

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1798.90.54 of the Civil Code is amended to read:

1798.90.54. (a) In addition to any other sanctions, penalties, or remedies provided by law, an individual who has been harmed by a violation of this title, including, but not limited to, unauthorized access or use of ALPR information or a breach of security of an ALPR system, may bring a civil action in any court of competent jurisdiction against a person who knowingly caused the harm.

(b) The court may award a combination of any one or more of the following:

(1) Actual-Treble the amount of actual damages, but not less than liquidated damages in the amount of two thousand five hundred dollars ~~(\$2,500)~~. (\$2,500) for each violation.

(2) Punitive damages upon proof of willful or reckless disregard of the law.

(3) Reasonable attorney's fees and other litigation costs reasonably incurred.

(4) Other preliminary and equitable relief as the court determines to be appropriate.

SEC. 2. Section 1798.90.56 is added to the Civil Code, to read:

1798.90.56. (a) Except as provided in subdivision (c), a public agency shall not use or store ALPR information for the following purposes:

(1) To profile or track the movements of individuals.

(2) To identify an individual's patterns of behavior, conduct, movement, or association.

(3) To predict an individual's prospective criminal conduct.



(b) Except as provided in subdivision (c), a public agency shall destroy ALPR information no later than 60 days from the date the ALPR information was obtained.

(c) (1) The section shall not apply under any of the following circumstances:

(A) When an individual is the subject of an active, ongoing criminal investigation.

(B) When a law enforcement officer has a reasonable suspicion to believe that an individual is in the process of committing, is about to commit, or has committed a criminal offense.

(C) When a public agency or a law enforcement officer believes, in good faith, that an emergency involving a danger of death or serious physical injury to any person may occur.

(2) Images, footage, or data retained for training purposes may be retained for a period longer than 60 days but shall be used only for the education and instruction of a law enforcement agency's employees in matters related to the mission of the law enforcement agency and for no other purpose.

SEC. 3. Section 1798.91.01 is added to the Civil Code, immediately following Section 1798.91, to read:

1798.91.01. (a) For purposes of this section:

(1) "ALPR information" means information or data collected through the use of an automated license plate recognition system, as defined in Section 1798.90.5.

(2) "Commercial purpose" means any purpose which has financial gain as a major objective.



(3) "Consumer behavior" means the study of individuals and the processes they use to select, secure, use, or dispose of products, service, experiences, or ideas to satisfy the needs and impacts that these processes have on the consumer and society.

(4) "Individual" means a natural person.

(5) "Opt out" means an individual's choice not to participate in an activity or to cease from involvement in an activity.

(6) "Person" means any natural person, sole proprietor, corporation, partnership, limited liability company, firm, or association.

(b) A person that conducts business in California, and that uses ALPR information for any commercial purpose, for the purpose of profiling or tracking the movements of individuals, or to identify consumer behavior shall do all of the following:

(1) Adopt a policy allowing individuals to opt out of that person's ALPR information storing program.

(2) Destroy all ALPR information of an individual within 30 days of receiving written notice of that individual's decision to opt out.

(3) Within 30 days of the date an individual's ALPR information was obtained, send a notification to the individual, either in writing or by electronic mail, containing the following information:

(A) The type of information being stored and the first date the information was obtained.

(B) How ALPR information is being used.

(C) How long the information will be stored.



(D) A copy of the opt out policy and instructions on how to opt out of the ALPR information program.

(c) In addition to any other sanctions, penalties, or remedies provided by law, an individual who has been harmed by the failure of a person to comply with the terms of this section may bring a civil action in any court of competent jurisdiction against that person.

(d) A court may award a combination of any one or more of the following:

(1) Treble the amount of actual damages, but not less than liquidated damages in the amount of two thousand five hundred dollars (\$2,500) for each violation.

(2) Punitive damages upon proof of willful or reckless disregard of the law.

(3) Reasonable attorney's fees and other litigation costs reasonably incurred.

(4) Other preliminary and equitable relief as the court determines to be appropriate.



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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Automated license plate recognition systems.

Existing law requires that a public agency, as defined, that operates an automated license plate recognition (ALPR) system maintain reasonable security procedures and safeguards and implement a usage and privacy policy and prohibits the sale, sharing, or transferring of ALPR information, except to another public agency and only as permitted by law. Existing law provides that an individual who has been harmed by a specified violation of law relating to ALPR systems and information may bring a civil action in any court of competent jurisdiction against a person who knowingly caused the harm and authorizes a court to award damages, including actual damages, but not less than liquidated damages in the amount of \$2,500.

This bill would prohibit a public agency from using or storing ALPR information for specified purposes, including to profile or track movements of individuals, and would require a public agency to destroy ALPR information no later than 60 days from



the date the information was obtained. The bill would include exceptions to the above prohibition and requirements, as provided, and would revise the amount of actual damages a court may award, as provided. The bill would also require a person, as defined, that conducts business in California, and that uses ALPR information for any commercial purpose, for the purpose of profiling or tracking the movements of individuals, or to identify consumer behavior to send a notice to consumers, to detail what kind of data is being collected and for how long, and to provide the consumer with an option to opt out of the program. The bill would authorize a person who has been harmed by the failure to comply with the above requirements to bring a civil action, as provided.

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

