

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: S.155 Name of Bill: An act relating to privacy protection

Agency/ Dept: DMV Author of Bill Review: Jordan Villa

Date of Bill Review: 5/12/2016 Related Bills and Key Players _____

Status of Bill: (check one): Upon Introduction As passed by 1st body As passed by both

Recommended Position:

Support Oppose Remain Neutral Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses.

This bill proposes a number of measures to enhance privacy protection and includes the following: to establish a private right of action for a person whose protected health care information is improperly disclosed; to establish regulations for the use of drones; to restrict the use of automated license plate recognition (ALPR) systems; and to protect the privacy of electronic communications.

2. Is there a need for this bill?

Yes. There is a need for updating statutory language on the use of ALPR systems specifically for use in Motor Carrier enforcement operations carried out by DMV. The bill also addresses the law enforcement use of drones which there no perceived need for drone use by DMV now or in the future. The bill also addresses when law enforcement can access portable electronic device information, and electronic communications, and service providers information during the course of a law enforcement investigation.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

The regulations on the use of drones by law enforcement agencies may have an impact on VTrans depending upon how a drone is utilized. This bill requires that all operators of ALPR systems be level II or level III law enforcement officers, and that data captured by the ALPR system be transferred to a central database. DMV would be permitted to maintain a repository for the collection of ALPR plate reads carried out by DMV Commercial Vehicle Enforcement Unit. DMV and DPS would be required to establish a review process to ensure that the data that is captured by ALPR systems is used for only its intended purposes and to submit extensive annual reports to House and Senate committees. DMV would need to provide a way for other law enforcement agencies to request data captured from the ALPR system and to track the approval or denials of such requests. The required reports would include: the number of ALPRs in use, readings taken per year, readings stored in ALPR database, and requests made for historical data and the number of warrants issued as a result of those requests. An amendment that occurred during the second reading in the house also requires a search warrant to look at data after seven days of plate being read through 18 months. This is a major issue for missing person cases when it's not known if there was a crime and commercial motor vehicles cases which are civil not criminal in nature. There is already a formal process for requesting the information when it's being used for legitimate law enforcement purposes.

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In addition, reporting to the Vermont Technology Center (VTC) would also be required. The reports to VTC would detail: the number of out-of-state requests for historical data and the amount of warrants issued from these requests, the number of hits generated by ALPR use and law enforcement actions resulting from hits, investigations and law enforcement actions to which active and historical data contributed, and the total fixed and variable costs associated with ALPR use as well as an estimate of costs per unit in use.

- 4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** DPS and all law enforcement entities would be hampered by the search warrant requirement as well as the extensive reporting requirements which would be difficult to meet for both DPS and DMV.
- 5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*

Law Enforcement Use of Drones

Municipal Law Enforcement Agencies – The regulations on the use of drones by law enforcement agencies restrict the use of drones and mandates annual reporting to the Department of Public Safety for every agency that deploys a drone in the previous 12 months. The reporting and record-keeping aspects may cause some agencies to oppose due to financial implications should they choose to use drones.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

General Public – This bill imposes limits on the data that may be collected using drones and ALPR systems. The ACLU will support the provisions of the bill requiring warrants for use of drones and in order to access ALPR data after the expiration of the 7-day period, as well as the restrictions on whom data may be collected by drones.

6.2 Who else is likely to oppose the proposal and why?

7. Rationale for recommendation:

The biggest aspect of this bill is the ability for CVE unit to access plate reads real time in the course of motor carrier enforcement operations. Current legislation is very onerous and prevents CVE Inspectors the ability to verify CMV plate reads for use in verifying hours of service violations and the like out to the 18 month period.

8. Specific modifications that would be needed to recommend support of this bill:

Increase the amount of time in which active and historical data may be accessed without requiring a warrant. Seven days is not sufficient and will inhibit law enforcement's ability to investigate crimes and commercial motor vehicle investigations.

9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?

No.

Secretary/Commissioner has reviewed this document: _____ **Date:** _____