



March 8, 2022

TO: Rep. Fred Patton, Chair, House Judiciary Committee
FROM: Emily Bradbury, Co-President of the Kansas Coalition for Open Government
Allison Mazzei, Co-President of the Kansas Coalition for Open Government
RE: Opponent Written Testimony, SB 434

Mr. Chairman, Members of the House Judiciary Committee:

On behalf of the Coalition for Open Government, formerly the Kansas Sunshine Coalition for Open Government, I oppose SB 434 not necessarily because it restricts public access to information collected by law enforcement through automated license plate readers, but because the bill does nothing whatsoever to regulate law enforcement's use of such information.

Under SB 434, every Kansan that drives would be subject to having their license plate information collected, even though the vast majority are not engaged in activity warranting investigation. Given that so much of the information collected would be irrelevant to any criminal or administrative proceeding, the Legislature should amend the bill to be in step with every other state that has weighed in on this issue by setting standards for when and how law enforcement is permitted to store and access the information. The Coalition believes it would be prudent for the Legislature to do so given that law enforcement officers are not immune from accessing electronic information for illegitimate purposes, a reality that further crystalized last week when a former Lawrence police officer was charged with 12 counts of unlawful acts concerning computers in addition to sexual assault and other crimes.¹

If SB 434 becomes law, Kansas would join at least 17 other states, including Colorado, Nebraska, and Oklahoma, that have enacted statutes governing law enforcement's collection of information via automated license plate readers.² Every single state restricts public access to such information. Although the Coalition believes a blanket privacy provision for such information is a bridge too far, a consensus of a large minority of states has enacted statutes providing otherwise. Thus, the Coalition is neutral on SB 434 to the extent that it would restrict public access to information collected by automated license plate readers.

But the bill is an obvious outlier when it comes to regulating law enforcement access to license plate reader information. For example, Colorado not only imposes a retention schedule for destruction of such information, but also requires law enforcement to articulate a specific investigative purpose before accessing automated license plate reader information. Oklahoma's law also contains provision limiting law enforcement's use, while Nebraska requires law enforcement to report annually how the license plate readers are used.

¹ See <https://www2.ljworld.com/news/public-safety/2022/mar/04/former-lawrence-police-officer-arrested-on-suspicion-of-rape/>

² See <https://www.ncsl.org/research/telecommunications-and-information-technology/state-statutes-regulating-the-use-of-automated-license-plate-readers-alpr-or-alpr-data.aspx>

To enhance public trust that the state will use the information it collects from such a wide swath of the public for only legitimate investigatory reasons, the Coalition urges the Committee to consider adding a retention schedule requiring destruction of the information after a reasonable period of time as well as reasonable limits on law enforcement's use of the collected data to SB 434. Thank you for your consideration.