

HOUSE No. 1842**The Commonwealth of Massachusetts**

PRESENTED BY:

Jonathan Hecht

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to regulate license plate tracking.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/18/2017</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>1/25/2017</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/26/2017</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	<i>2/2/2017</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>1/26/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/31/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/25/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/2/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/23/2017</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/24/2017</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/26/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/2/2017</i>

HOUSE No. 1842

By Mr. Hecht of Watertown, a petition (accompanied by bill, House, No. 1842) of Jonathan Hecht and others relative to license plate tracking. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3009 OF 2015-2016.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act to regulate license plate tracking.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 90C the
2 following chapter:-

3 CHAPTER 90C½.

4 LICENSE PLATE TRACKING.

5 Section 1.

6 In this chapter, unless the context otherwise requires, the following words shall have the
7 following meanings:-

“Automatic license plate reader system” or “ALPR system”: an automated system of one or more mobile or fixed high speed cameras used in combination with computer algorithms to convert images of license plates into computer-readable license plate identifying data.

“ALPR data”: the GPS coordinates, date and time, photograph, license plate number, and any other data captured by or derived from any ALPR system.

“Secured area”: an area, enclosed by clear boundaries, to which access is limited and entry is obtainable only through specific access-control points.

Section 2.

(a) Persons acting under color of state law shall not use ALPR systems except in the following ways:

(1) By parking enforcement entities, for the regulation of public parking pursuant to sections 20A and 20A½ of chapter 90;

(2) For the purpose of controlling access to secured areas;

(3) By the Department of Transportation, for the purpose of electronic toll collection under section 13 of chapter 6C;

(4) By state, county, or municipal law enforcement agencies, using ALPR systems for the immediate comparison of captured plate data with data held by the Registry of Motor Vehicles, the Department of Criminal Justice Information Services, the National Crime Information Center, the Federal Bureau of Investigation Kidnappings and Missing Persons list, and the child protective alert system established pursuant to section 51H of chapter 119 or the

silver alert system, so-called, established pursuant to section 18L of chapter 6A for the purpose of identifying:

- a. Outstanding parking or traffic violations;
- b. A violation of vehicle registration requirements
- c. A vehicle in violation of the inspection requirements set forth in section 7A of chapter 90;
- d. A stolen vehicle or stolen license plate;
- e. A vehicle registered to an individual for whom there is an outstanding default or arrest warrant for felony charges appearing in the warrant management system established pursuant to section 23A of chapter 276, or outstanding default or arrest warrants for felony charges issued in another jurisdiction; or
- f. A vehicle associated with a missing person; or

(5) Pursuant to a valid warrant issued pursuant to the requirements of sections 2 through 3A of chapter 276.

(b) Persons acting under color of state law shall not access ALPR data from other governmental or non-governmental entities except pursuant to a valid warrant issued pursuant to the requirements of sections 2 through 3A of chapter 276.

(c) Persons acting under color of state law authorized to obtain or access ALPR data under this chapter shall not sell, trade, or exchange such data for any purpose.

Section 3.

(a) Any entity that uses ALPR systems pursuant to section 2(a)(4) shall update those systems from the enumerated databases every 24 hours if such updates are available.

(b) An alert from an ALPR system used under section 2(a)(4) shall not constitute reasonable suspicion or probable cause to perform a traffic stop. If an ALPR system alerts on a plate, officers shall visually confirm that the plate number and state of origin match the alert before taking law enforcement action.

(c) ALPR data obtained for the purposes described under this chapter shall be automatically deleted within 14 days, and may be preserved beyond 14 days only pursuant to a valid warrant issued pursuant to the requirements of sections 2 through 3A of chapter 276.

Section 4.

Any entity that uses ALPR systems pursuant to section 2(a) shall:

(a) Adopt a policy governing use of the system, including data retention and deletion, and conspicuously post the policy on the entity's web site;

(b) Adopt a privacy policy to ensure that ALPR data is not shared in violation of this chapter or any other law and conspicuously post the privacy policy on the agency's web site; and

(c) Report annually its automatic license plate reader practices and usage to the state authority that governs the entity, and conspicuously post the report on the entity's web site. The report shall include:

(1) The number of license plates scanned;

(2) The number of license plate scans retained by the entity at the time of reporting;

(3) For law enforcement agencies operating ALPR systems pursuant to section 2(a)(4), the names of the lists against which captured plate data was checked, and for each list the number of confirmed matches;

(4) The number of warrants issued under sections (a) and (b) of section 2;

(5) The number of license plate scans the agency obtained or accessed from private ALPR operators and government entities outside Massachusetts pursuant to warrants or emergency requests;

(6) The number of warrants resulting in criminal charges, the particular offenses charged, and the number of such charges resulting in conviction;

(7) Any contracts or agreements regarding the purchase, rental, or licensing of any ALPR system from a private entity;

(8) Any contracts or agreements regarding access to captured plate data from a private entity; and

(9) Any changes in policy that affect privacy concerns.

Section 5.

ALPR data held by a person acting under color of state law shall be considered personal data under chapter 66A of the general laws. Such data may be disclosed only to, or with the prior written consent of, the person to whom the vehicle is registered; provided, however, that upon presentation to a state, county, or municipal law enforcement agency of a valid, current abuse prevention order under chapter 209A protecting the driver of a vehicle jointly registered with or registered solely in the name of the individual against whom the order was issued, the

law enforcement agency shall not disclose ALPR data regarding such vehicle except pursuant to a valid warrant issued pursuant to the requirements of sections 2 through 3A of chapter 276.

Section 6.

Any ALPR data captured or accessed in violation of Section 2 or improperly maintained in violation of Section 3(c) shall not be introduced by the commonwealth in any grand jury or criminal proceeding or in any civil or administrative proceeding brought by the commonwealth or any government office or official.

The commonwealth shall disclose to the defense in a criminal prosecution the existence and the contents of any captured plate data pursuant to the provisions of Rule 14(a)(1) of the Massachusetts Rules of Criminal Procedure. A criminal defendant shall be entitled to introduce evidence of ALPR data, however obtained and maintained, in his or her defense.

An individual whose rights have been violated by the improper capture, access, or maintenance of ALPR data may introduce evidence concerning such data in a civil action brought pursuant to section 8 or may grant permission to another party in a civil proceeding to introduce such evidence.

Section 7.

ALPR data derived from vehicles registered or operated within the commonwealth shall not be used by any person as the basis, in whole or in part, for any of the following:

- (a) to determine a person's numerical or other credit rating;

(b) to make any determination with respect to any secured or unsecured credit facility or loan, or any other form of financing, including any determination as to whether to extend such financing, the applicable interest rate or rate of return, or whether an event of default exists;

(c) to determine a person's insurance rate or rating with respect to any form of insurance, including any policy of life insurance, health insurance, automobile insurance or liability insurance;

(d) to make any determination with respect to hiring, dismissal, discharge, suspension, compensation or any other employment decision; or

(e) to identify targets of or to engage in any form of promotion, marketing, advertising or solicitation.

Section 8.

Any unauthorized use of ALPR systems or ALPR data, and any access to ALPR data provided by a non-governmental entity to a person acting under color of state law without a valid warrant issued pursuant to the requirements of sections 2 through 3A of chapter 276 shall be a violation of chapter 93A.

Any aggrieved person may institute a civil action in district or superior court for damages resulting from a violation of this chapter, or in superior court to restrain any such violation. If in any such action a willful violation is found to have occurred, the violator shall not be entitled to claim any privilege absolute or qualified, and he shall, in addition to any liability for such actual damages as may be shown, be liable for exemplary damages of not less than one hundred and not

128 more than one thousand dollars for each violation, together with costs and reasonable attorneys’
129 fees and disbursements incurred by the person bringing the action.