

Senate Bill 639

Sponsored by Senator SHIELDS, Representative WILLIAMSON, Senator KNOPP, Representative HUFFMAN (at the request of ACLU)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Restricts use of motor vehicle registration plate surveillance cameras. Provides exceptions.

Exempts captured plate data from disclosure under public records law unless public interest requires disclosure.

A BILL FOR AN ACT

1
2 Relating to motor vehicle registration plate surveillance cameras; creating new provisions; and
3 amending ORS 192.501.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. Definitions. As used in sections 1 to 5 of this 2015 Act:

6 (1) **“Captured plate data” means the global positioning system coordinates, date and time,**
7 **photograph, motor vehicle registration plate number or any other data captured by or de-**
8 **derived from a motor vehicle registration plate surveillance camera.**

9 (2) **“Law enforcement agency” has the meaning given that term in ORS 181.010.**

10 (3) **“Motor vehicle registration plate surveillance camera” means a camera used to con-**
11 **vert images of motor vehicle registration plates into computer-readable data. “Motor vehicle**
12 **registration plate surveillance camera” does not include photo red light cameras described**
13 **under ORS 810.434 when used for enforcement of ORS 811.265 or photo radar units when used**
14 **for enforcement of ORS 811.111.**

15 (4) **“Public body” has the meaning given that term in ORS 174.109.**

16 (5) **“Secured area” means an area, enclosed by clear boundaries, to which access is lim-**
17 **ited or not open to the public and entry is obtainable only through specific access control**
18 **points.**

SECTION 2. Restrictions on use of motor vehicle registration plate surveillance cameras.

20 (1) **Except as provided in subsections (2), (3), (4) and (5) of this section, a public body may**
21 **not use a motor vehicle registration plate surveillance camera.**

22 (2) **A law enforcement agency may use a motor vehicle registration plate surveillance**
23 **camera to compare captured plate data with information described in subsection (7) of this**
24 **section for the purpose of:**

25 (a) **Enforcing parking or traffic violations;**

26 (b) **Identifying a vehicle that was used to facilitate the commission of a crime or used**
27 **to avoid apprehension for commission of a crime;**

28 (c) **Identifying a vehicle registered to an individual for whom there is an outstanding**
29 **misdemeanor or felony warrant; or**

30 (d) **Identifying a vehicle associated with a missing or endangered person.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(3) The Department of Transportation may:**

2 **(a) Use a motor vehicle registration plate surveillance camera for the purpose of regu-**
 3 **lating motor carriers as defined in ORS 825.005; and**

4 **(b) Use a motor vehicle registration plate surveillance camera, or obtain captured plate**
 5 **data from a private entity that has used a motor vehicle registration plate surveillance**
 6 **camera, for purposes of traffic research or analysis, subject to rules adopted by the depart-**
 7 **ment. The department shall adopt rules for the use of captured plate data under this para-**
 8 **graph that:**

9 **(A) Require the conversion of a motor vehicle registration plate number to a unique**
 10 **identifying number that cannot be associated with the vehicle's owner; and**

11 **(B) Restrict the captured plate data from being checked against data, including but not**
 12 **limited to data on motor vehicle ownership, that is stored in other databases.**

13 **(4) A public body may use a motor vehicle registration plate surveillance camera to**
 14 **control access to a secured area.**

15 **(5) A tollway operator may use a motor vehicle registration plate surveillance camera in**
 16 **order to collect a toll and any related penalties for failure to pay the toll.**

17 **(6) A public body or tollway operator that uses a motor vehicle registration plate sur-**
 18 **veillance camera may use the camera only for the sole purpose of recording and checking**
 19 **motor vehicle registration plates and may not use photographs or recordings of persons in**
 20 **or around the motor vehicle.**

21 **(7) A law enforcement agency authorized to use a motor vehicle registration plate sur-**
 22 **veillance camera under subsection (2) of this section may compare captured plate data only**
 23 **with information contained in:**

24 **(a) Records held by the Department of Transportation;**

25 **(b) The databases of the National Crime Information Center of the United States De-**
 26 **partment of Justice;**

27 **(c) The Law Enforcement Data System maintained by the Department of State Police or**
 28 **an equivalent system maintained by another state;**

29 **(d) The records of the Federal Bureau of Investigation related to kidnappings and missing**
 30 **persons;**

31 **(e) The missing persons clearinghouse established under ORS 181.505; and**

32 **(f) The databases of law enforcement agencies that identify vehicles used to facilitate the**
 33 **commission of a crime or to avoid apprehension for commission of a crime.**

34 **(8) If a tollway operator uses a motor vehicle registration plate surveillance camera as**
 35 **permitted under subsection (5) of this section, the tollway operator may not retain the cap-**
 36 **tured plate data longer than is necessary to collect a toll and any related penalties for failure**
 37 **to pay the toll.**

38 **(9) If the Department of Transportation uses a motor vehicle registration plate surveil-**
 39 **lance camera as permitted under subsection (3)(a) of this section, the department may not**
 40 **retain the captured plate data longer than is necessary to enforce the laws and rules related**
 41 **to motor carriers.**

42 **(10) If the Department of Transportation uses a motor vehicle registration plate sur-**
 43 **veillance camera for traffic research or analysis as permitted under subsection (3)(b) of this**
 44 **section, or obtains captured plate data as permitted under subsection (3)(b) of this section,**
 45 **the department may retain the converted data as long as the department complies with the**

1 provisions of subsection (3)(b) of this section.

2 (11) As used in this section, “toll” and “tollway operator” have the meanings given those
3 terms in ORS 383.003.

4 **SECTION 3. Uses of captured plate data.** (1) A public body that uses a motor vehicle
5 registration plate surveillance camera to control access to a secured area shall destroy the
6 captured plate data and any backup or copies of the data within 24 hours after the time of
7 data capture.

8 (2) Except as provided in subsection (3) of this section, a law enforcement agency that
9 uses a motor vehicle registration plate surveillance camera as permitted under section 2 (2)
10 of this 2015 Act shall destroy the captured plate data and any backup or copies of the data
11 within 24 hours after the time of data capture, except for data:

12 (a) Retained pursuant to a court order issued upon the law enforcement agency’s request
13 to retain the captured plate data based on a showing of reasonable suspicion that the data
14 is relevant and material to an ongoing criminal investigation. The order must specify:

15 (A) The camera or cameras from which the captured plate data was obtained;

16 (B) The motor vehicle registration plate identified in the captured plate data;

17 (C) The date and time, or dates and times, of data capture; and

18 (D) That the captured plate data may not be retained for a period exceeding 30 days, be-
19 ginning on the date of issuance of the court order;

20 (b) That matches information in any of the information sources listed in section 2 (7)(b),
21 (c), (d), (e) or (f) of this 2015 Act, when the matched data is needed as part of an ongoing
22 criminal investigation concerning or associated with the vehicle for which comparison of
23 captured plate data was performed; or

24 (c) Retained by the Department of Transportation after receiving the data from another
25 entity for the purpose of enforcing laws and rules related to motor carriers.

26 (3) Upon application by a law enforcement agency, the court may grant an extension of
27 time to retain captured plate data. Each extension granted under this subsection may not
28 exceed 30 days from the date the extension is granted.

29 (4) Captured plate data, and any backup or copies of the data, retained under subsection
30 (2) of this section must be destroyed at the earlier of:

31 (a) The expiration of a court order obtained under subsection (2)(a) or (3) of this section;

32 (b) When the matched data that is retained pursuant to subsection (2)(b) of this section
33 is no longer needed as part of an ongoing criminal investigation concerning or associated
34 with the vehicle for which comparison of captured plate data was performed;

35 (c) The resolution of criminal charges through state and federal appellate and post-
36 conviction review of any criminal proceeding undertaken in a matter involving the captured
37 plate data; or

38 (d) The conclusion of any administrative proceeding undertaken in a matter involving the
39 captured plate data.

40 (5) A law enforcement agency that uses a motor vehicle registration plate surveillance
41 camera pursuant to section 2 of this 2015 Act shall update the information sources listed in
42 section 2 (7) of this 2015 Act every 24 hours if updates are available from the entities that
43 administer the databases.

44 (6) A public body that uses a motor vehicle registration plate surveillance camera pur-
45 suant to section 2 of this 2015 Act may not sell captured plate data and may not share, ex-

1 change, buy or otherwise obtain captured plate data for any purpose, except that:

2 (a) The public body may share or exchange captured plate data with another public body
3 if both public bodies comply with the retention requirements under this section and section
4 2 of this 2015 Act;

5 (b) The public body may obtain captured plate data from any person if the public body is
6 authorized to do so pursuant to a warrant issued under ORS 133.525 to 133.703;

7 (c) The Department of Transportation and a tollway operator may share, exchange or
8 otherwise obtain captured plate data with or from each other if both the department and the
9 tollway operator comply with the retention requirements under this section and section 2
10 of this 2015 Act. As used in this paragraph, "tollway operator" has the meaning given that
11 term in ORS 383.003; or

12 (d) The Department of Transportation may obtain captured plate data as provided in
13 section 2 (10) of this 2015 Act for traffic research or analysis.

14 (7) Notwithstanding subsection (2)(a)(D) or (3) of this section, and upon a showing that
15 an exceptional circumstance requires it, a court may grant a law enforcement agency an
16 initial or extension period that exceeds 30 days to retain captured plate data.

17 (8) For the purposes of this section, "copies" does not include police reports.

18 **SECTION 4. Reporting.** (1) A public body that uses motor vehicle registration plate sur-
19 veillance cameras shall:

20 (a) Adopt a policy governing use of the cameras and post the policy on the public body's
21 website;

22 (b) Adopt a privacy policy to ensure that captured plate data is not shared in violation
23 of section 2 or 3 of this 2015 Act or any other law and post the privacy policy on the public
24 body's website; and

25 (c) Post a report annually, on the public body's website, regarding the public body's
26 practices relating to, and its use of, motor vehicle registration plate surveillance cameras.
27 The report must include:

28 (A) The number of motor vehicle registration plates in the captured plate data received
29 by the public body in the previous year and the number of motor vehicle registration plates
30 that the public body checked against information sources listed in section 2 (7) of this 2015
31 Act;

32 (B) The names of the information sources used by the public body, the number of
33 matches confirmed and the number of checks that did not produce a match or could not be
34 confirmed; and

35 (C) Any policy changes adopted by the public body that relate to use of motor vehicle
36 registration plate surveillance cameras.

37 (2) In addition to complying with the requirements of subsection (1) of this section, a law
38 enforcement agency shall include in the report posted annually on the agency's website the
39 number of requests for retention made by the law enforcement agency under section 3 (2)
40 of this 2015 Act and the number of court orders issued pursuant to the requests.

41 (3) Subsection (1)(c) of this section does not apply to the Department of Transportation
42 when the department obtains captured plate data for the sole purpose of traffic research or
43 analysis or of enforcing laws and rules related to motor carriers.

44 **SECTION 5. Use of captured plate data in criminal or civil proceeding.** (1) Captured plate
45 data or evidence derived from captured plate data is not admissible in and may not be dis-

1 closed in any criminal, civil, arbitration or administrative proceeding and may not be used
 2 to establish reasonable suspicion or probable cause to believe that an offense has been com-
 3 mitted, if a public body obtained or retained the data in violation of section 2 or 3 of this 2015
 4 Act.

5 (2) Captured plate data or evidence derived from captured plate data that is obtained or
 6 retained pursuant to section 2 or 3 of this 2015 Act is not admissible as evidence in any trial,
 7 hearing or other proceeding unless, at least 10 days before the trial, hearing or proceeding,
 8 each party has been provided with a copy of the captured plate data or evidence derived from
 9 captured plate data. The 10-day requirement may be waived by the court if the court finds
 10 that it was not possible to provide a party with the captured plate data or evidence derived
 11 from captured plate data within the required time period and that the party is not prejudiced
 12 by the delay.

13 **SECTION 6.** ORS 192.501, as amended by section 1, chapter 37, Oregon Laws 2014, and section
 14 1, chapter 64, Oregon Laws 2014, is amended to read:

15 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
 16 unless the public interest requires disclosure in the particular instance:

17 (1) Records of a public body pertaining to litigation to which the public body is a party if the
 18 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
 19 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
 20 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
 21 or deposition statutes to a party to litigation or potential litigation.

22 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
 23 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or
 24 compilation of information which is not patented, which is known only to certain individuals within
 25 an organization and which is used in a business it conducts, having actual or potential commercial
 26 value, and which gives its user an opportunity to obtain a business advantage over competitors who
 27 do not know or use it.

28 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
 29 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
 30 disclosure in the course of a specific investigation, including the need to protect the complaining
 31 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
 32 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
 33 record of an arrest or the report of a crime includes, but is not limited to:

34 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
 35 ographical information;

36 (b) The offense with which the arrested person is charged;

37 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

38 (d) The identity of and biographical information concerning both complaining party and victim;

39 (e) The identity of the investigating and arresting agency and the length of the investigation;

40 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

41 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
 42 from justice.

43 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
 44 employment, academic or other examination or testing procedure before the examination is given
 45 and if the examination is to be used again. Records establishing procedures for and instructing

1 persons administering, grading or evaluating an examination or testing procedure are included in
2 this exemption, to the extent that disclosure would create a risk that the result might be affected.

3 (5) Information consisting of production records, sale or purchase records or catch records, or
4 similar business records of a private concern or enterprise, required by law to be submitted to or
5 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
6 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
7 that such information is in a form which would permit identification of the individual concern or
8 enterprise. This exemption does not include records submitted by long term care facilities as defined
9 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
10 tient care. Nothing in this subsection shall limit the use which can be made of such information for
11 regulatory purposes or its admissibility in any enforcement proceeding.

12 (6) Information relating to the appraisal of real estate prior to its acquisition.

13 (7) The names and signatures of employees who sign authorization cards or petitions for the
14 purpose of requesting representation or decertification elections.

15 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
16 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
17 ORS 659A.850.

18 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
19 663.180.

20 (10) Records, reports and other information received or compiled by the Director of the De-
21 partment of Consumer and Business Services under ORS 697.732.

22 (11) Information concerning the location of archaeological sites or objects as those terms are
23 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
24 the need for the information is related to that Indian tribe's cultural or religious activities. This
25 exemption does not include information relating to a site that is all or part of an existing, commonly
26 known and publicized tourist facility or attraction.

27 (12) A personnel discipline action, or materials or documents supporting that action.

28 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
29 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
30 cies.

31 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
32 connection with research, until publicly released, copyrighted or patented.

33 (15) Computer programs developed or purchased by or for any public body for its own use. As
34 used in this subsection, "computer program" means a series of instructions or statements which
35 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
36 manipulation of data from such computer system, and any associated documentation and source
37 material that explain how to operate the computer program. "Computer program" does not include:

38 (a) The original data, including but not limited to numbers, text, voice, graphics and images;

39 (b) Analyses, compilations and other manipulated forms of the original data produced by use of
40 the program; or

41 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
42 the original data were to be produced manually.

43 (16) Data and information provided by participants to mediation under ORS 36.256.

44 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
45 until a final administrative determination is made or, if a citation is issued, until an employer re-

1 ceives notice of any citation.

2 (18) Specific operational plans in connection with an anticipated threat to individual or public
3 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
4 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
5 law enforcement activity.

6 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
7 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
8 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
9 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
10 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
11 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
12 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
13 audit of a cost study that would be discoverable in a contested case proceeding and that is not
14 subject to a protective order; and

15 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
16 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
17 with a telecommunications carrier, as defined in ORS 133.721.

18 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
19 247.967.

20 (21) The following records, communications and information submitted to a housing authority
21 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
22 for and recipients of loans, grants and tax credits:

23 (a) Personal and corporate financial statements and information, including tax returns;

24 (b) Credit reports;

25 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
26 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
27 of as part of the project, but only after the transactions have closed and are concluded;

28 (d) Market studies and analyses;

29 (e) Articles of incorporation, partnership agreements and operating agreements;

30 (f) Commitment letters;

31 (g) Project pro forma statements;

32 (h) Project cost certifications and cost data;

33 (i) Audits;

34 (j) Project tenant correspondence requested to be confidential;

35 (k) Tenant files relating to certification; and

36 (L) Housing assistance payment requests.

37 (22) Records or information that, if disclosed, would allow a person to:

38 (a) Gain unauthorized access to buildings or other property;

39 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
40 disruption to, or interference with, services; or

41 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
42 cessing, communication or telecommunication systems, including the information contained in the
43 systems, that are used or operated by a public body.

44 (23) Records or information that would reveal or otherwise identify security measures, or
45 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to

1 protect:

2 (a) An individual;

3 (b) Buildings or other property;

4 (c) Information processing, communication or telecommunication systems, including the infor-
5 mation contained in the systems; or

6 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
7 evaluation under ORS 461.180 (6).

8 (24) Personal information held by or under the direction of officials of the Oregon Health and
9 Science University, a public university listed in ORS 352.002 or the Oregon University System about
10 a person who has or who is interested in donating money or property to the Oregon Health and
11 Science University, the system or a public university, if the information is related to the family of
12 the person, personal assets of the person or is incidental information not related to the donation.

13 (25) The home address, professional address and telephone number of a person who has or who
14 is interested in donating money or property to the Oregon University System or a public university
15 listed in ORS 352.002.

16 (26) Records of the name and address of a person who files a report with or pays an assessment
17 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
18 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

19 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
20 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment
21 card expiration date, password, financial institution account number and financial institution routing
22 number.

23 (28) Social Security numbers as provided in ORS 107.840.

24 (29) The electronic mail address of a student who attends a public university listed in ORS
25 352.002 or Oregon Health and Science University.

26 (30) The name, home address, professional address or location of a person that is engaged in,
27 or that provides goods or services for, medical research at Oregon Health and Science University
28 that is conducted using animals other than rodents. This subsection does not apply to Oregon Health
29 and Science University press releases, websites or other publications circulated to the general pub-
30 lic.

31 (31) If requested by a public safety officer, as defined in ORS 181.610:

32 (a) The home address and home telephone number of the public safety officer contained in the
33 voter registration records for the public safety officer.

34 (b) The home address and home telephone number of the public safety officer contained in re-
35 cords of the Department of Public Safety Standards and Training.

36 (c) The name of the public safety officer contained in county real property assessment or taxa-
37 tion records. This exemption:

38 (A) Applies only to the name of the public safety officer and any other owner of the property
39 in connection with a specific property identified by the officer in a request for exemption from dis-
40 closure;

41 (B) Applies only to records that may be made immediately available to the public upon request
42 in person, by telephone or using the Internet;

43 (C) Applies until the public safety officer requests termination of the exemption;

44 (D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for
45 governmental purposes; and

1 (E) May not result in liability for the county if the name of the public safety officer is disclosed
2 after a request for exemption from disclosure is made under this subsection.

3 (32) Unless the public records request is made by a financial institution, as defined in ORS
4 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage
5 broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records de-
6 scribed in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought
7 by an individual described in paragraph (b) of this subsection using the procedure described in par-
8 agraph (c) of this subsection:

9 (a) The home address, home or cellular telephone number or personal electronic mail address
10 contained in the records of any public body that has received the request that is set forth in:

11 (A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction,
12 substitution of trustee, easement, dog license, marriage license or military discharge record that is
13 in the possession of the county clerk; or

14 (B) Any public record of a public body other than the county clerk.

15 (b) The individual claiming the exemption from disclosure must be a district attorney, a deputy
16 district attorney, the Attorney General or an assistant attorney general, the United States Attorney
17 for the District of Oregon or an assistant United States attorney for the District of Oregon, a city
18 attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages
19 in the prosecution of criminal matters.

20 (c) The individual claiming the exemption from disclosure must do so by filing the claim in
21 writing with the public body for which the exemption from disclosure is being claimed on a form
22 prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall
23 list the public records in the possession of the public body to which the exemption applies. The ex-
24 emption applies until the individual claiming the exemption requests termination of the exemption
25 or ceases to qualify for the exemption.

26 (33) The following voluntary conservation agreements and reports:

27 (a) Land management plans required for voluntary stewardship agreements entered into under
28 ORS 541.423; and

29 (b) Written agreements relating to the conservation of greater sage grouse entered into volun-
30 tarily by owners or occupiers of land with a soil and water conservation district under ORS 568.550.

31 (34) Sensitive business records or financial or commercial information of the State Accident In-
32 surance Fund Corporation that is not customarily provided to business competitors. This exemption
33 does not:

34 (a) Apply to the formulas for determining dividends to be paid to employers insured by the State
35 Accident Insurance Fund Corporation;

36 (b) Apply to contracts for advertising, public relations or lobbying services or to documents re-
37 lated to the formation of such contracts;

38 (c) Apply to group insurance contracts or to documents relating to the formation of such con-
39 tracts, except that employer account records shall remain exempt from disclosure as provided in
40 ORS 192.502 (35); or

41 (d) Provide the basis for opposing the discovery of documents in litigation pursuant to the ap-
42 plicable rules of civil procedure.

43 (35) Records of the Department of Public Safety Standards and Training relating to investi-
44 gations conducted under ORS 181.662 or 181.878 (6), until the department issues the report described
45 in ORS 181.662 or 181.878.

1 (36) A medical examiner's report, autopsy report or laboratory test report ordered by a medical
2 examiner under ORS 146.117.

3 (37) Any document or other information related to an audit of a public body, as defined in ORS
4 174.109, that is in the custody of an auditor or audit organization operating under nationally re-
5 cognized government auditing standards, until the auditor or audit organization issues a final audit
6 report in accordance with those standards or the audit is abandoned. This exemption does not pro-
7 hibit disclosure of a draft audit report that is provided to the audited entity for the entity's response
8 to the audit findings.

9 (38)(a) Personally identifiable information collected as part of an electronic fare collection sys-
10 tem of a mass transit system.

11 (b) The exemption from disclosure in paragraph (a) of this subsection does not apply to public
12 records that have attributes of anonymity that are sufficient, or that are aggregated into groupings
13 that are broad enough, to ensure that persons cannot be identified by disclosure of the public re-
14 cords.

15 (c) As used in this subsection:

16 (A) "Electronic fare collection system" means the software and hardware used for, associated
17 with or relating to the collection of transit fares for a mass transit system, including but not limited
18 to computers, radio communication systems, personal mobile devices, wearable technology, fare in-
19 struments, information technology, data storage or collection equipment, or other equipment or im-
20 provements.

21 (B) "Mass transit system" has the meaning given that term in ORS 267.010.

22 (C) "Personally identifiable information" means all information relating to a person that ac-
23 quires or uses a transit pass or other fare payment medium in connection with an electronic fare
24 collection system, including but not limited to:

25 (i) Customer account information, date of birth, telephone number, physical address, electronic
26 mail address, credit or debit card information, bank account information, Social Security or taxpayer
27 identification number or other identification number, transit pass or fare payment medium balances
28 or history, or similar personal information; or

29 (ii) Travel dates, travel times, frequency of use, travel locations, service types or vehicle use,
30 or similar travel information.

31 **(39) Captured plate data, as defined in section 1 of this 2015 Act.**

32 **SECTION 7.** ORS 192.501, as amended by section 3, chapter 455, Oregon Laws 2005, section 7,
33 chapter 608, Oregon Laws 2007, section 2, chapter 687, Oregon Laws 2007, section 2, chapter 48,
34 Oregon Laws 2008, section 3, chapter 57, Oregon Laws 2009, section 2, chapter 135, Oregon Laws
35 2009, section 4, chapter 222, Oregon Laws 2009, section 2, chapter 769, Oregon Laws 2009, section
36 15, chapter 9, Oregon Laws 2011, section 2, chapter 285, Oregon Laws 2011, section 69, chapter 637,
37 Oregon Laws 2011, section 2, chapter 325, Oregon Laws 2013, section 108, chapter 768, Oregon Laws
38 2013, section 2, chapter 37, Oregon Laws 2014, and section 2, chapter 64, Oregon Laws 2014, is
39 amended to read:

40 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
41 unless the public interest requires disclosure in the particular instance:

42 (1) Records of a public body pertaining to litigation to which the public body is a party if the
43 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
44 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
45 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery

1 or deposition statutes to a party to litigation or potential litigation.

2 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
3 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or
4 compilation of information which is not patented, which is known only to certain individuals within
5 an organization and which is used in a business it conducts, having actual or potential commercial
6 value, and which gives its user an opportunity to obtain a business advantage over competitors who
7 do not know or use it.

8 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
9 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
10 disclosure in the course of a specific investigation, including the need to protect the complaining
11 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
12 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
13 record of an arrest or the report of a crime includes, but is not limited to:

14 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
15 ographical information;

16 (b) The offense with which the arrested person is charged;

17 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

18 (d) The identity of and biographical information concerning both complaining party and victim;

19 (e) The identity of the investigating and arresting agency and the length of the investigation;

20 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

21 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
22 from justice.

23 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
24 employment, academic or other examination or testing procedure before the examination is given
25 and if the examination is to be used again. Records establishing procedures for and instructing
26 persons administering, grading or evaluating an examination or testing procedure are included in
27 this exemption, to the extent that disclosure would create a risk that the result might be affected.

28 (5) Information consisting of production records, sale or purchase records or catch records, or
29 similar business records of a private concern or enterprise, required by law to be submitted to or
30 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
31 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
32 that such information is in a form which would permit identification of the individual concern or
33 enterprise. This exemption does not include records submitted by long term care facilities as defined
34 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
35 tient care. Nothing in this subsection shall limit the use which can be made of such information for
36 regulatory purposes or its admissibility in any enforcement proceeding.

37 (6) Information relating to the appraisal of real estate prior to its acquisition.

38 (7) The names and signatures of employees who sign authorization cards or petitions for the
39 purpose of requesting representation or decertification elections.

40 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
41 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
42 ORS 659A.850.

43 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
44 663.180.

45 (10) Records, reports and other information received or compiled by the Director of the De-

1 partment of Consumer and Business Services under ORS 697.732.

2 (11) Information concerning the location of archaeological sites or objects as those terms are
3 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
4 the need for the information is related to that Indian tribe's cultural or religious activities. This
5 exemption does not include information relating to a site that is all or part of an existing, commonly
6 known and publicized tourist facility or attraction.

7 (12) A personnel discipline action, or materials or documents supporting that action.

8 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
9 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
10 cies.

11 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
12 connection with research, until publicly released, copyrighted or patented.

13 (15) Computer programs developed or purchased by or for any public body for its own use. As
14 used in this subsection, "computer program" means a series of instructions or statements which
15 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
16 manipulation of data from such computer system, and any associated documentation and source
17 material that explain how to operate the computer program. "Computer program" does not include:

18 (a) The original data, including but not limited to numbers, text, voice, graphics and images;

19 (b) Analyses, compilations and other manipulated forms of the original data produced by use of
20 the program; or

21 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
22 the original data were to be produced manually.

23 (16) Data and information provided by participants to mediation under ORS 36.256.

24 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
25 until a final administrative determination is made or, if a citation is issued, until an employer re-
26 ceives notice of any citation.

27 (18) Specific operational plans in connection with an anticipated threat to individual or public
28 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
29 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
30 law enforcement activity.

31 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
32 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
33 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
34 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
35 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
36 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
37 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
38 audit of a cost study that would be discoverable in a contested case proceeding and that is not
39 subject to a protective order; and

40 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
41 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
42 with a telecommunications carrier, as defined in ORS 133.721.

43 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
44 247.967.

45 (21) The following records, communications and information submitted to a housing authority

1 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
 2 for and recipients of loans, grants and tax credits:

3 (a) Personal and corporate financial statements and information, including tax returns;

4 (b) Credit reports;

5 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
 6 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
 7 of as part of the project, but only after the transactions have closed and are concluded;

8 (d) Market studies and analyses;

9 (e) Articles of incorporation, partnership agreements and operating agreements;

10 (f) Commitment letters;

11 (g) Project pro forma statements;

12 (h) Project cost certifications and cost data;

13 (i) Audits;

14 (j) Project tenant correspondence requested to be confidential;

15 (k) Tenant files relating to certification; and

16 (L) Housing assistance payment requests.

17 (22) Records or information that, if disclosed, would allow a person to:

18 (a) Gain unauthorized access to buildings or other property;

19 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
 20 disruption to, or interference with, services; or

21 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
 22 cessing, communication or telecommunication systems, including the information contained in the
 23 systems, that are used or operated by a public body.

24 (23) Records or information that would reveal or otherwise identify security measures, or
 25 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
 26 protect:

27 (a) An individual;

28 (b) Buildings or other property;

29 (c) Information processing, communication or telecommunication systems, including the infor-
 30 mation contained in the systems; or

31 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
 32 evaluation under ORS 461.180 (6).

33 (24) Personal information held by or under the direction of officials of the Oregon Health and
 34 Science University, a public university listed in ORS 352.002 or the Oregon University System about
 35 a person who has or who is interested in donating money or property to the Oregon Health and
 36 Science University, the system or a public university, if the information is related to the family of
 37 the person, personal assets of the person or is incidental information not related to the donation.

38 (25) The home address, professional address and telephone number of a person who has or who
 39 is interested in donating money or property to the Oregon University System or a public university
 40 listed in ORS 352.002.

41 (26) Records of the name and address of a person who files a report with or pays an assessment
 42 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
 43 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

44 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
 45 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment

1 card expiration date, password, financial institution account number and financial institution routing
2 number.

3 (28) Social Security numbers as provided in ORS 107.840.

4 (29) The electronic mail address of a student who attends a public university listed in ORS
5 352.002 or Oregon Health and Science University.

6 (30) If requested by a public safety officer, as defined in ORS 181.610:

7 (a) The home address and home telephone number of the public safety officer contained in the
8 voter registration records for the public safety officer.

9 (b) The home address and home telephone number of the public safety officer contained in re-
10 cords of the Department of Public Safety Standards and Training.

11 (c) The name of the public safety officer contained in county real property assessment or taxa-
12 tion records. This exemption:

13 (A) Applies only to the name of the public safety officer and any other owner of the property
14 in connection with a specific property identified by the officer in a request for exemption from dis-
15 closure;

16 (B) Applies only to records that may be made immediately available to the public upon request
17 in person, by telephone or using the Internet;

18 (C) Applies until the public safety officer requests termination of the exemption;

19 (D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for
20 governmental purposes; and

21 (E) May not result in liability for the county if the name of the public safety officer is disclosed
22 after a request for exemption from disclosure is made under this subsection.

23 (31) Unless the public records request is made by a financial institution, as defined in ORS
24 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage
25 broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records de-
26 scribed in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought
27 by an individual described in paragraph (b) of this subsection using the procedure described in par-
28 agraph (c) of this subsection:

29 (a) The home address, home or cellular telephone number or personal electronic mail address
30 contained in the records of any public body that has received the request that is set forth in:

31 (A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction,
32 substitution of trustee, easement, dog license, marriage license or military discharge record that is
33 in the possession of the county clerk; or

34 (B) Any public record of a public body other than the county clerk.

35 (b) The individual claiming the exemption from disclosure must be a district attorney, a deputy
36 district attorney, the Attorney General or an assistant attorney general, the United States Attorney
37 for the District of Oregon or an assistant United States attorney for the District of Oregon, a city
38 attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages
39 in the prosecution of criminal matters.

40 (c) The individual claiming the exemption from disclosure must do so by filing the claim in
41 writing with the public body for which the exemption from disclosure is being claimed on a form
42 prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall
43 list the public records in the possession of the public body to which the exemption applies. The ex-
44 emption applies until the individual claiming the exemption requests termination of the exemption
45 or ceases to qualify for the exemption.

1 (32) The following voluntary conservation agreements and reports:

2 (a) Land management plans required for voluntary stewardship agreements entered into under
3 ORS 541.423; and

4 (b) Written agreements relating to the conservation of greater sage grouse entered into volun-
5 tarily by owners or occupiers of land with a soil and water conservation district under ORS 568.550.

6 (33) Sensitive business records or financial or commercial information of the State Accident In-
7 surance Fund Corporation that is not customarily provided to business competitors. This exemption
8 does not:

9 (a) Apply to the formulas for determining dividends to be paid to employers insured by the State
10 Accident Insurance Fund Corporation;

11 (b) Apply to contracts for advertising, public relations or lobbying services or to documents re-
12 lated to the formation of such contracts;

13 (c) Apply to group insurance contracts or to documents relating to the formation of such con-
14 tracts, except that employer account records shall remain exempt from disclosure as provided in
15 ORS 192.502 (35); or

16 (d) Provide the basis for opposing the discovery of documents in litigation pursuant to the ap-
17 plicable rules of civil procedure.

18 (34) Records of the Department of Public Safety Standards and Training relating to investi-
19 gations conducted under ORS 181.662 or 181.878 (6), until the department issues the report described
20 in ORS 181.662 or 181.878.

21 (35) A medical examiner's report, autopsy report or laboratory test report ordered by a medical
22 examiner under ORS 146.117.

23 (36) Any document or other information related to an audit of a public body, as defined in ORS
24 174.109, that is in the custody of an auditor or audit organization operating under nationally re-
25 cognized government auditing standards, until the auditor or audit organization issues a final audit
26 report in accordance with those standards or the audit is abandoned. This exemption does not pro-
27 hibit disclosure of a draft audit report that is provided to the audited entity for the entity's response
28 to the audit findings.

29 (37)(a) Personally identifiable information collected as part of an electronic fare collection sys-
30 tem of a mass transit system.

31 (b) The exemption from disclosure in paragraph (a) of this subsection does not apply to public
32 records that have attributes of anonymity that are sufficient, or that are aggregated into groupings
33 that are broad enough, to ensure that persons cannot be identified by disclosure of the public re-
34 cords.

35 (c) As used in this subsection:

36 (A) "Electronic fare collection system" means the software and hardware used for, associated
37 with or relating to the collection of transit fares for a mass transit system, including but not limited
38 to computers, radio communication systems, personal mobile devices, wearable technology, fare in-
39 struments, information technology, data storage or collection equipment, or other equipment or im-
40 provements.

41 (B) "Mass transit system" has the meaning given that term in ORS 267.010.

42 (C) "Personally identifiable information" means all information relating to a person that ac-
43 quires or uses a transit pass or other fare payment medium in connection with an electronic fare
44 collection system, including but not limited to:

45 (i) Customer account information, date of birth, telephone number, physical address, electronic

1 mail address, credit or debit card information, bank account information, Social Security or taxpayer
2 identification number or other identification number, transit pass or fare payment medium balances
3 or history, or similar personal information; or

4 (ii) Travel dates, travel times, frequency of use, travel locations, service types or vehicle use,
5 or similar travel information.

6 **(38) Captured plate data, as defined in section 1 of this 2015 Act.**

7 **SECTION 8. Section captions. The section captions used in this 2015 Act are provided**
8 **only for the convenience of the reader and do not become part of the statutory law of this**
9 **state or express any legislative intent in the enactment of this 2015 Act.**

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