

HOUSE BILL NO. 149

INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY PROHIBITING THE USE OF A LICENSE PLATE SCANNER BY THE STATE OR A LOCAL GOVERNMENT; PROVIDING EXCEPTIONS; PROVIDING A PENALTY FOR A VIOLATION OF THE PROHIBITION; AND LIMITING ACCESS TO INFORMATION OBTAINED BY USING A LICENSE PLATE SCANNER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Use of license plate scanner prohibited -- exceptions -- definition -- penalty. (1) Except as provided in subsection (2), an agency or employee of the state or any subdivision of the state may not use, either directly or indirectly, a license plate scanner on any public highway.

(2) (a) The department of transportation or an incorporated city or town may use a license plate scanner:

(i) to collect data for planning. If data is collected under this subsection (2)(a)(i), the department of transportation or city or town shall ensure and maintain the anonymity of the vehicle, the vehicle owner, the driver of the vehicle, and any passengers in the vehicle. Data collected under this subsection (2)(a)(i) without a search warrant or outside of judicially recognized exceptions to search warrant requirements may not be used to investigate or prosecute an individual or as evidence in court.

(ii) in a regulated parking system, but only to identify a vehicle's location and license plate number to enforce parking restrictions.

(b) The department of transportation may use a device and equipment, including license plate scanners, if necessary, to implement 61-10-101 through 61-10-104, 61-10-106 through 61-10-110, and 61-10-154 if the devices or equipment are used in screening operations associated with:

(i) virtual ports of entry;

(ii) weigh station ramps using automated weigh station screening systems;

(iii) virtual weigh stations using weigh-in-motion technology; or

(iv) an automatic vehicle identification system that enables participating transponder-equipped vehicles to be prescreened throughout the nation at designated weigh stations, port-of-entry facilities, or agricultural interdiction facilities.

(c) Nothing in this section prohibits an agency of the state or any subdivision of the state from using its own vehicles, aircraft, or equipment, including a license plate scanner, to track, monitor, or otherwise maintain information about the agency's or subdivision's vehicles, aircraft, or equipment.

(3) A public employee or public officer, as the terms are defined in 2-2-102, who violates the provisions of this section is subject to the applicable penalties provided for in Title 2, chapter 2.

(4) In this section, "license plate scanner" means a device principally designed and primarily used for determining the ownership of a motor vehicle, the mileage or route traveled by a motor vehicle, the location or identity of a motor vehicle, or the identity of a motor vehicle's occupants on the public highways, as defined in 60-1-103, through the use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular telephone, global positioning satellite, automated electronic toll collection system, automated license plate recognition system, or radio frequency identification device that by itself or in conjunction with other devices or information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's occupants or the mileage, location, or route traveled by the motor vehicle.

NEW SECTION. Section 2. Confidentiality of information. The information collected or stored in any database under the provisions of [section 1]:

(1) is private, is not a public record, and is not subject to public disclosure;

(2) may be accessed by an employee of the state or a political subdivision of the state only for the purpose of providing customer service or for statistical, administrative, or legal activities necessary to perform the employee's duties; and

(3) may be maintained only for the time minimally necessary, but no more than 18 months.

NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 46, chapter 5, part 1, and the provisions of Title 46, chapter 5, part 1, apply to [sections 1 and 2].

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