

AMENDED IN SENATE MAY 29, 2012

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SENATE BILL

No. 1330

Introduced by Senator Simitian

February 23, 2012

An act to add Title 1.81.23 (commencing with Section 1798.90.5) to Part 4 of Division 3 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1330, as amended, Simitian. License plate recognition technology: use of personal information.

Existing law authorizes the Department of the California Highway Patrol to retain license plate data captured by license plate recognition (LPR) technology for not more than 60 days unless the data is being used as evidence or for the investigation of felonies. Existing law prohibits the department from selling the data or from making the data available to an agency that is not a law enforcement agency or an individual that is not a law enforcement officer.

Existing law authorizes the department to use LPR data for the purpose of locating vehicles or persons reasonably suspected of being involved in the commission of a public offense and requires the department to monitor the internal use of the data to prevent unauthorized use and to submit to the Legislature, as a part of the annual automobile theft report, information on the department's LPR practices and usage.

This bill would apply similar requirements to persons, as defined, who use LPR technology and would additionally require, among other things, compliance with all applicable statutory and constitutional

requirements, and disclosure to a law enforcement agency only pursuant to a search warrant, except as specified. The bill would require a law enforcement agency that obtains data pursuant to a search warrant to notify the person whose information is disclosed that his or her records have been obtained. The bill would authorize a person whose information is sold or disclosed in violation of these provisions to bring a civil action and would entitle the person to recover any and all consequential and incidental damages, including all costs and attorney’s fees.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Title 1.81.23 (commencing with Section
2 1798.90.5) is added to Part 4 of Division 3 of the Civil Code, to
3 read:

4
5 TITLE 1.81.23. CONFIDENTIALITY OF LICENSE PLATE
6 INFORMATION
7

8 1798.90.5. (a) A person, other than a state and local law
9 enforcement agency, shall comply with all applicable statutory
10 and constitutional requirements and subdivision (b) when using
11 license plate recognition (LPR) technology. As used in this section,
12 a “person” has the same meaning as defined in Section 470 of the
13 Vehicle Code.

14 (b) A person who uses LPR technology shall comply with all
15 of the following:

16 (1) The person shall retain license plate data captured by LPR
17 technology for not more than 60 days.

18 (2) ~~The~~ *Except as provided in paragraph (3), the person shall*
19 *not sell LPR data for any purpose and shall not make the data*
20 *available to an agency or person that is not a law enforcement*
21 *agency or an individual who is not a law enforcement officer.*

22 (3) *A person may sell or distribute LPR data as follows:*

23 (A) *To a public parking authority, a vendor contracted with a*
24 *public parking authority, or any subcontractor thereof, if the use*
25 *of the data pertains to the collection of outstanding parking tickets*
26 *or the enforcement of local parking ordinances.*

1 (B) To a licensed repossession agency or its employees, to the
2 legal owner of the collateral, as defined in subdivisions (e) and
3 (n), of Section 7500.1 of the Business and Professions Code, or to
4 the owner's authorized agent, if the use of the data pertains to the
5 recovery or attempted recovery of collateral that requires
6 registration with the Department of Motor Vehicles.

7 ~~(3)~~

8 (4) Except as provided in paragraph ~~(4)~~ (5), the person shall
9 make data available to a law enforcement agency only pursuant
10 to a search warrant. Absent a provision in the search warrant to
11 the contrary, the law enforcement agency shall immediately, but
12 in any event within no more than five days, notify the person whose
13 information has been disclosed that his or her records have been
14 obtained and shall provide that person with a copy of the search
15 warrant and the identity of the law enforcement agency or law
16 enforcement officer to whom the records were provided.

17 ~~(4)~~

18 (5) The person shall allow a peace officer, as defined in Section
19 830.1 or 830.2 of the Penal Code, when conducting a criminal or
20 traffic collision investigation, to obtain personally identifiable
21 information of a person if the officer has good cause to believe
22 that a delay in obtaining this information by seeking a search
23 warrant would cause an adverse result as defined in paragraph (2)
24 of subdivision (a) of Section 1524.2 of the Penal Code.

25 ~~(5)~~

26 (6) The person shall monitor the internal use of LPR data to
27 prevent its unauthorized use.

28 ~~(6)~~

29 (7) The person shall adopt a privacy policy to ensure that
30 personally identifiable information is not unlawfully disclosed.

31 ~~(7)~~

32 (8) The person shall conspicuously post the privacy policy on
33 its Internet Web site.

34 ~~(8)~~

35 (9) The person shall report annually its LPR practices and usage,
36 including the number of LPR data disclosures, a record of the law
37 enforcement agencies or peace officers to which data was disclosed
38 and for what purpose, and any changes in policy that affect privacy
39 concerns, to the Department of Justice.

1 (c) A person whose information is sold or disclosed in violation
2 of this section may bring a civil action and shall be entitled to
3 recover any and all consequential and incidental damages,
4 including all costs and attorney's fees.

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