

119TH CONGRESS
2D SESSION

S. _____

To prohibit the use of automatic license plate readers by the Federal Government without explicit statutory authorization, to withhold grants awarded by certain agencies from State and local governments that use automatic license plate readers, and to prohibit the use of Federal funds to purchase automatic license plate readers.

IN THE SENATE OF THE UNITED STATES

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prohibit the use of automatic license plate readers by the Federal Government without explicit statutory authorization, to withhold grants awarded by certain agencies from State and local governments that use automatic license plate readers, and to prohibit the use of Federal funds to purchase automatic license plate readers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ban Flock Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

1 (1) AUTOMATIC LICENSE PLATE READER.—The
2 term “automatic license plate reader” means a sys-
3 tem that—

4 (A) uses cameras, sensors, software, data-
5 bases, or a combination of technologies to cap-
6 ture, record, analyze, and store vehicle license
7 plate information;

8 (B) identifies, locates, and tracks a vehicle
9 through the license plate or other persistent vis-
10 ual identifier of the vehicle; or

11 (C) compares license plate numbers
12 against databases to generate alerts and create
13 records of vehicle activity.

14 (2) CAPTURED PLATE DATA.—The term “cap-
15 tured plate data” means—

16 (A) any plate number, image, date, time,
17 location, direction of travel, vehicle characteris-
18 tics, confidence score, associated photographs or
19 video, and any information derived from those
20 records; and

21 (B) data produced by or derived from fixed
22 cameras, mobile readers, police vehicles, trail-
23 ers, drones, tolling infrastructure, parking sys-
24 tems, private security networks, homeowners’

1 associations, commercial parking operators, and
2 data brokers.

3 (3) FEDERAL AGENCY.—The term “Federal
4 agency” has the meaning given the term “agency”
5 in section 551 of title 5, United States Code.

6 (4) FEDERAL FUNDS.—The term “Federal
7 funds” means amounts made available by the Fed-
8 eral Government through an appropriation, grant,
9 subgrant, contract, subcontract, cooperative agree-
10 ment, subaward, reimbursement, transfer, allocation,
11 or other form of Federal financial assistance, includ-
12 ing amounts provided through a pass-through entity.

13 (5) FEDERAL OFFICIAL.—The term “Federal
14 official” means any officer, employee, agent, con-
15 tractor, or subcontractor of the Federal Government.

16 (6) IN THE UNITED STATES.—The term “in the
17 United States” means all areas within the external
18 boundary of the United States, its territories and
19 possessions, including airports, ports of entry, and
20 border zones.

21 (7) STATE.—The term “State” means each of
22 the several States, the District of Columbia, the
23 Commonwealth of Puerto Rico, the United States
24 Virgin Islands, Guam, American Samoa, and the
25 Commonwealth of the Northern Mariana Islands.

1 **SEC. 3. PROHIBITION ON FEDERAL GOVERNMENT USE OF**
2 **AUTOMATIC LICENSE PLATE READERS.**

3 (a) IN GENERAL.—Except as provided in subsections
4 (b) and (c), the head of any Federal agency and any Fed-
5 eral official, in an official capacity, and any person acting
6 on behalf of the Federal Government may not acquire,
7 possess, access, or use in the United States—

8 (1) an automatic license plate reader; or

9 (2) captured plate data, including information
10 collected in any database, derived from an automatic
11 license plate reader operated by another entity.

12 (b) EXCEPTION.—The prohibition under subsection
13 (a) with respect to an automatic license plate reader and
14 captured plate data shall not apply to an activity explicitly
15 authorized by an Act of Congress that describes with par-
16 ticularity—

17 (1) the entities permitted to use the automatic
18 license plate reader or captured plate data, the spe-
19 cific type of automatic license plate reader or cap-
20 tured plate data authorized, the purposes for such
21 use, and a prohibition on any uses not permitted;

22 (2) standards for use and management of infor-
23 mation derived from the automatic license plate
24 reader or captured plate data, including sharing, ac-
25 cess, audit trails, and data retention of no more
26 than 48 hours;

1 (3) auditing requirements to ensure the accu-
2 racy of automatic license plate reader or captured
3 plate data technologies, standards for minimum ac-
4 curacy rates, and compliance with this Act;

5 (4) rigorous protections for due process, pri-
6 vacy, free speech and association, and racial, gender,
7 and religious equity; and

8 (5) mechanisms to compel compliance with the
9 provisions of the Act.

10 (c) TOLLING.—

11 (1) IN GENERAL.—The prohibition under sub-
12 section (a) with respect to an automatic license plate
13 reader and captured plate data shall not apply to an
14 automatic license plate reader or captured plate data
15 derived from an automatic license plate reader used
16 solely to assess, bill, collect, audit, dispute, or en-
17 force the payment of a toll.

18 (2) LIMITATION ON USE.—Captured plate data
19 collected by an automatic license plate reader to
20 which paragraph (1) applies—

21 (A) may be used only for the tolling pur-
22 pose for which the captured plate data were col-
23 lected; and

24 (B) may not be—

1 (i) compared against a law enforce-
2 ment hot list;

3 (ii) used for any civil or criminal law
4 enforcement or intelligence purpose;

5 (iii) use for the monitoring or recon-
6 struction of the movement of any person;

7 (iv) incorporated into, made search-
8 able through, or stored in a law enforce-
9 ment, commercial, or general-purpose auto-
10 matic license plate reader database; or

11 (v) sold, licensed, or used for adver-
12 tising, product development, or any other
13 unrelated commercial purpose.

14 (3) DISCLOSURE.—Captured plate data col-
15 lected by an automatic license plate reader to which
16 paragraph (1) applies may be disclosed only—

17 (A) to a vehicle owner or person respon-
18 sible for payment of a toll;

19 (B) to a contractor performing a tolling
20 function on behalf of a tolling operator and sub-
21 ject to the requirements of this subsection;

22 (C) to another tolling operator to the ex-
23 tent reasonably necessary to process or collect
24 the toll through an interoperable tolling system;

1 (D) pursuant to a warrant issued upon a
2 finding of probable cause that particularly de-
3 scribes a vehicle or license plate, the data
4 sought, and the period covered; or

5 (E) to a law enforcement agency if reason-
6 ably necessary to prevent an imminent danger
7 of death or serious bodily injury if—

8 (i) disclosure is documented and lim-
9 ited to the information necessary to ad-
10 dress the emergency; and

11 (ii) the requesting agency applies for
12 and obtains a warrant described in sub-
13 paragraph (D) within 14 days of request-
14 ing the data.

15 (4) RETENTION AND DELETION.—With respect
16 to captured plate data collected by an automatic li-
17 cense plate reader to which paragraph (1) applies—

18 (A) not later than 48 hours after a suc-
19 cessfully reconciled electronic toll payment has
20 been completed relating to the captured plate
21 data, the captured plate data shall be deleted;

22 (B) if the captured plate data is reason-
23 ably necessary for pay-by-plate billing, collection
24 of an unpaid toll, resolution of a disputed
25 charge, or an administrative or judicial pro-

1 ceeding, the captured plate data may be re-
2 tained until the matter is finally resolved and
3 for not more than 30 days thereafter;

4 (C) nothing in this paragraph shall be con-
5 strued to prohibit the retention of a financial or
6 accounting record required by law, provided
7 that any plate image, precise location informa-
8 tion, or other captured plate data not necessary
9 for that purpose is removed; and

10 (D) a contractor or other recipient of the
11 captured plate data shall delete the data ac-
12 cording to the same schedule that applies to the
13 tolling operator.

14 (5) SECURITY AND ACCOUNTABILITY.—A toll-
15 ing operator and any contractor with access to cap-
16 tured plate data collected by an automatic license
17 plate reader to which paragraph (1) applies shall—

18 (A) maintain reasonable administrative,
19 technical, and physical safeguards against un-
20 authorized access, use, or disclosure;

21 (B) maintain an audit log identifying each
22 access to or disclosure of captured plate data,
23 the person making the access or disclosure, its
24 date and purpose, and the legal authority sup-
25 porting it; and

1 (C) remain subject to the enforcement, au-
2 diting, reporting, and remedy provisions of this
3 Act.

4 (d) JUDICIAL INVESTIGATIONS AND PRO-
5 CEEDINGS.—

6 (1) ADMISSIBILITY.—Except in a judicial inves-
7 tigation or proceeding alleging a violation of this sec-
8 tion, information obtained in violation of this section
9 shall not be admissible as evidence introduced by the
10 Federal Government in any criminal, civil, adminis-
11 trative, or other investigation or proceeding.

12 (2) CAUSE OF ACTION.—

13 (A) IN GENERAL.—A violation of this sec-
14 tion shall constitute an injury to any individual
15 aggrieved by a violation of this Act.

16 (B) RIGHT TO SUE.—An individual de-
17 scribed in subparagraph (A) may institute pro-
18 ceedings against the Federal Government for an
19 allegation of a violation of this section by a
20 Federal agency or Federal official for the relief
21 described in subparagraph (D) in any court of
22 competent jurisdiction.

23 (C) ENFORCEMENT BY STATE ATTORNEYS
24 GENERAL.—The chief law enforcement officer
25 of a State, or any other State officer authorized

1 by law to bring actions on behalf of the resi-
2 dents of a State, may bring a civil action, as
3 parens patriae, on behalf of the residents of
4 that State in an appropriate district court of
5 the United States to enforce this Act, whenever
6 the chief law enforcement officer or other State
7 officer has reason to believe that the interests
8 of the residents of the State have been or are
9 being threatened or adversely affected by a vio-
10 lation of this Act.

11 (D) RELIEF.—In a civil action brought
12 under subparagraph (B) in which the plaintiff
13 prevails, the court may award—

14 (i) actual damages;
15 (ii) punitive damages;
16 (iii) reasonable attorneys' fees and
17 costs; and
18 (iv) any other relief, including injunc-
19 tive relief, that the court determines to be
20 appropriate.

21 (e) CIVIL PENALTIES.—Any Federal official who is
22 found to have violated this section may be subject to re-
23 training, suspension, termination, or any other penalty, as
24 determined in an appropriate tribunal, subject to applica-
25 ble due process requirements.

1 (f) RULES OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed—

3 (1) to prohibit the Director of the National In-
4 stitute of Standards and Technology from testing or
5 researching automatic license plate readers or other
6 similar technologies in commercial use; or

7 (2) to preempt or supersede any Federal, State,
8 or local law that imposes a more stringent limitation
9 than the limitations described in this section.

10 **SEC. 4. MORATORIUM ON STATE AND LOCAL GOVERNMENT**

11 **USE OF AUTOMATIC LICENSE PLATE READ-**
12 **ERS.**

13 Beginning on the first day of the first fiscal year be-
14 ginning after the date of the enactment of this Act, no
15 Federal financial assistance administered, awarded, allo-
16 cated, transferred, or otherwise made available by the De-
17 partment of Justice, the Department of Transportation,
18 the Department of Health and Human Services, the De-
19 partment of Housing and Urban Development, or the De-
20 partment of Homeland Security may be obligated, award-
21 ed, disbursed, or otherwise provided directly or indirectly,
22 to a State or unit of local government unless the State
23 or unit of local government has in effect a law or binding
24 policy that prohibits the use of automatic license plate
25 readers by its agencies, officials, employees, contractors,

1 and persons acting on its behalf to the same or greater
2 extent as the prohibition applying to the Federal Govern-
3 ment under section 3(a).

4 **SEC. 5. PROHIBITION ON USE OF FEDERAL FUNDS TO PUR-**
5 **CHASE AUTOMATED LICENSE PLATE READ-**
6 **ERS.**

7 (a) PROHIBITION.—Except as provided in subsections
8 (c) and (d), no Federal funds may be obligated or ex-
9 pended, directly or indirectly, to—

10 (1) purchase, acquire, lease, install, operate,
11 maintain, or upgrade an automatic license plate
12 reader;

13 (2) purchase, license, obtain, access, search, re-
14 tain, analyze, or disclose captured plate data or in-
15 formation derived from captured plate data;

16 (3) enter into, renew, or extend a contract, sub-
17 scription, data-sharing agreement, or other arrange-
18 ment for the use of an automatic license plate reader
19 or captured plate data; or

20 (4) reimburse or replace non-Federal funds
21 used for an activity described in paragraphs (1)
22 through (3).

23 (b) CONDITIONS ON AWARDS.—

24 (1) IN GENERAL.—The head of each Federal
25 agency providing an award with Federal funds shall

1 include the prohibition under subsection (a) in the
2 terms and conditions of the applicable award.

3 (2) PROHIBITION.—A recipient or subrecipient
4 of an award with Federal funds may not—

5 (A) treat an activity prohibited under sub-
6 section (a) as an allowable direct or indirect
7 cost; or

8 (B) evade the prohibition under subsection
9 (a) by—

10 (i) transferring Federal funds among
11 accounts;

12 (ii) using Federal funds to pay costs
13 that would otherwise have been paid with
14 non-Federal funds; or

15 (iii) directing another entity to con-
16 duct the prohibited activity on its behalf.

17 (c) EXCEPTION.—The prohibition under subsection
18 (a) shall not apply to an activity explicitly authorized pur-
19 suant to section 3(b).

20 (d) TOLLING EXCEPTION.—The prohibition under
21 subsection (a) shall not apply to an automatic license plate
22 reader or captured plate data used solely to assess, bill,
23 collect, audit, dispute, or enforce payment of a toll, subject
24 to the limitations and requirements of section 3(c).

25 (e) ENFORCEMENT.—

1 (1) IN GENERAL.—Federal funds used in viola-
2 tion of this section shall be treated as an unallow-
3 able cost and shall be repaid to the United States.

4 (2) SUSPENSION AND TERMINATION.—The
5 head of a Federal agency—

6 (A) may suspend or terminate the portion
7 of an award connected to a violation of sub-
8 section (a); and

9 (B) impose additional remedies otherwise
10 available under Federal law.

11 (3) CONSIDERATIONS.—Before imposing a rem-
12 edy under paragraph (2) for a violation of subsection
13 (a), the head of a Federal agency shall consider the
14 nature, circumstances, extent, and severity of the
15 violation, including whether—

16 (A) the recipient acted knowingly; and

17 (B) the violation was corrected promptly.

18 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to prohibit a State, political sub-
20 division, or other non-Federal entity from using non-Fed-
21 eral funds for an activity that is otherwise lawful under
22 this Act.