

Date of Hearing: June 22, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
SB 34 (Hill) – As Amended April 22, 2015

SENATE VOTE: 25-12

SUBJECT: Automated license plate recognition systems: use of data.

SUMMARY: Establishes provisions on the usage of automatic license plate recognition (ALPR) data and expands the meaning of “personal information” to include information or data collected through the use or operation of an ALPR system, as specified. Specifically, this bill:

- 1) Specifies that a person's information collected through the use or operation of an ALPR system by a person or business is considered personal information for purposes of personal data collection or customer records, as specified.
- 2) Defines an ALPR system as a system of one or more mobile or fixed cameras combined with computer algorithms to read and convert images of registration plates and the characters they contain into computer-readable data.
- 3) Defines ALPR information to mean information or data collected through the use of an ALPR system.
- 4) Defines an ALPR end-user as a person that accesses or uses ALPR information and an ALPR operator as a person that operates an ALPR system, or that stores or maintains ALPR information. Specifies, a "person" may include a law enforcement agency, government agency, private entity, or individual.
- 5) Specifies that an ALPR end-user or operator does not include a transportation agency, as defined.
- 6) Requires that ALPR operators ensure that ALPR information is protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality and integrity.
- 7) Requires that ALPR operators implement and maintain reasonable security procedures and practices in order to protect ALPR information from unauthorized access, destruction, use, modification, or disclosure.
- 8) Requires that ALPR operators and end users implement and maintain a usage and privacy policy in order to ensure that the collection, use, maintenance, sharing, and dissemination of ALPR information is consistent with respect for an individuals' privacy and civil liberties.
- 9) Requires the ALPR operator and end-user's usage and privacy policy contain a minimum set of information, as specified.

- 10) Requires ALPR operators that access or provide access to ALPR information to maintain a record of that access. The record must include the date and time of access, the license plate number which was queried, the name of the person who accessed the information and if possible, the organization or entity with whom the person is affiliated, and the purpose for accessing the information.
- 11) Allows an individual who has been harmed by a violation of this title to bring a civil action against a person who knowingly caused the violation. The court can award damages which are stipulated in this bill.
- 12) Requires a public agency that considers using an ALPR system to provide an opportunity for public comment at a regularly scheduled public meeting of the governing body of the agency before it implements the program of ALPR use.

EXISTING LAW:

- 1) Requires any agency, person, or business that is conducting business within the state that owns or licenses computerized data that includes personal information, to disclose any breach of security of the system or data following the discovery of the security breach to any person within the state whose personal information was or suspected to be acquired by an unauthorized person, as specified.
- 2) Defines "personal information" for the abovementioned purposes to include an individual's first and last name, or first initial and last name, in combination with one or more designated data elements relating to social security numbers, driver's license numbers, financial accounts, and medical information.
- 3) Prohibits a transportation agency from selling or otherwise providing to any other person or entity personally identifiable information of any person who subscribes to an electronic toll or transit fare collection system or uses a tolling facility that employs an electronic toll collection system, as specified.
- 4) Requires a transportation agency that employs an electronic toll collection or an electronic transit fare collection system to establish a privacy policy regarding the collection and use of personally identifiable information and provide subscribers of that system a copy of the privacy policy, as specified.

FISCAL EFFECT: Unknown

COMMENTS: ALPR is a common public safety enforcement method that utilizes optical character recognition to read vehicle license plates. ALPR systems typically use infrared lighting and a variety of algorithms to take a picture of a license plate, identify any text, and determine the proper letter/number sequence on the plate. This technology also allows an ALPR camera to capture license plate images at any time of the day or night. Once a license plate is scanned, in most cases, the license plate sequence is then checked against a variety of databases to determine if the vehicle is stolen, has outstanding tickets, or whether the registered owner possesses outstanding arrest warrants. If a "hit" occurs, the ALPR system alerts the appropriate law enforcement entity. While many law enforcement and local government entities utilize ALPR technology, ALPR hardware and systems are generally developed and managed by non-governmental entities.

Aside for the California Highway Patrol and local transportation agencies, existing law is silent on how government agencies and businesses manage and protect the data gathered by ALPR systems. The author introduced this bill to institute a number usage and privacy standards for the operation of ALPR systems within the state. Additionally, the author notes that this bill also provides an opportunity for public input on the usage and standards of ALPR system that are used by government entities, something the author contends most government entities do not practice.

With the use of ALPR technology by government agencies and private industry becoming commonplace, states are now discussing how to best use and manage the data collected through these systems. According to the National Conference of State Legislators (NCSL), 18 states have introduced legislation attempting to establish or revise standards and privacy requirements related to ALPR systems. Additionally, 9 states have enacted laws in some form that address the use and management of data collected through ALPR systems.

Furthermore, while the discussion of ALPR standards is ongoing at the state level, privacy concerns surrounding to the collection of personal information remains a key policy issue that has been raised by a number of stakeholders. According to a 2013 study conducted by the American Civil Liberties Union (ACLU), the ACLU found that an estimated one percent of ALPR scans resulted in a "hit" while the other 99% of data had no relation to criminal activity. Thus, when an ALPR system is used by law enforcement, whether or not a "hit" occurs, all license plate scans are transmitted and checked by databases that aggregate and store license plate data. This data that is collected, for example, may be used to by law enforcement to investigate and enforce the law; however, minimal, if any, requirements exist on how this data is managed, stored, retained, accessed, or shared.

SB 34 aims to establish a minimal set of privacy standards for personal data collected by a person or entity using ALPR technology. SB 34 further exempts transportation agencies involved in automatic toll and transit fare collection from the provisions specified in this bill as existing law sets privacy standards for personal data collected using ALPR technology for these purposes. The author asserts SB 34 will put in place regulations for businesses and agencies which currently do not have any policies regarding the use of ALPR data and exempt transportation agencies which are already regulated by existing law.

Previous legislation: SB 893 (Hill) of 2014, would have placed restrictions on the use of ALPR technology by both public and private sector users. SB 893 died on the Senate Inactive File.

AB 179 (Bocanegra, Chapter 375, Statutes of 2013) prohibits transportation agencies and other entities that employ an electronic transit fare collection system (ETFC) for the payment of transit fares from selling or providing to third parties any personally identifiable information obtained through a person's participation in an ETFC, with certain exceptions.

SB 1330 (Simitian) of 2011, would have placed restrictions on the use of automated license plate recognition technology by private entities, including restrictions on the retention, use, and sale of such data. SB 1330 would have also restricted the ability for a person to transfer ALPR data to a law enforcement agency absent a search warrant or other specified circumstances. SB 1330 died on the Senate Floor.

SB 1268 (Simitian, Chapter 489, Statutes of 2010) prohibits transportation agencies from selling, or providing to any other person, the personally identifiable information of either subscribers of

an electronic toll collection system or anyone who uses a toll bridge, lane, or highway that utilizes an electronic toll collection system.

Double referral: This bill will be referred to the Assembly Privacy and Consumer Protection Committee should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Civil Liberties Coalition
California Civil Liberties Council
Media Alliance
Small Business California

Opposition

None on file

Analysis Prepared by: Manny Leon / TRANS. / (916) 319-2093