

As Introduced

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H. B. No. 1010

Representative Dean

Cosponsors: Representatives Ferguson, Teska, Gross, Rader, Mullins

To enact sections 5507.01, 5507.02, 5507.03,
5507.031, 5507.04, 5507.05, 5507.06, 5507.07,
and 5507.99 of the Revised Code to regulate the
use of automated license plate recognition
systems and mass surveillance technology and to
name this act the Ohio Freedom from Mass
Surveillance Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5507.01, 5507.02, 5507.03,
5507.031, 5507.04, 5507.05, 5507.06, 5507.07, and 5507.99 of the
Revised Code be enacted to read as follows:

Sec. 5507.01. As used in this chapter:

(A) "Automated license plate recognition system" means a
system of one or more mobile or fixed high-speed cameras,
sensors, or devices, combined with computer algorithms, that is
capable of converting images of license plates, vehicle
location, or other vehicle identification markers into computer-
readable data.

(B) "Captured surveillance data" means the data and
resulting metadata that is captured by, derived from, generated

by, or inferred from an automated license plate recognition 20
system or mass surveillance technology, including any images, 21
photographs, videos, location information, or other forms of 22
observation recording. 23

(C) "Government entity" means a state agency, public 24
institution, political subdivision, or any other organized body, 25
office, agency, institution, or entity established by the laws 26
of this state for the exercise of any function of government. 27

(D) "Law enforcement agency" means a government entity 28
that employs peace officers to perform law enforcement duties. 29

(E) "Mass surveillance technology" means any technology or 30
device designed primarily to monitor, record, capture, or 31
analyze the movements, activities, associations, or identifying 32
characteristics of an individual in public spaces, including 33
cameras, sensors, biometric identification systems, facial 34
recognition systems, and gait recognition systems. 35

"Mass surveillance technology" does not include a camera 36
that is used solely for monitoring a specific and defined area 37
for immediate security purposes provided the camera is not 38
integrated with an identification or recognition database or 39
analytics system. 40

(F) "Peace officer" has the same meaning as in section 41
109.71 of the Revised Code and also includes the superintendent 42
and troopers of the state highway patrol. 43

(G) "Private person" means an individual, corporation, 44
business trust, estate, trust, partnership, unincorporated 45
association, limited liability company, two or more of any of 46
the foregoing having a joint or common interest, or any other 47
legal or commercial entity. 48

"Private person" does not mean an individual who is 49
employed by or contracted with a government entity while the 50
individual is acting in an official capacity on behalf of a 51
government entity. 52

(H) "Traffic law photo-monitoring device" has the same 53
meaning as in section 4511.092 of the Revised Code. 54

Sec. 5507.02. The regulation of automated license plate 55
recognition systems, mass surveillance technology, and captured 56
surveillance data is a matter of general statewide concern that 57
requires statewide regulation. Accordingly, except as otherwise 58
authorized in the Revised Code, it is the intent of the general 59
assembly to create uniform laws that are applicable throughout 60
the state through Chapter 5507. of the Revised Code and to 61
preempt any local ordinance, resolution, or other law adopted to 62
regulate such automated license plate recognition systems, mass 63
surveillance technology, and captured surveillance data. 64

Sec. 5507.03. (A) No government entity shall do either of 65
the following unless otherwise authorized under this chapter: 66

(1) Purchase, lease, install, place, activate, operate, 67
maintain, or otherwise utilize any automated license plate 68
recognition system or mass surveillance technology; 69

(2) Collect, utilize, sell, transfer, or share any 70
captured surveillance data. 71

(B) No government entity shall enter into, renew, or 72
extend any agreement or contract with a private vendor, third 73
party, contractor, data broker, or other person for any of the 74
activities prohibited under division (A) of this section. 75

(C) No government entity shall access, search, receive, 76
accept, view, download, or otherwise obtain any captured 77

surveillance data from a data-sharing network, national 78
database, or other similar third party that stores and 79
disseminates such captured surveillance data unless either of 80
the following apply: 81

(1) The captured surveillance data is stored in and 82
obtained from a database that is required to be established and 83
maintained under either state or federal law; 84

(2) A private person transfers the captured surveillance 85
data to a law enforcement agency or other government entity as 86
authorized under section 5507.031 of the Revised Code. 87

(D) Any government entity that has purchased, leased, 88
installed, placed, activated, operated, maintained, or otherwise 89
utilized any automated license plate recognition system or mass 90
surveillance technology prior to the effective date of this 91
section shall cease utilizing the system or technology not later 92
than thirty days after the effective date of this section. 93

(E) A government entity shall permanently delete and 94
destroy any captured surveillance data in that entity's control 95
that is captured after the effective date of this section unless 96
either of the following apply: 97

(1) The captured surveillance data is relevant to an 98
ongoing investigation, trial, or litigation until it is 99
determined that such data is no longer necessary for that 100
purpose. 101

(2) The captured surveillance data is prohibited from 102
being deleted or destroyed by either federal law, state law, or 103
a court order. 104

(F) This section does not apply to any government entity 105
that is exempt under section 5507.05 of the Revised Code for the 106

limited purposes specified under that section. 107

Sec. 5507.031. (A) No private person shall do either of 108
the following unless otherwise authorized under this chapter: 109

(1) Sell any captured surveillance data; 110

(2) Transfer or share any captured surveillance data 111
unless the transfer or sharing is to one of the following: 112

(a) A law enforcement agency; 113

(b) A government entity or private person for use in a 114
legal proceeding if the private person that collected the 115
captured surveillance data is a party to such proceeding; 116

(c) The developer of the mass surveillance technology for 117
the purposes of troubleshooting or improving that technology; 118

(d) Another private person that is affiliated with or 119
related to the private person that collected the captured 120
surveillance data. 121

(B) This section does not apply to any private person that 122
is exempt under section 5507.05 of the Revised Code for the 123
limited purposes specified under that section. 124

Sec. 5507.04. (A) Beginning on the effective date of this 125
section, no person shall issue a citation, ticket, notice of 126
violation, summons, or complaint or assess any fine, fee, 127
penalty, or other monetary obligation to an individual if both 128
of the following apply: 129

(1) The issuance or assessment is based on captured 130
surveillance data. 131

(2) The captured surveillance data is inadmissible as 132
evidence under division (B) of this section. 133

(B) Beginning on the effective date of this section, 134
captured surveillance data is inadmissible as evidence in any 135
civil or criminal proceeding unless, subject to the Rules of 136
Evidence, one of the following apply: 137

(1) It was obtained pursuant to a valid search warrant 138
supported by probable cause. 139

(2) A private person transferred the captured surveillance 140
data to a law enforcement agency or other government entity as 141
authorized under section 5507.031 of the Revised Code. 142

(3) The captured surveillance data is exempt from sections 143
5507.03 and 5507.04 under section 5507.05 of the Revised Code. 144

(C) Any citation, ticket, notice of violation, summons, 145
complaint, fine, fee, penalty, or other monetary obligation 146
imposed in violation of this section is void ab initio. 147

Sec. 5507.05. Sections 5507.03 and 5507.04 of the Revised 148
Code do not apply to any of the following: 149

(A) (1) Except as provided in division (A) (2) of this 150
section, a law enforcement agency or law enforcement officer 151
operating a body-worn camera, a dashboard camera mounted in or 152
on a law enforcement vehicle or vessel, or a handheld camera 153
while the law enforcement officer is engaged in the performance 154
of the law enforcement officer's duties and any captured 155
surveillance data that originates from those cameras. 156

(2) Division (A) (1) of this section does not apply if the 157
camera is capable of automatically reading license plates, 158
integrates with an automated license plate recognition database 159
or analytics system, or the captured surveillance data is stored 160
for a period of time that is longer than required by the 161
applicable records retention law for that data. 162

(B) A law enforcement agency or a law enforcement officer 163
operating a camera or similar system, device, or technology 164
pursuant to a valid search warrant issued in accordance with 165
Chapter 2933. of the Revised Code. Any collected surveillance 166
data shall be limited to the scope of the search warrant. Such 167
data shall not be retained for more than ninety days after it is 168
collected unless it is relevant to an ongoing investigation, 169
trial, or litigation. 170

(C) (1) Except as provided in division (C) (2) of this 171
section, a person utilizing a camera installed on a school bus 172
for the sole purpose of recording violations of section 4511.75 173
of the Revised Code, or a substantially equivalent municipal 174
ordinance, and any captured surveillance data that originates 175
from the camera. 176

(2) Division (C) (1) of this section does not apply if the 177
camera is capable of automatically reading license plates, 178
integrates with an automated license plate recognition database 179
or analytics system, or the captured surveillance data is not 180
reviewed by a law enforcement officer in accordance with section 181
4511.751 of the Revised Code. 182

(D) (1) Except as provided in division (D) (2) of this 183
section, a traffic monitoring camera operated by the department 184
of transportation or a municipal traffic department and any 185
captured surveillance data that originates from the camera that 186
is used for real-time traffic management, incident detection, 187
and traveler information purposes. 188

(2) Division (D) (1) of this section does not apply if the 189
camera is capable of automatically reading license plates, 190
integrates with an automated license plate recognition database 191
or analytics system, or the captured surveillance data is stored 192

for a period of time that is longer than required by the 193
applicable records retention law for that data. 194

(E) (1) Except as provided in division (E) (2) of this 195
section, a camera or recording device operated at a detention 196
facility, jail, prison, courthouse, or other secure government 197
facility and any captured surveillance data that originates from 198
the camera or device for the purpose of monitoring the interior 199
or immediate exterior of such facility for security purposes. 200

(2) Division (E) (1) of this section does not apply if the 201
camera is capable of automatically reading license plates, 202
integrates with an automated license plate recognition database 203
or analytics system, or the captured surveillance data is stored 204
for a period of time that is longer than required by the 205
applicable records retention law for that data. 206

(F) The Ohio turnpike and infrastructure commission or a 207
toll project operator, as defined in section 5531.11 of the 208
Revised Code, operating a camera for toll collection on a 209
turnpike project, toll road, or toll bridge and any captured 210
surveillance data that originates from the camera if all of the 211
following apply: 212

(1) The camera and captured surveillance data are used 213
solely for the purpose of billing users of that toll road or 214
toll bridge by an electronic toll collection system or other 215
similar means; 216

(2) The camera and captured surveillance data comply with 217
the provisions specified in section 5531.148 or 5537.29 of the 218
Revised Code, as applicable; 219

(3) The camera and captured surveillance data are not 220
integrated with a law enforcement database or accessible to law 221

enforcement without a warrant. 222

(G) Traffic law photo-monitoring devices that are operated 223
in accordance with Chapter 4511. of the Revised Code or a 224
substantially equivalent municipal ordinance. 225

Sec. 5507.06. (A) An individual has and may commence a 226
civil cause of action against a person who utilized an automated 227
license plate recognition system or mass surveillance technology 228
after the effective date of this section if one of the following 229
apply: 230

(1) The individual's movements, activities, or vehicle 231
were monitored, recorded, captured, or analyzed by an automated 232
license plate recognition system or mass surveillance technology 233
in violation of division (A) of section 5507.03 or division (A) 234
of section 5507.031 of the Revised Code; 235

(2) The individual's captured surveillance data was 236
collected, utilized, sold, transferred, or shared in violation 237
of division (A) of section 5507.03 of the Revised Code; 238

(3) The individual's captured surveillance data was 239
accessed, searched, received, accepted, viewed, downloaded, or 240
otherwise obtained unlawfully in violation of division (C) of 241
section 5507.03 of the Revised Code; 242

(4) The individual was issued a citation, ticket, notice 243
of violation, summons, or complaint or was assessed a fine, fee, 244
penalty, or other monetary obligation in violation of section 245
5507.04 of the Revised Code. 246

(B) In any civil action brought under this section, a 247
prevailing plaintiff is entitled to reasonable attorney's fees, 248
the costs of bringing the civil action, and all of the 249
following, as applicable: 250

(1) An injunction or a temporary restraining order 251
prohibiting further use of the automated license plate 252
recognition system or mass surveillance technology or 253
destruction of all captured surveillance data; 254

(2) Compensatory damages for harm resulting from the 255
violation in one of the following forms: 256

(a) Damages in the amount of one thousand dollars for each 257
separate instance of a violation of division (A) of section 258
5507.03 of the Revised Code or in the amount of five thousand 259
dollars for each separate instance of a violation of division 260
(C) of section 5507.03 of the Revised Code; 261

(b) Three times the amount paid for any fine, fee, 262
penalty, or other monetary obligation assessed in violation of 263
division (A) of section 5507.04 of the Revised Code; 264

(c) Actual damages sustained as a result of the applicable 265
violation. 266

(3) Punitive damages for harm resulting from the 267
violation; 268

(4) Any other relief the court determines is just and 269
proper. 270

(C) Sovereign immunity, qualified immunity, or 271
governmental immunity are not defenses to any action brought 272
under this section. 273

(D) Any contractual provision, arbitration clause, choice 274
of law provision, or forum selection clause that purports to 275
limit, waive, or restrict the rights or remedies provided in 276
this section is void ab initio. 277

(E) A civil action may be commenced under this section by 278

an individual who has been harmed by a violation of section 279
5507.03, 5507.031, or 5507.04 of the Revised Code either alone 280
or as a party to a class action under Civil Rule 23. 281

Sec. 5507.07. (A) If the attorney general, by the attorney 282
general's own inquiries or investigation or as a result of 283
complaints, has reasonable cause to believe that any person has 284
engaged or is engaging in an act or practice that violates 285
section 5507.03, 5507.031, or 5507.04 of the Revised Code, the 286
attorney general may bring an action, with notice as required by 287
Civil Rule 65, to obtain a temporary restraining order, 288
preliminary injunction, or permanent injunction to restrain the 289
act or practice. 290

(B) If the attorney general shows by a preponderance of 291
the evidence that the person has violated or is violating 292
section 5507.03, 5507.031, or 5507.04 of the Revised Code, the 293
court may issue a temporary restraining order, preliminary 294
injunction, or permanent injunction to restrain and prevent the 295
act or practice. 296

(C) On motion of the attorney general, or on its own 297
motion, the court may impose a civil penalty of not more than 298
ten thousand dollars for each day of violation of a temporary 299
restraining order, preliminary injunction, or permanent 300
injunction issued under this division, if the person received 301
notice of the action. The civil penalties shall be paid as 302
provided in division (D) of this section. 303

(D) Civil penalties ordered pursuant to division (C) of 304
this section shall be paid to the treasurer of state to the 305
credit of the general revenue fund. 306

Sec. 5507.99. (A) Whoever knowingly violates division (A) 307

or (B) of section 5507.03 or division (A) of section 5507.031 of 308
the Revised Code is guilty of a misdemeanor of the first degree 309
on a first offense and a felony of the fifth degree on each 310
subsequent offense. 311

(B) Whoever knowingly violates division (C) of section 312
5507.03 of the Revised Code is guilty of a felony of the fourth 313
degree. 314

Section 2. This act shall be known as the Ohio Freedom 315
from Mass Surveillance Act. 316