the  
203 Department of Transportation in accordance with the provisions of this section and upon compliance with the  
204 regulations of the Commonwealth Transportation Board governing activities in the right-of-way as  
205 authorized by § 33.2-210. A vendor may submit a permit application on behalf of the law-enforcement agency  
206 if the vendor has obtained a letter of authorization signed by the law-enforcement agency. The provisions of  
207 this subsection shall not prevent or limit the use of any system that is authorized by any other provision of  
208 law.

209 R. A vendor shall immediately notify the contracting law-enforcement agency under subsection C upon  
210 receipt of a subpoena duces tecum, execution of a search warrant, or any other request from a third party for  
211 any system data or audit trail data, unless disclosure of such subpoena duces tecum, search warrant, or  
212 request is otherwise prohibited by law.

213 S. Prior to or coincident with the implementation of an automatic license plate recognition system, a local  
214 law-enforcement agency shall take measures to promote public awareness on the use of such system.

215 **§ 52-30.2. Prohibited practices; collection of data.**

216 A. No State Police officer shall engage in bias-based profiling in the performance of his official duties.

217 B. State Police officers shall collect data pertaining to (i) all investigatory motor vehicle stops, (ii) all  
218 stop-and-frisks of a person based on reasonable suspicion, and (iii) all other investigatory detentions that do  
219 not result in an arrest or the issuance of a summons to be reported into the Community Policing Reporting  
220 Database. State Police officers shall submit the data to their commanding officers, who shall forward it to the  
221 Superintendent of State Police.

222 C. Each time a law-enforcement officer or State Police officer stops a driver of a motor vehicle, stops and  
223 frisks a person based on reasonable suspicion, or temporarily detains a person during any other investigatory  
224 stop, such officer shall collect the following data based on the officer's observation or information provided to  
225 the officer by the driver: (i) the race, ethnicity, age, gender of the person stopped, and whether the person  
226 stopped spoke English; (ii) the reason for the stop; (iii) *whether a notification from an automatic license plate  
227 recognition system, as defined in § 2.2-5517, was received for the motor vehicle prior to such stop, and if so,  
228 the specific reason for the notification as set forth in subsection D of § 2.2-5517;* (iv) the location of the stop;  
229 ~~(iv)~~ (v) whether a warning, written citation, or summons was issued or whether any person was arrested; ~~(v)~~  
230 (vi) if a warning, written citation, or summons was issued or an arrest was made, the warning provided,  
231 violation charged, or crime charged; ~~(vi)~~ (vii) whether the vehicle or any person was searched; and ~~(vii)~~ (viii)  
232 whether the law-enforcement officer or State Police officer used physical force against any person and  
233 whether any person used physical force against any officers.

234 D. Each state and local law-enforcement agency shall collect the number of complaints the agency  
235 receives alleging the use of excessive force.

236 **2. That the provisions of subsection C of § 2.2-5517 of the Code of Virginia, as created by this act, shall  
237 become effective on July 1, 2026. Any law-enforcement agency may enter into or continue an existing  
238 contract with a vendor for the installation, use, or maintenance of an automatic license plate  
239 recognition system prior to July 1, 2026; however, after such date the terms of such contract must  
240 comply with the provisions of subsection C of § 2.2-5517 of the Code of Virginia, as created by this act.**

241 **3. That the provisions of subsection C of § 52-30.2 of the Code of Virginia, as amended by this act, shall  
242 become effective on January 1, 2026.**

243 **4. That the Division of Purchases and Supply of the Department of General Services, in consultation  
244 with the Virginia Information Technologies Agency, shall determine the automatic license plate  
245 recognition systems for use in the Commonwealth as set forth in subsection B of § 2.2-5517 of the Code**

246 of Virginia, as created by this act, and shall publicly post a list of such systems on its website by  
247 January 1, 2026.

248 5. That the provisions of this act shall apply to the use of automatic license plate recognition systems on  
249 or after July 1, 2025, and are not retroactive.

250 6. That the Department of State Police shall develop a model policy for the use of automatic license  
251 plate recognition systems by law-enforcement agencies that is consistent with the provisions of this act  
252 and shall publicly post such model policy by July 1, 2025.

253 7. That the first report from law-enforcement agencies as required by subsection I of § 2.2-5517 of the  
254 Code of Virginia, as created by this act, shall be due by April 1, 2027.

255 8. That the first report from the Department of State Police as required by subsection J of § 2.2-5517 of  
256 the Code of Virginia, as created by this act, shall be due by July 1, 2027.

257 9. That the Commonwealth Transportation Board's initial adoption of regulations pursuant to this act  
258 shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code  
259 Virginia).

260 10. That any automatic license plate recognition systems in a Commonwealth Transportation Board  
261 controlled right-of-way that were installed prior to the effective date of this act shall be subject to then-  
262 existing regulations of the Commonwealth Transportation Board issued pursuant to § 33.2-210 of the  
263 Code of Virginia and shall, in order to remain in the right-of-way, obtain land use permits from the  
264 Virginia Department of Transportation no later than August 1, 2025.

265 11. That the Department of State Police shall, beginning April 1, 2027, provide the data reported by  
266 law-enforcement agencies pursuant to subsection I of § 2.2-5517 of the Code of Virginia, as created by  
267 this act, in non-aggregate form to the Virginia State Crime Commission for the purpose of monitoring  
268 and evaluating the use of automatic license plate recognition systems. The Department of  
269 Transportation shall provide the Virginia State Crime Commission with data on the number of  
270 applications submitted for a land use permit for the installation of an automatic license plate  
271 recognition system by or on behalf of a law-enforcement agency, and the number of such permits  
272 issued, (i) by January 5, 2026, for the time period between July 1, 2025, and December 31, 2025, and  
273 (ii) by April 1 of each year thereafter for the previous calendar year, broken down by each individual  
274 law-enforcement agency applying for and being issued such a permit. The Virginia State Crime  
275 Commission shall report on the use of automatic license plate recognition systems in the  
276 Commonwealth by July 1, 2027, and by July 1 of each of the following five years.

277 12. That any local law-enforcement agency using an automatic license plate recognition system when  
278 the provisions of this act take effect on July 1, 2025, shall take measures to promote public awareness  
279 of such use and shall commence such measures by September 1, 2025, unless such agency has  
280 previously taken measures to promote such public awareness.

281 13. That the Virginia State Crime Commission shall collect data and conduct surveys of law-  
282 enforcement agencies to assess the use of automatic license plate recognition systems in the  
283 Commonwealth, to include obtaining each such agency's policy on the use of such systems. The  
284 Virginia State Crime Commission shall report its findings by the first day of the 2026 Regular Session  
285 of the General Assembly and again on November 1, 2026.

286 14. That the provisions of subsection Q of § 2.2-5517 of the Code of Virginia, as created by this act,  
287 shall not become effective unless reenacted by the 2026 Session of the General Assembly.