

## Chapter 192

(Senate Bill 699)

AN ACT concerning

### **Automatic ~~Motor Vehicle Registration~~ License Plate Readers and Captured Plate Data – Authorized Uses**

FOR the purpose of ~~prohibiting a person from using an automatic motor vehicle registration plate reader system, subject to a certain exception for a law enforcement agency for certain purposes; prohibiting a law enforcement agency from sharing captured plate data for other than certain purposes, subject to a certain exception; prohibiting a law enforcement agency from retaining captured plate data for more than a certain period of time and requiring the law enforcement agency to destroy the captured plate data after that time period, subject to a certain exception for a certain purpose; requiring a law enforcement agency that retains captured plate data for more than the time period allowed under this Act to destroy the captured plate data at the conclusion of certain activity or proceedings; altering the definition of “covert investigation” to include the use of an automatic registration plate reader system for purposes of expanding the application of the prohibition against a law enforcement agency conducting a covert investigation of certain persons engaged in First Amendment activities; requiring a custodian of captured plate data collected by an automatic registration plate reader system to deny inspection of the captured plate data, subject to certain exceptions; prohibiting a law enforcement agency from using captured plate data unless the agency has a legitimate law enforcement purpose; establishing certain penalties for a certain violation; requiring the Department of State Police and certain law enforcement agencies to adopt certain procedures; establishing that information gathered by an automatic license plate reader system is not subject to disclosure under the Maryland Public Information Act; requiring the Department, in conjunction with the Maryland Coordination and Analysis Center and certain law enforcement agencies, to report certain information to certain committees on or before a certain date each year; requiring the Center, in cooperation with certain entities, to develop a certain model audit policy; establishing the policy of the State; defining certain terms; and generally relating to the authorized uses of automatic ~~motor vehicle registration~~ license plate reader systems and captured plate data.~~

BY adding to

Article – Public Safety

Section 3–509

Annotated Code of Maryland

(2011 Replacement Volume and 2013 Supplement)

~~BY repealing and reenacting, without amendments,  
 Article – Public Safety  
 Section 3-701(a)(1) and (c)  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2013 Supplement)~~

~~BY repealing and reenacting, with amendments,  
 Article – Public Safety  
 Section 3-701(a)(3)  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2013 Supplement)~~

~~BY repealing and reenacting, without amendments,  
 Article – State Government  
 Section 10-616(a)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2013 Supplement)~~

~~BY adding to  
 Article – State Government  
 Section 10-616(w)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2013 Supplement)~~

BY repealing and reenacting, without amendments,  
 Article – General Provisions  
 Section 4-304  
 Annotated Code of Maryland  
 (As enacted by Chapter 94 (H.B. 270) of the Acts of the General Assembly of  
 2014)

BY adding to  
 Article – General Provisions  
 Section 4-326  
 Annotated Code of Maryland  
 (As enacted by Chapter 94 (H.B. 270) of the Acts of the General Assembly of  
 2014)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Public Safety**

**3-509.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “ACTIVE DATA” MEANS:

1. DATA UPLOADED TO INDIVIDUAL AUTOMATIC LICENSE PLATE READER SYSTEM UNITS BEFORE OPERATION; AND

2. DATA GATHERED DURING THE OPERATION OF AN AUTOMATIC LICENSE PLATE READER SYSTEM.

(II) “ACTIVE DATA” DOES NOT INCLUDE HISTORICAL DATA.

~~(2)~~ (3) “AUTOMATIC ~~REGISTRATION~~ LICENSE PLATE READER SYSTEM” MEANS A SYSTEM OF ONE OR MORE MOBILE OR FIXED ~~AUTOMATED~~ HIGH-SPEED CAMERAS USED IN COMBINATION WITH COMPUTER ALGORITHMS TO CONVERT IMAGES OF LICENSE PLATES INTO COMPUTER-READABLE DATA.

~~(3)~~ (4) (I) “CAPTURED PLATE DATA” MEANS THE GLOBAL POSITIONING SYSTEM COORDINATES, DATES AND TIMES, PHOTOGRAPHS, LICENSE PLATE NUMBERS, AND ANY OTHER DATA COLLECTED BY OR DERIVED FROM AN AUTOMATIC ~~REGISTRATION~~ LICENSE PLATE READER SYSTEM.

(II) “CAPTURED PLATE DATA” INCLUDES ACTIVE DATA AND HISTORICAL DATA.

(5) “CENTER” MEANS THE MARYLAND COORDINATION AND ANALYSIS CENTER.

(6) “HISTORICAL DATA” MEANS ANY DATA COLLECTED BY AN AUTOMATIC LICENSE PLATE READER SYSTEM AND STORED IN AN AUTOMATIC LICENSE PLATE READER DATABASE OPERATED BY THE MARYLAND COORDINATION AND ANALYSIS CENTER OR BY A LAW ENFORCEMENT AGENCY.

(7) “LAW ENFORCEMENT AGENCY” ~~MEANS AN AGENCY THAT IS LISTED IN § 3-101(E)~~ HAS THE MEANING STATED IN § 3-201(D) OF THIS TITLE.

(8) “LEGITIMATE LAW ENFORCEMENT PURPOSE” MEANS THE INVESTIGATION, DETECTION, OR ANALYSIS OF A CRIME OR A VIOLATION OF THE MARYLAND VEHICLE LAWS OR THE OPERATION OF TERRORIST OR MISSING OR ENDANGERED PERSON SEARCHES OR ALERTS.

(B) (1) A LAW ENFORCEMENT AGENCY MAY NOT USE CAPTURED PLATE DATA UNLESS THE AGENCY HAS A LEGITIMATE LAW ENFORCEMENT PURPOSE.

(2) AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY WHO VIOLATES THIS SUBSECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR AND A FINE NOT EXCEEDING \$10,000 OR BOTH.

(C) (1) THE DEPARTMENT OF STATE POLICE AND ANY LAW ENFORCEMENT AGENCY USING AN AUTOMATIC LICENSE PLATE READER SYSTEM SHALL ADOPT PROCEDURES RELATING TO THE OPERATION AND USE OF THE SYSTEM.

(2) THE PROCEDURES SHALL INCLUDE:

(I) WHICH PERSONNEL IN THE CENTER OR A LAW ENFORCEMENT AGENCY ARE AUTHORIZED TO QUERY CAPTURED PLATE DATA GATHERED BY AN AUTOMATIC LICENSE PLATE READER SYSTEM;

(II) AN AUDIT PROCESS TO ENSURE THAT INFORMATION OBTAINED THROUGH THE USE OF AN AUTOMATIC LICENSE PLATE READER SYSTEM IS USED ONLY FOR LEGITIMATE LAW ENFORCEMENT PURPOSES, INCLUDING AUDITS OF REQUESTS MADE BY INDIVIDUAL LAW ENFORCEMENT AGENCIES OR AN INDIVIDUAL LAW ENFORCEMENT OFFICER; AND

(III) PROCEDURES AND SAFEGUARDS TO ENSURE THAT CENTER STAFF WITH ACCESS TO THE AUTOMATIC LICENSE PLATE READER DATABASE ARE ADEQUATELY SCREENED AND TRAINED.

(D) INFORMATION GATHERED BY AN AUTOMATIC LICENSE PLATE READER SYSTEM IS NOT SUBJECT TO DISCLOSURE UNDER THE MARYLAND PUBLIC INFORMATION ACT.

(E) ON OR BEFORE MARCH 1 OF EACH YEAR BEGINNING IN 2016, THE DEPARTMENT OF STATE POLICE, IN CONJUNCTION WITH THE CENTER AND LAW ENFORCEMENT AGENCIES THAT MAINTAIN AN AUTOMATIC LICENSE PLATE READER DATABASE, SHALL REPORT TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE, THE HOUSE JUDICIARY COMMITTEE, AND THE LEGISLATIVE POLICY COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE FOLLOWING INFORMATION BASED ON DATA FROM THE PREVIOUS CALENDAR YEAR:

(1) THE TOTAL NUMBER OF AUTOMATIC LICENSE PLATE READER UNITS BEING OPERATED IN THE STATE BY LAW ENFORCEMENT AGENCIES AND THE NUMBER OF UNITS SUBMITTING DATA TO THE CENTER;

(2) THE NUMBER OF AUTOMATIC LICENSE PLATE READER READINGS MADE BY A LAW ENFORCEMENT AGENCY THAT MAINTAINS AN AUTOMATIC LICENSE PLATE READER DATABASE AND THE NUMBER OF READINGS SUBMITTED TO THE CENTER;

(3) THE NUMBER OF AUTOMATIC LICENSE PLATE READER READINGS BEING RETAINED ON THE AUTOMATIC LICENSE PLATE READER DATABASE;

(4) THE NUMBER OF REQUESTS MADE TO THE CENTER AND EACH LAW ENFORCEMENT AGENCY THAT MAINTAINS AN AUTOMATIC LICENSE PLATE READER DATABASE FOR AUTOMATIC LICENSE PLATE READER DATA, INCLUDING SPECIFIC NUMBERS FOR:

(I) THE NUMBER OF REQUESTS THAT RESULTED IN A RELEASE OF INFORMATION;

(II) THE NUMBER OF OUT-OF-STATE REQUESTS;

(III) THE NUMBER OF FEDERAL REQUESTS;

(IV) THE NUMBER OF OUT-OF-STATE REQUESTS THAT RESULTED IN A RELEASE OF INFORMATION; AND

(V) THE NUMBER OF FEDERAL REQUESTS THAT RESULTED IN A RELEASE OF INFORMATION;

(5) ANY DATA BREACHES OR UNAUTHORIZED USES OF THE AUTOMATIC LICENSE PLATE READER DATABASE; AND

(6) A LIST OF AUDITS THAT WERE COMPLETED BY THE CENTER OR A LAW ENFORCEMENT AGENCY.

~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT USE AN AUTOMATIC REGISTRATION PLATE READER SYSTEM.~~

~~(2) A LAW ENFORCEMENT AGENCY MAY USE AN AUTOMATIC REGISTRATION PLATE READER SYSTEM TO:~~

~~(I) PROTECT PUBLIC SAFETY;~~

~~(II) CONDUCT A CRIMINAL INVESTIGATION; OR~~

~~(III) ENSURE COMPLIANCE WITH LOCAL, STATE, OR FEDERAL LAW.~~

~~(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LAW ENFORCEMENT AGENCY MAY NOT USE OR SHARE CAPTURED PLATE DATA FOR ANY PURPOSE OTHER THAN THOSE STATED IN SUBSECTION (B)(2) OF THIS SECTION.~~

~~(2) A LAW ENFORCEMENT AGENCY MAY SHARE WITH ANOTHER LAW ENFORCEMENT AGENCY CAPTURED PLATE DATA THAT INDICATES EVIDENCE OF AN OFFENSE.~~

~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LAW ENFORCEMENT AGENCY:~~

~~(I) MAY NOT RETAIN CAPTURED PLATE DATA FOR MORE THAN 30 DAYS; AND~~

~~(II) SHALL DESTROY CAPTURED PLATE DATA AFTER 30 DAYS.~~

~~(2) (I) A LAW ENFORCEMENT AGENCY MAY RETAIN CAPTURED PLATE DATA FOR MORE THAN 30 DAYS AS PART OF AN ONGOING CRIMINAL INVESTIGATION.~~

~~(II) A LAW ENFORCEMENT AGENCY THAT RETAINS CAPTURED PLATE DATA FOR MORE THAN 30 DAYS UNDER THIS PARAGRAPH SHALL DESTROY THE CAPTURED PLATE DATA AT THE CONCLUSION OF:~~

~~1. ANY CRIMINAL INVESTIGATION THAT INVOLVED THE CAPTURED PLATE DATA BUT DID NOT RESULT IN THE FILING OF CRIMINAL CHARGES; OR~~

~~2. ANY LEGAL ACTION UNDERTAKEN THAT INVOLVED THE CAPTURED PLATE DATA.~~

~~3-701.~~

~~(a) (1) In this section the following words have the meanings indicated.~~

~~(3) (i) "Covert investigation" means an infiltration of or attempt to infiltrate a group or organization in a manner that conceals the identity of the law enforcement agency or the identity of an officer or agent of the law enforcement agency.~~

~~(ii) "COVERT INVESTIGATION" INCLUDES THE USE OF AN AUTOMATIC REGISTRATION PLATE READER SYSTEM UNDER § 3-509 OF THIS TITLE.~~

~~(iii) "Covert investigation" does not include the use of plainclothes officers or employees for crowd control and public safety purposes at public events.~~

~~(e) (1) A law enforcement agency may not conduct a covert investigation of a person, a group, or an organization engaged in First Amendment activities unless the chief or the chief's designee makes a written finding in advance or as soon as is practicable afterwards that the covert investigation is justified because:~~

~~(i) it is based on a reasonable, articulable suspicion that the person, group, or organization is planning or engaged in criminal activity; and~~

~~(ii) a less intrusive method of investigation is not likely to yield satisfactory results.~~

~~(2) Membership or participation in a group or organization engaged in First Amendment activities does not alone establish reasonable, articulable suspicion of criminal activity.~~

**Article - ~~State Government~~ General Provisions**

~~10-616, 4-304.~~

~~(a) Unless otherwise provided by law, a custodian shall deny inspection of a public record, as provided in this ~~section~~ part.~~

**4-326.**

~~(w) (A) (1) (H) IN THIS ~~SUBSECTION~~ SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(H) (2) "AUTOMATIC ~~REGISTRATION~~ LICENSE PLATE READER SYSTEM" HAS THE MEANING STATED IN § 3-509 OF THE PUBLIC SAFETY ARTICLE.~~

~~(III)~~ **(3)** “CAPTURED PLATE DATA” HAS THE MEANING STATED IN § 3-509 OF THE PUBLIC SAFETY ARTICLE.

~~(2)~~ **(B)** EXCEPT AS PROVIDED IN ~~PARAGRAPH (3)~~ **SUBSECTIONS (C) AND (D)** OF THIS ~~SUBSECTION~~ SECTION, A CUSTODIAN OF CAPTURED PLATE DATA COLLECTED BY AN AUTOMATIC ~~REGISTRATION~~ LICENSE PLATE READER SYSTEM SHALL DENY INSPECTION OF THE CAPTURED PLATE DATA.

~~(3)~~ **(C)** A CUSTODIAN MAY USE OR SHARE CAPTURED PLATE DATA IN THE COURSE OF THE CUSTODIAN’S DUTIES AS AUTHORIZED UNDER § 3-509 OF THE PUBLIC SAFETY ARTICLE.

**(D)** SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO AN ELECTRONIC TOLL COLLECTION SYSTEM OR ASSOCIATED TRANSACTION SYSTEM OPERATED BY OR IN CONJUNCTION WITH THE MARYLAND TRANSPORTATION AUTHORITY.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2015, the Maryland Coordination and Analysis Center, in cooperation with the Maryland Chiefs of Police Association and the Maryland Sheriffs Association, shall develop a model audit policy for access to and use of automatic license plate reader data.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

**Approved by the Governor, April 14, 2014.**