

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Automatic license plate readers-regulation.

Sponsored by: Select Committee on Blockchain, Financial
Technology and Digital Innovation Technology

A BILL

for

1 AN ACT relating to motor vehicles; prohibiting the use of
2 automatic license plate reader systems; providing
3 exceptions for specified governmental and private uses;
4 establishing requirements for license plate number lists
5 used by automatic license plate reader systems; specifying
6 retention and deletion requirements for captured license
7 plate data; providing vendor obligations; providing a civil
8 cause of action and attorney general enforcement authority;
9 amending the Wyoming Governmental Claims Act; providing
10 definitions; making conforming amendments; specifying
11 applicability; and providing for an effective date.

12

1 *Be It Enacted by the Legislature of the State of Wyoming:*

2

3 **Section 1.** W.S. 1-39-125 and 31-21-101 through 31-21-
4 602 are created to read:

5

6 **1-39-125. Liability; automatic license plate reader**
7 **systems.**

8

9 A governmental entity is liable for damages resulting from
10 a violation of 31-21-101 through 31-21-602.

11

12 CHAPTER 21

13 AUTOMATIC LICENSE PLATE READER SYSTEMS

14

15 ARTICLE 1

16 GENERAL PROVISIONS

17

18 **31-21-101. Definitions.**

19

20 (a) As used in this chapter:

21

22 (i) "Automatic license plate reader system" means
23 any hardware, equipment, device, camera, system, software

1 or computer algorithm, whether used independently or in
2 combination with one (1) or more fixed, mobile or portable
3 cameras, that is configured or used to capture images of
4 license plates and convert those images into computer-
5 readable data. "Automatic license plate reader system"
6 shall not include a video system equipped on a school bus
7 under W.S. 21-3-131(b)(x) or an automatic traffic
8 enforcement system;

9
10 (ii) "Automatic traffic enforcement system" means
11 a camera or other automated device used primarily to
12 detect, document or record a specific traffic violation or
13 port-of-entry violation. "Automatic traffic enforcement
14 system" shall include a red light camera, a speed camera, a
15 toll camera, a port-of-entry camera or other camera or
16 automated device used primarily to document or enforce a
17 specific traffic violation, tolling requirement or port-of-
18 entry violation. "Automatic traffic enforcement system"
19 shall not include a camera, device, system, software or
20 service that is used to identify, compare, index, search,
21 store, retain, analyze or disclose license plate
22 information for a purpose other than documenting or

1 enforcing a specific violation for which the camera or
2 device is used;

3
4 (iii) "Captured plate data" means the global
5 positioning device coordinates, date and time, photograph,
6 license plate number and any other data, metadata,
7 analysis, inference or derived product captured, created,
8 produced, inferred or derived by or from an automatic
9 license plate reader system;

10
11 (iv) "Governmental entity" means:

12
13 (A) The state and all political
14 subdivisions, agencies, instrumentalities and institutions
15 of the state;

16
17 (B) Any local governmental entity and all
18 agencies, instrumentalities and institutions of the local
19 governmental entity;

20
21 (C) Any law enforcement agency.
22

1 (v) "Hit" means a match, alert, notification or
2 other indication generated by an automatic license plate
3 reader system when captured plate data matches a license
4 plate number included in a hotlist;

5
6 (vi) "Hotlist" means a set, list or other
7 compilation of license plate numbers, including partial
8 license plate numbers, and any associated information
9 necessary to determine whether captured plate data matches
10 one (1) of those license plate numbers, against which
11 captured plate data is compared by an automatic license
12 plate reader system;

13
14 (vii) "Law enforcement agency" means a county,
15 municipal, college or university police force, Wyoming
16 highway patrol, the division of criminal investigation, the
17 department of corrections or any state or local agency or
18 political subdivision or part of an agency or political
19 subdivision to the extent that the primary purpose of the
20 agency or political subdivision, or part thereof, is the
21 prevention or investigation of crime or the enforcement of
22 penal, traffic or criminal laws;

23

1 (viii) "Motor vehicle" means as defined by W.S.
2 31-1-101(a) (xv);

3
4 (ix) "Parking facility" means a structure or area
5 used for parking motor vehicles that has controlled ingress
6 and egress, including through a gate, barrier, ticketing
7 system, access-control system or similar means. "Parking
8 facility" shall not include an open lot, open parking area
9 or other area used for parking motor vehicles that does not
10 have controlled ingress and egress;

11
12 (x) "Real time" means the automated comparison of
13 captured plate data against a hotlist immediately upon
14 capture and before any captured plate date is stored,
15 indexed, uploaded, retained or otherwise preserved, except
16 for the minimum processing necessary to complete the
17 comparison and delete non-hit captured plate data as
18 required by W.S. 31-21-205;

19
20 (xi) "Unrecoverable" means permanently destroyed
21 or deleted so that captured plate data cannot be restored,
22 reconstructed, accessed or retrieved by the governmental

1 entity, vendor or other person required to delete the
2 captured plate data;

3
4 (xii) "Vendor" means a person that contracts or
5 enters into an agreement with a governmental entity, or a
6 subcontractor, affiliate or agent of that person, to
7 provide, operate, maintain, host, store, process, delete,
8 audit or otherwise support an automatic license plate
9 reader system or captured plate data.

10
11 **31-21-102. Prohibition on automatic license plate**
12 **reader systems.**

13
14 Except as provided by W.S. 31-21-201 and 31-21-401, no
15 person, including a governmental entity, shall use an
16 automatic license plate reader system.

17
18 **31-21-103. Ownership of captured plate data.**

19
20 (a) Captured plate data collected by or on behalf of a
21 governmental entity shall remain under the legal custody
22 and control of the governmental entity, regardless of where
23 or by whom the captured plate data is hosted, stored,

1 processed or otherwise maintained and shall be used,
2 retained, accessed, disclosed, transferred or destroyed
3 only as authorized by this chapter.

4
5 (b) Any provision of a contract, agreement or other
6 instrument that purports to vest ownership, in whole or in
7 part, of captured plate data in a vendor or other person,
8 other than a governmental entity, shall be void and
9 unenforceable.

10
11 (c) No vendor shall acquire any ownership interest in
12 or independent right to use captured plate data. No vendor
13 shall use, retain, access, disclose, sell, transfer,
14 analyze or derive products from captured plate data except
15 as authorized by this chapter and as necessary to provide
16 services to the governmental entity under a contract or
17 agreement that complies with this chapter.

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19 *****
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21 **STAFF COMMENT**

22 **The Select Committee may wish to consider whether the bill**
23 **should regulate captured plate data through a custody and**
24 **control framework or a property rights framework. As**
25 **currently drafted, the bill draft uses a custody and**
26 **control framework by providing that captured plate data**
27 **collected by or on behalf of a governmental entity is held**

1 in the custody and control of that governmental entity.
2 This approach may accomplish the bill draft's vendor
3 control and data use objectives without declaring that the
4 governmental entity owns the underlying data, which could
5 create ambiguity if 27LSO-0140 Wyoming Personal Data
6 Ownership Act recognizes personal data as intangible
7 personal property owned by the individual data owner.

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11 ARTICLE 2

12 GOVERNMENTAL USE OF AUTOMATIC LICENSE PLATE READER SYSTEMS
13

14 31-21-201. Authorized governmental uses of automatic
15 license plate reader systems.
16

17 (a) Except as provided in subsection (b) of this
18 section, each law enforcement agency may use an automatic
19 license plate reader system only for the purpose of
20 comparing captured plate data in real time against a
21 hotlist established under W.S. 31-21-202.
22

23 (b) A governmental entity may use an automatic license
24 plate reader system for the sole purpose of enforcing
25 parking restrictions, payment requirements, time limits,
26 permit requirements or other parking rules applicable to a
27 in parking facility, on a public street, highway or right-

1 of-way or in any other area where parking is regulated. No
2 captured plate data under this subsection shall be compared
3 against any hotlist or used for any other purpose. All
4 captured plate data under this subsection shall be deleted
5 not later than twelve (12) hours after final disposition of
6 any parking violation, including any appeal process or, if
7 no parking citation is issued, not later than twelve (12)
8 hours after the data is captured.

9
10 (c) Each automatic license plate reader system used by
11 a governmental entity under this section shall be installed
12 and configured for the sole purpose of capturing and
13 checking license plates. No automatic license plate reader
14 system installed by a governmental entity shall be
15 configured or used to photograph, record video of or
16 produce images of occupants of motor vehicles or
17 intentionally capture, retain or produce images or video of
18 the make, model, color, markings, decals, damage or cargo
19 of a motor vehicle or any other motor vehicle
20 characteristics, except to the extent incidentally captured
21 in an image or video frame limited to the license plate and
22 the minimum portion of the motor vehicle necessary to
23 capture or verify the license plate number.

1

2 **31-21-202. Establishment of hotlist.**

3

4 (a) Each law enforcement agency may establish and
5 maintain a hotlist for use by automatic license plate
6 reader systems. Each hotlist used by a law enforcement
7 agency shall consist only of license plate numbers,
8 including partial license plate numbers, drawn from
9 databases maintained externally to the operating law
10 enforcement agency as specified in this subsection and
11 license plate numbers, including partial license plate
12 numbers, entered by the law enforcement agency pursuant to
13 a court order under W.S. 31-21-203 or under exigent
14 circumstances under W.S. 31-21-204. The externally
15 maintained databases authorized under this subsection shall
16 include:

17

18 (i) The national crime information center system;

19

20 (ii) The national motor vehicle title information
21 system;

22

(iii) Any state or federal database identifying
stolen motor vehicles or stolen license plates;

(iv) State motor vehicle registration records
held by the Wyoming department of transportation;

(v) Official state, regional or federal alert
systems used to disseminate emergency alerts concerning
missing or endangered persons, including alerts issued
through the integrated public alert and warning system.

STAFF COMMENT
The Select Committee may wish to consider whether the
databases authorized for use in a hotlist under this
subsection are sufficiently comprehensive. The Select
Committee may wish to consider whether any other state,
regional or federal databases should be expressly
authorized or whether the closed list is intended to limit
hotlist comparisons to only the databases identified in the
bill draft.

(b) Except as otherwise provided by W.S. 31-21-203 and
31-21-204, no law enforcement agency shall enter a license
plate number, including a partial license plate number into
a hotlist.

1

2 (c) Each law enforcement agency shall synchronize the
3 hotlist used by the law enforcement agency with the
4 externally maintained databases authorized under subsection
5 (a) of this section not less than once every twenty-four
6 (24) hours. A law enforcement agency with actual notice
7 that a missing person or endangered person alert has been
8 issued or canceled shall enter or remove the related
9 license plate number from the hotlist as soon as
10 practicable after receiving that notice and shall not wait
11 for the next required synchronization.

12

13 **31-21-203. Court orders for hotlist entries.**

14

15 (a) Upon application by a law enforcement agency, a
16 court may order a specific license plate number, including
17 a partial license plate number, to be entered into a
18 hotlist for a period specified in the order and for not
19 longer than necessary to accomplish the purpose of the
20 order, upon a showing by the law enforcement agency of
21 either:

22

1 (i) Probable cause to believe the motor vehicle
2 is connected to a criminal offense, including a criminal
3 offense arising from or involving a traffic violation, but
4 not including a traffic offense or violation that is
5 punishable only by a fine; or

6
7 (ii) Reasonable grounds to believe that entry
8 into the hotlist is necessary to locate a missing or
9 endangered person.

10
11 (b) If a law enforcement agency seeks entry of a
12 partial license plate number into a hotlist, the court
13 shall determine whether the partial license plate number is
14 sufficiently particular in light of the showing made by the
15 law enforcement agency under subsection (a) of this section
16 and the number of motor vehicles likely to produce a hit of
17 the partial license plate number. This subsection shall not
18 be construed to require a minimum number of characters that
19 shall be included in a partial license plate number.

20
21 (c) A court order under this section shall only
22 authorize a hit in the automatic license plate reader
23 system and shall not authorize retention of captured plate

1 data other than captured plate data associated with the
2 hit.

3
4 **31-21-204. Exigent circumstances for hotlist entries.**

5
6 (a) A law enforcement agency may enter a specific
7 license plate number, including a partial license plate
8 number, into a hotlist, without a court order, if exigent
9 circumstances exist and the entry is authorized by a
10 supervisory law enforcement officer designated by the chief
11 administrative officer of the law enforcement agency. The
12 supervisory authorization and factual basis for the exigent
13 circumstances shall be recorded contemporaneously with the
14 entry into the hotlist.

15
16 (b) An entry under subsection (a) of this section
17 shall expire automatically not later than XX hours after
18 the entry is made unless a court approves continued use of
19 the entry under subsection (c) of this section.

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STAFF COMMENT

1 The Select Committee will need to determine the number of
2 hours after which an entry made under exigent circumstances
3 automatically expires.

4 *****
5 *****
6

7 (c) A law enforcement agency that enters a license
8 plate number, including a partial license plate number,
9 into a hotlist under subsection (a) of this section shall
10 apply to a court for review of the entry as soon as
11 practicable but not later than XX hours after the entry is
12 made. The court shall approve or deny continued use of the
13 entry before the entry expires under subsection (b) of this
14 section. The court shall approve continued use of the entry
15 in the hotlist only if the court finds that exigent
16 circumstances existed at the time of the entry, that the
17 entry was authorized as required by subsection (a) of this
18 section and that the entry was sufficiently particular
19 based on the facts known to the law enforcement agency at
20 the time of the entry.

21
22 *****
23 *****

24 **STAFF COMMENT**

25 The Select Committee will need to determine the number of
26 hours after an exigent hotlist entry is made within which
27 the law enforcement agency must apply to a court for
28 approval of the continued use of the entry.

1 *****
2 *****
3

4 (d) If the court does not approve the continued use of
5 the entry in the hotlist, the law enforcement agency shall
6 immediately remove the license plate number, including any
7 partial license plate number, from the hotlist and delete
8 any captured plate data associated with a hit generated as
9 a result of the entry.

10

11 (e) Each law enforcement agency shall record each
12 entry made in a hotlist under this section, the supervisory
13 law enforcement officer who authorized the entry, the
14 factual basis for the exigent circumstances and the
15 disposition of the entry. Each law enforcement agency shall
16 report the information required under this subsection to
17 the attorney general in the manner and form prescribed by
18 the attorney general.

19

20 **31-21-205. Deletion of captured plate data for non-**
21 **hits.**

22

23 *****
24 *****

25

STAFF COMMENT

1 Captured plate data may fall under the definition of
2 "public record" under the Public Records Act. As a result,
3 before the captured plate data is deleted, a person may be
4 able to inspect the captured plate data under the Public
5 Records Act. The Select Committee may wish to consider
6 whether to amend the Public Records Act to allow a law
7 enforcement agency as the custodian of the public record to
8 deny the right of inspection to the captured plate data
9 similar to W.S. 16-4-203(b)(i) for records of
10 investigations or to require the denial of the right of
11 inspection under W.S. 16-4-203(d) for captured plate data.

12 *****
13 *****
14

15 (a) Except as otherwise provided in this chapter, no
16 governmental entity, or vendor acting on behalf of a
17 governmental entity, shall record, retain, store, index,
18 upload, transmit, disclose or otherwise preserve captured
19 plate data that does not result in a hit, except for the
20 minimum processing necessary to compare the captured plate
21 data against a hotlist in real time. The exception under
22 this subsection shall not authorize the captured plate data
23 to be copied, indexed, uploaded, stored in a database,
24 server, cloud-storage environment, searchable index, backup
25 system or other storage location or otherwise preserved
26 after the real-time comparison is complete. Each
27 governmental entity and any vendor acting on behalf of a
28 governmental entity shall delete captured plate data that
29 does not result in a hit from the automatic license plate

1 reader system not later than three (3) minutes after
2 capture in a manner that destroys the captured plate data
3 and renders the captured plate data unrecoverable.

4
5 (b) This section shall not apply to captured plate
6 data:

7
8 (i) Associated with a hit that is authorized to
9 be retained under W.S. 31-21-203, 31-21-204 or 31-21-206;

10
11 (ii) Collected under W.S. 31-21-201(b) for the
12 purpose of enforcing parking restrictions, which shall be
13 retained and deleted as provided in W.S. 31-21-201(b).

14
15 **31-21-206. Retention of captured plate data associated**
16 **with hits.**

17
18 *****
19 *****
20 **STAFF COMMENT**
21 **The Select Committee may wish to consider the circumstances**
22 **under which captured plate data associated with a hit may**
23 **be retained. As drafted, the bill distinguishes between**
24 **captured plate data that does not result in a hit, which**
25 **generally must be deleted and captured plate data**
26 **associated with a hit, which may be retained in specific**
27 **circumstances.**
28

1 The Select Committee may wish to consider whether retention
2 should be authorized only when a hit results in an arrest,
3 citation, protective custody or recovery of a missing or
4 endangered person or whether retention should also be
5 authorized when a hit provides information relevant to the
6 purpose for which a court-authorized or exigent hotlist
7 entry was established. As currently drafted, false alerts
8 and investigative leads that do not produce a specified
9 outcome would generally be subject to deletion. Under the
10 alternative approach, retention could be authorized when a
11 hit advances an ongoing investigation even if no immediate
12 enforcement action occurs.

13 *****
14 *****
15

16 (a) A governmental entity and any vendor acting on
17 behalf of a governmental entity may retain captured plate
18 data associated with a hit only if the hit:

19
20 (i) Results in an arrest, issuance of a citation
21 or protective custody;

22
23 (ii) Assists in locating a missing or endangered
24 person.

25
26 (b) Captured plate data retained under subsection (a)
27 of this section shall be retained only for the matter for
28 which the data was retained and only until final
29 disposition of that matter. For purposes of this
30 subsection, "final disposition" means the final disposition

1 of any criminal charge, citation, protective custody
2 matter, missing person matter or endangered person matter,
3 including any appeal, dismissal, cancellation, expiration
4 or other final resolution of the matter.

5
6 (c) Upon final disposition of the matter under
7 subsection (b) of this section, the governmental entity,
8 and any vendor acting on behalf of the governmental entity,
9 shall delete the captured plate data in a manner that
10 destroys the captured plate data and renders the captured
11 plate data unrecoverable.

12
13 (d) Captured plate data retained under this section
14 shall not be accessed, used, disclosed, transferred, shared
15 or analyzed for any purpose other than the matter for which
16 the data was retained. Any disclosure of captured plate
17 data to an agency of another state, a federal agency or a
18 nongovernmental entity shall comply with W.S. 31-21-207.

19
20 **31-21-207. Disclosure of captured plate data outside**
21 **Wyoming.**

1 (a) Except for access by a vendor as authorized by
2 W.S. 31-21-103(c), captured plate data collected in this
3 state shall not be shared, disclosed or made accessible to
4 any agency of another state, any federal agency or any
5 nongovernmental entity, except as required by federal law
6 or pursuant to an order issued under this section by a
7 court of competent jurisdiction in this state.

8
9 (b) The prohibition under subsection (a) of this
10 section shall apply to any governmental entity, vendor or
11 other person that possesses, maintains, stores, processes
12 or controls captured plate data collected in this state,
13 regardless of the physical location where the captured
14 plate data is maintained, stored or processed. For purposes
15 of this section, captured plate data is collected in this
16 state if the image or information from which the captured
17 plate data is created or derived is captured by an
18 automatic license plate reader system located in this
19 state.

20
21 (c) For purposes of this section, sharing, disclosing
22 or making captured plate data accessible shall include
23 transmitting or providing an alert, notification, hit

1 result, analysis, inference or other information created,
2 produced or derived from captured plate data.

3
4 (d) Any agency of another state, a federal agency or a
5 nongovernmental entity may apply to a court of competent
6 jurisdiction in this state for an order authorizing
7 disclosure of captured plate data. The applicant shall
8 provide written notice of the application to the
9 governmental entity that controls the captured plate data,
10 unless the court finds that notice is prohibited by law or
11 would create exigent circumstances. The court may issue an
12 order authorizing disclosure of captured plate data only
13 upon finding that:

14
15 (i) There is probable cause to believe that the
16 motor vehicle is connected to a criminal offense, including
17 a criminal offense arising from or involving a traffic
18 violation, but not including a traffic offense or violation
19 that is punishable only by a fine, and that the captured
20 plate data sought is relevant to the investigation or
21 offense; or

22

1 (ii) There are reasonable grounds to believe that
2 the captured plate data sought is necessary to locate a
3 missing or endangered person.

4

5 (e) An order issued under subsection (d) of this
6 section shall:

7

8 (i) Identify the captured plate data authorized
9 to be disclosed;

10

11 (ii) Identify each recipient to whom disclosure
12 is authorized;

13

14 (iii) State the purpose for which the captured
15 plate data may be used;

16

17 (iv) Specify the period during which the captured
18 plate data may be retained;

19

20 (v) Prohibit use or further disclosure of the
21 captured plate data, except as expressly authorized by the
22 order.

23

1 (f) The governmental entity that controls captured
2 plate data disclosed under this section shall individually
3 record each disclosure of captured plate data authorized
4 under this section. The record under this subsection shall
5 identify the captured plate data disclosed, the recipient
6 of the disclosure, the date and time of the disclosure, the
7 court order authorizing the disclosure and the person who
8 made or authorized the disclosure.

9
10 (g) A recipient of captured plate data disclosed under
11 this section shall use, retain and disclose the captured
12 plate data only as authorized by the court order and shall
13 delete the captured plate data upon expiration of the
14 retention period specified in the order in a manner that
15 destroys the captured plate data and renders the captured
16 plate data unrecoverable.

17
18 **31-21-208. Government acquisition of captured plate**
19 **data from nongovernmental entities.**

20
21 (a) No governmental entity shall obtain, receive,
22 purchase, access, use or request captured plate data held
23 by a nongovernmental entity, except pursuant to a warrant

1 issued by a court of competent jurisdiction under state or
2 federal law.

3
4 (b) Subsection (a) of this section shall not be
5 construed to prohibit a governmental entity from receiving
6 or using captured plate data provided directly by a federal
7 agency if the captured plate data was disclosed to the
8 federal agency in accordance with W.S. 31-21-207 or was
9 obtained by the federal agency pursuant to a federal
10 warrant, court order or other federal legal process
11 requiring disclosure.

12
13 ARTICLE 3

14 VENDOR USE OF AUTOMATIC LICENSE PLATE READER SYSTEMS

15
16 **31-21-301. Vendor obligations.**

17
18 (a) Each vendor that provides, operates, maintains,
19 hosts, stores, processes, deletes, audits or otherwise
20 supports an automatic license plate reader system or
21 captured plate data for a governmental entity shall comply
22 with this section. The requirements of this section apply
23 by operation of law regardless of whether the requirements

1 are expressly included in a contract or agreement entered
2 into by a vendor and a governmental entity.

3
4 (b) No vendor shall access an automatic license plate
5 reader system or captured plate data except to the extent
6 necessary to fulfill a specific maintenance, operational-
7 support, security, deletion, audit or quality-assurance
8 purpose authorized by the governmental entity for which the
9 vendor provides services.

10
11 (c) No vendor shall sell, lease, rent, disclose,
12 share, transfer or otherwise provide or allow access to
13 captured plate data to any person or entity except as
14 expressly authorized by this chapter and by the
15 governmental entity for which the vendor provides services.

16
17 (d) Each vendor shall provide and maintain technical
18 controls that prevent unauthorized access to, disclosure
19 of, sharing of or secondary transfer of captured plate
20 data, including access by any unauthorized person.

21
22 (e) Each vendor shall configure all settings relating
23 to disclosure, sharing, access or transfer of captured

1 plate data to prevent disclosure, sharing, access or
2 transfer except as expressly authorized by this chapter and
3 by the governmental entity for which the vendor provides
4 services.

5
6 (f) No vendor shall make any change to an automatic
7 license plate reader system, including any software update,
8 configuration change or permission change, that may alter
9 access, disclosure, sharing, transfer, retention or
10 deletion settings without the knowledge and express consent
11 of the governmental entity for which the vendor provides
12 services.

13
14 (g) Each vendor shall certify that the automatic
15 license plate reader system is technically capable of
16 deleting captured plate data within the time periods
17 required by this chapter and in a manner that destroys the
18 captured plate data and renders the captured plate data
19 unrecoverable by both the vendor and the governmental
20 entity.

21
22 *****

23 *****

24 **STAFF COMMENT**

1 The Select Committee may wish to consider whether the
2 deletion certification requirement in this subsection is
3 technically achievable for all automatic license plate
4 reader systems. The Select Committee may also wish to
5 consider whether the standard should require deletion in a
6 manner that renders captured plate data unrecoverable or
7 whether a different technical standard should apply.

8 *****

9 *****

10
11 (h) Each vendor shall immediately notify the
12 governmental entity for which the vendor provides services
13 upon receipt of any subpoena, search warrant, court order
14 or other legal process or request seeking captured plate
15 data, unless notification to the governmental entity is
16 prohibited by law.

17
18 (j) Each contract or agreement entered into between a
19 governmental entity and a vendor for the provision,
20 operation, maintenance, hosting, storage, processing,
21 deletion, auditing or support of an automatic license plate
22 reader system or captured plate data shall include the
23 requirements of this section. Any term or provision of a
24 contract, agreement or other instrument that conflicts with
25 this section shall be void and unenforceable to the extent
26 of the conflict.

1 (k) Nothing in this section shall authorize a vendor
2 to use, retain, access, disclose, sell, transfer, analyze
3 or derive products from captured plate data except as
4 authorized by this chapter and as necessary to provide
5 services to the governmental entity in compliance with this
6 section.

7
8 ARTICLE 4

9 PRIVATE USE OF AUTOMATIC LICENSE PLATE READER SYSTEMS

10
11 **31-21-401. Private use of automatic license plate**
12 **reader systems.**

13
14 (a) Any person, other than a governmental entity, may
15 use an automatic license plate reader system only:

16
17 (i) To control access to a private secured area
18 at defined access-control points; or

19
20 (ii) To control ingress and egress to a private
21 parking facility.

STAFF COMMENT

The Select Committee may wish to consider whether to amend the scope of the authorized private use of automatic license plate reader systems. As currently drafted, this subsection authorizes use only for access control at defined access-control points and for controlled ingress and egress to parking facilities but does not authorize use in open commercial parking lots or for generalized surveillance.

(b) Captured plate data collected under subsection (a) of this section shall:

(i) Be retained only as necessary for the purpose authorized under subsection (a) of this section;

(ii) Be deleted not later than sixty (60) days after capture;

STAFF COMMENT

The Select Committee may wish to consider whether the sixty (60) day retention period is necessary for the authorized private uses and whether any limited exception should apply for a specific security incident, payment dispute, trespass matter or other documented event, including whether captured plate data retained under the exception may be disclosed or used for law enforcement purposes to investigate or prosecute a crime.

(iii) Not be sold, traded, exchanged, licensed,
disclosed, shared, transferred or otherwise made accessible
to any person for any commercial purpose;

STAFF COMMENT

The Select Committee may wish to consider whether the
phrase "commercial purpose" should be defined or replaced
with more specific prohibited activities. As currently
drafted, "commercial purpose" may be interpreted broadly to
include ordinary private access-control, parking, billing,
security or account management functions or more narrowly
to prohibit only resale, licensing, marketing, profiling,
data aggregation or other monetization of captured plate
data.

(iv) Not be shared with, disclosed to or made
accessible to any governmental entity except pursuant to
W.S. 31-21-208.

(c) Nothing in this section shall authorize any person
to compare captured plate data against a hotlist or
otherwise use an automatic license plate reader system for
law enforcement purposes, except for a law enforcement

1 agency using an automatic license plate reader system as
2 authorized by W.S. 31-21-201(a).

4 ARTICLE 5

5 EVIDENTIARY AND INVESTIGATORY LIMITATIONS

7 **31-21-501. Positive match not reasonable suspicion.**

9 (a) A hit generated by an automatic license plate
10 reader system shall not, by itself, constitute reasonable
11 suspicion or probable cause to stop, detain or search a
12 person or motor vehicle.

14 (b) Before stopping, detaining or searching a person
15 or motor vehicle based, in whole or in part, on a hit
16 generated by an automatic license plate reader system, a
17 law enforcement officer shall:

19 (i) Visually confirm that the license plate
20 number displayed in the hit matches the license plate
21 number on the motor vehicle;

(ii) Confirm through the database, court order, agency record or other source supporting the hotlist entry that license plate number remains subject to a valid hotlist entry; and

(iii) Establish reasonable suspicion or probable cause, as required by law, independent of the hit alone.

STAFF COMMENT

The Select Committee may wish to consider whether W.S. 31-21-501 should specify the consequence for a stop, detention or search conducted without the required confirmation of a hit. As currently drafted, this section establishes a statutory standard requiring a law enforcement officer to visually confirm the license plate, confirm that the plate remains associated with a hotlist entry and establish reasonable suspicion or probable cause independent of the hit alone.

The Select Committee may wish to consider whether paragraph (b)(iii), standing alone, would be sufficient to permit a stop, detention or search under existing Fourth Amendment standards, and whether attaching an evidentiary, civil liability, or other statutory consequence to the failure to complete all three steps would conflict with or expand upon well-established Fourth Amendment case law. The Select Committee may wish to consider whether a violation of this section should affect admissibility of evidence, create civil liability, be addressed through other enforcement remedies in this chapter or be left to existing constitutional standards governing stops, detentions, and searches.

1 31-21-502. Inadmissibility.

2

3 Captured plate data obtained, retained, accessed, used,
4 disclosed, transferred, shared or analyzed in violation of
5 this chapter, and any evidence derived from that captured
6 plate data, shall be inadmissible as evidence in any civil
7 or criminal proceeding, except that the evidence may be
8 offered to prove a violation of this chapter or offered by
9 a defendant in a criminal proceeding.

10

```

1 *****
2 *****
3
4 STAFF COMMENT
5
6 The Select Committee may wish to consider whether this
7 inadmissibility remedy is necessary in addition to the
8 civil and enforcement remedies provided in this chapter.
9 The Select Committee may wish to consider whether the
10 remedy should be deleted, limited to criminal proceedings
11 or limited to specified violations involving unlawful
12 collection, acquisition, access or disclosure of captured
13 plate data.
14 *****
15 *****
16

```

25

ARTICLE 6

26

ENFORCEMENT AND REMEDIES

27

28 31-21-601. Private right of action.

29

1 (a) A person whose captured plate data is collected,
2 retained, accessed, used, disclosed, transferred, shared or
3 analyzed in violation of this chapter may bring a cause of
4 action against a person who violates this chapter for
5 damages, injunctive relief or both in a court of competent
6 jurisdiction.

7
8 (b) A violation of this chapter constitutes an injury
9 to the person whose captured plate data is collected,
10 retained, accessed, used, disclosed, transferred, shared or
11 analyzed in violation of this chapter. No person bringing
12 an action under this section shall be required to plead or
13 prove actual damages to recover statutory damages under
14 subsection (c) of this section.

15
16 *****
17 *****

18 **STAFF COMMENT**

19 **The Select Committee may wish to consider whether this**
20 **statutory-injury approach is appropriate for all violations**
21 **of the chapter or only for specified violations involving**
22 **collection, acquisition, access, disclosure or use of**
23 **captured plate data.**

24
25 **In addition, as currently drafted, a person whose captured**
26 **plate data is subject to a violation may bring a cause of**
27 **action and recover statutory damages without proving actual**
28 **damages. The Select Committee may wish to consider whether**
29 **this provision sufficiently identifies the injury necessary**
30 **to support a private cause of action and whether additional**

1 limitations are needed for technical or procedural
2 violations that do not involve misuse of a person's
3 captured plate data.

4 *****
5 *****
6

7 (c) A plaintiff prevailing in a cause of action filed
8 under this section may recover:

9
10 (i) Statutory damages of not more than one
11 thousand dollars (\$1,000.00) for each negligent violation
12 of this chapter affecting the plaintiff;

13
14 (ii) Statutory damages of not more than five
15 thousand dollars (\$5,000.00) for each reckless or
16 intentional violation of this chapter affecting the
17 plaintiff;

18
19 (iii) In lieu of statutory damages under
20 paragraphs (i) or (ii) of this subsection, actual damages
21 if the actual damages are greater than the statutory
22 damages available under this subsection;

23
24 (iv) In lieu of statutory damages under
25 paragraphs (i) or (ii) of this subsection, disgorgement of

1 the gross commercial value derived from the plaintiff's
2 captured plate data during the period of the violation, if
3 the plaintiff elects disgorgement and proves the amount
4 with reasonable certainty;

5 *****

6 *****

7 **STAFF COMMENT**

8 The Select Committee may wish to consider whether the
9 disgorgement remedy in this paragraph and 31-21-602(c)(v)
10 is administrable. As currently drafted, disgorgement is
11 based on gross commercial value derived from captured plate
12 data, but vendors may not track revenue or other
13 consideration in a manner that can be attributed to a
14 particular person's captured plate data. The Select
15 Committee may wish to consider whether additional standards
16 are needed for calculating commercial value.

17 *****

18 *****

19
20 (v) Injunctive relief, including an order
21 requiring captured plate data retained in violation of this
22 chapter to be deleted and rendered unrecoverable;

23
24 (vi) Reasonable attorney fees and costs.

25
26 (d) Upon written request by a plaintiff or order of
27 the court in an action under this section, a vendor or
28 person, other than a governmental entity, that derived
29 commercial value from captured plate data shall disclose
30 the revenue or other consideration or benefit derived from

1 the plaintiff's captured plate data during the period of
2 the alleged violation, subject to any protective order
3 entered by the court.

4
5 (e) Statutory damages under paragraphs (c)(i) and (ii)
6 of this section shall be assessed per person and per type
7 of violation and shall not be assessed per read, per image,
8 per query, per access, per processing event or per data
9 point. Liability for a single type of violation affecting a
10 single person shall not exceed the applicable per-person
11 amount specified under paragraph (c)(i) or (ii) of this
12 section, regardless of the number of individual acts,
13 omissions, reads, images, queries, accesses, processing
14 events or data points constituting that type of violation.
15 For purposes of this subsection, "type of violation" shall
16 mean each distinct duty imposed by this chapter that is
17 violated with respect to the person's captured plate data.
18 Multiple acts or omissions that violate the same duty with
19 respect to the same person's captured plate data shall
20 constitute one (1) type of violation of this chapter.

21

1 (f) An action under this section shall be brought not
2 later than four (4) years after the date the person knew or
3 reasonably should have known of the violation.

4

5 (g) Unless expressly provided for in this chapter, the
6 requirements of the Wyoming Governmental Claims Act shall
7 apply to the actions brought under this chapter.

8

9 **31-21-602. Attorney general enforcement.**

10

11 (a) The attorney general may bring a civil cause of
12 action in a court of competent jurisdiction to enforce this
13 chapter. The availability of a private action under W.S.
14 31-21-601 shall not limit the authority of the attorney
15 general under this section, and an action by the attorney
16 general shall not bar or otherwise limit a private action
17 under W.S. 31-21-601.

18

19 (b) In investigating a violation of this chapter, the
20 attorney general may issue a civil investigative demand,
21 subpoena records, require written responses under oath and
22 examine or audit any automatic license plate reader system,
23 device, server, database, software, record or technical

1 control relating to the collection, retention, access, use,
2 disclosure, transfer, sharing, analysis or deletion of
3 captured plate data by a governmental entity, vendor or
4 person, other than a governmental entity.

5
6 (c) In an action brought under this section, the court
7 may award:

8
9 (i) Injunctive relief, including an order
10 requiring the deletion of captured plate data retained in
11 violation of this chapter;

12
13 (ii) Civil penalties of not more than ten
14 thousand dollars (\$10,000.00) for each negligent violation
15 of this chapter affecting a Wyoming resident;

16
17 (iii) Civil penalties of not more than twenty-
18 five thousand dollars (\$25,000.00) for each reckless or
19 intentional violation of this chapter affecting a Wyoming
20 resident;

21
22 (iv) Civil penalties of not more than fifty
23 thousand dollars (\$50,000.00) for each day that a pattern

1 or practice of violations of this chapter continues after
2 the person receives written notice from the attorney
3 general identifying the pattern or practice and the
4 specific alleged violations;

5 *****
6 *****

7 **STAFF COMMENT**

8 The Select Committee may wish to consider whether to
9 specify how civil penalties are calculated when both per
10 resident penalties and daily penalties for ongoing patterns
11 or practice of violations may apply. As drafted, this
12 subsection authorizes both categories for civil penalties
13 but does not expressly state whether the remedies may be
14 combined, whether one is awarded in lieu of the other or
15 what factors the court should consider when selecting the
16 appropriate penalty.

17 *****
18 *****
19

20 (v) Disgorgement of the gross commercial value
21 derived from captured plate data obtained, retained,
22 accessed, used, disclosed, transferred, shared or analyzed
23 in violation of this chapter;

24
25 (vi) Reasonable attorney fees, costs and
26 investigative expenses.

27
28 (d) Civil penalties under paragraphs (c)(ii) and (iii)
29 of this section shall be assessed per affected Wyoming
30 resident and shall not be assessed per read, per image, per

1 query, per access, per processing event or per data point.
2 Liability for a single type of violation affecting a single
3 Wyoming resident shall not exceed the applicable per-
4 resident amount specified under paragraph (c)(ii) or (iii)
5 of this section, regardless of the number of individual
6 acts, omissions, reads, images, queries, accesses,
7 processing events or data points constituting that type of
8 violation. For purposes of this subsection, "type of
9 violation" shall mean each distinct duty imposed by this
10 chapter that is violated with respect to the affected
11 Wyoming resident's captured plate data. Multiple acts or
12 omissions that violate the same duty with respect to the
13 same affected Wyoming resident's captured plate data shall
14 constitute one (1) type of violation.

15

16 (e) The attorney general may bring a civil cause of
17 action under this section based on a pattern or practice of
18 violations affecting Wyoming residents collectively without
19 identifying each affected resident. In an action under this
20 subsection, the court may estimate the number of affected
21 Wyoming residents for purposes of calculating civil
22 penalties under paragraphs (c)(ii) and (iii) of this
23 section based on the evidence available.

1

2 (f) In addition to the remedies available under
3 subsection (c) of this section, if the court finds a
4 pattern or practice of reckless or intentional violations
5 of this chapter by a vendor, the court may prohibit the
6 vendor from contracting or entering into an agreement with
7 any governmental entity in this state for a period
8 determined by the court but not to exceed five (5) years.
9 The court may consider the following factors in determining
10 whether to issue a prohibition on a vendor under this
11 subsection:

12

13 (i) The severity of the violations of this
14 chapter;

15

16 (ii) The number of Wyoming residents affected;

17

18 (iii) The vendor's efforts to remediate the
19 violations, including how promptly the vendor began and
20 completed remediation after the vendor knew or reasonably
21 should have known of the violations;

22

(iv) The likelihood of future violations of this chapter.

(g) Remedies under this section shall be cumulative and shall not limit any other remedy available under this chapter or other law.

STAFF COMMENT

The Select Committee may wish to consider whether additional language is needed to coordinate attorney general enforcement actions with private actions under W.S. 31-21-601. As currently drafted, an attorney general action does not bar a private action and the availability of a private action does not limit attorney general authority. The Select Committee may wish to consider whether settlements, civil penalties, disgorgement or other monetary relief obtained in one action should offset or otherwise affect recovery in another action to avoid duplicative recovery.

Section 2. W.S. 1-39-103(a)(ix) and 1-39-104(a) are amended to read:

1-39-103. Definitions.

(a) As used in this act:

1 (ix) "This act" means W.S. 1-39-101 through ~~1-~~
2 ~~39-124~~ 1-39-125.

3
4 **1-39-104. Granting immunity from tort liability;**
5 **liability on contracts; exceptions.**

6
7 (a) A governmental entity and its public employees
8 while acting within the scope of duties are granted
9 immunity from liability for any tort except as provided by
10 W.S. 1-39-105 through 1-39-112 and 1-39-122 through ~~1-39-~~
11 ~~124~~ 1-39-125. Any immunity in actions based on a contract
12 entered into by a governmental entity is waived except to
13 the extent provided by the contract if the contract was
14 within the powers granted to the entity and was properly
15 executed and except as provided in W.S. 1-39-120(b). The
16 claims procedures of W.S. 1-39-113 apply to contractual
17 claims against governmental entities.

18
19 **Section 3.** Nothing in this act shall be construed to
20 modify, alter or impair any existing contracts or
21 obligations executed before July 1, 2027 regarding
22 automatic license plate reader systems, captured plate

1 data, hotlists, vendor services, data-hosting services or
2 other related services.

3

4 **Section 4.** This act is effective July 1, 2027.

5

6

(END)