

A-Engrossed
Senate Bill 639

Ordered by the Senate April 27
Including Senate Amendments dated April 27

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.

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:**

5 **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.**

19 **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;**

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

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

4 (3) The Department of Transportation may:

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

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

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

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

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

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

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

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

27 (a) Records held by the Department of Transportation;

28 (b) The databases of the National Crime Information Center of the United States De-
29 partment of Justice;

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

32 (d) The records of the Federal Bureau of Investigation related to kidnappings and missing
33 persons;

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

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

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

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

45 (10) If the Department of Transportation uses a motor vehicle registration plate sur-

1 **veillance camera for traffic research or analysis as permitted under subsection (3)(b) of this**
2 **section, or obtains captured plate data as permitted under subsection (3)(b) of this section,**
3 **the department may retain the converted data as long as the department complies with the**
4 **provisions of subsection (3)(b) of this section.**

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

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

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

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

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

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

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

21 **(D) That the captured plate data may not be retained for a period exceeding one year,**
22 **beginning on the date of issuance of the court order;**

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

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

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

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

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

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

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

41 **(d) The conclusion of any administrative proceeding undertaken in a matter involving the**
42 **captured plate data.**

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

1 administer the databases.

2 (6) A public body that uses a motor vehicle registration plate surveillance camera pur-
3 suant to section 2 of this 2015 Act may not sell captured plate data and may not share, ex-
4 change, buy or otherwise obtain captured plate data for any purpose, except that:

5 (a) The public body may share or exchange captured plate data with another public body
6 if both public bodies comply with the retention requirements under this section and section
7 2 of this 2015 Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (3) Subsection (1)(c) of this section does not apply to the Department of Transportation

1 when the department obtains captured plate data for the sole purpose of traffic research or
2 analysis or of enforcing laws and rules related to motor carriers.

3 **SECTION 5. Use of captured plate data in criminal or civil proceeding.** (1) Captured plate
4 data or evidence derived from captured plate data is not admissible in and may not be dis-
5 closed in any criminal, civil, arbitration or administrative proceeding and may not be used
6 to establish reasonable suspicion or probable cause to believe that an offense has been com-
7 mitted, if a public body obtained or retained the data in violation of section 2 or 3 of this 2015
8 Act.

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

17 **SECTION 6.** ORS 192.501, as amended by section 1, chapter 37, Oregon Laws 2014, and section
18 1, chapter 64, Oregon Laws 2014, is amended to read:

19 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
20 unless the public interest requires disclosure in the particular instance:

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

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

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

- 38 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
39 ographical information;
- 40 (b) The offense with which the arrested person is charged;
- 41 (c) The conditions of release pursuant to ORS 135.230 to 135.290;
- 42 (d) The identity of and biographical information concerning both complaining party and victim;
- 43 (e) The identity of the investigating and arresting agency and the length of the investigation;
- 44 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
- 45 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives

1 from justice.

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

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

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

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

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

22 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
23 663.180.

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

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

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

32 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
33 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
34 cies.

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

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

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

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

45 (c) The mathematical and statistical formulas which would be used if the manipulated forms of

1 the original data were to be produced manually.

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

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

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

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

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

22 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
23 247.967.

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

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

28 (b) Credit reports;

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

32 (d) Market studies and analyses;

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

34 (f) Commitment letters;

35 (g) Project pro forma statements;

36 (h) Project cost certifications and cost data;

37 (i) Audits;

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

39 (k) Tenant files relating to certification; and

40 (L) Housing assistance payment requests.

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

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

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

45 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-

1 censing, communication or telecommunication systems, including the information contained in the
2 systems, that are used or operated by a public body.

3 (23) Records or information that would reveal or otherwise identify security measures, or
4 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
5 protect:

6 (a) An individual;

7 (b) Buildings or other property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (B) Applies only to records that may be made immediately available to the public upon request

1 in person, by telephone or using the Internet;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (d) Provide the basis for opposing the discovery of documents in litigation pursuant to the ap-

1 plicable rules of civil procedure.

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

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

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

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

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

19 (c) As used in this subsection:

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

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

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

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

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

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

36 **SECTION 7.** ORS 192.501, as amended by section 3, chapter 455, Oregon Laws 2005, section 7,
37 chapter 608, Oregon Laws 2007, section 2, chapter 687, Oregon Laws 2007, section 2, chapter 48,
38 Oregon Laws 2008, section 3, chapter 57, Oregon Laws 2009, section 2, chapter 135, Oregon Laws
39 2009, section 4, chapter 222, Oregon Laws 2009, section 2, chapter 769, Oregon Laws 2009, section
40 15, chapter 9, Oregon Laws 2011, section 2, chapter 285, Oregon Laws 2011, section 69, chapter 637,
41 Oregon Laws 2011, section 2, chapter 325, Oregon Laws 2013, section 108, chapter 768, Oregon Laws
42 2013, section 2, chapter 37, Oregon Laws 2014, and section 2, chapter 64, Oregon Laws 2014, is
43 amended to read:

44 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
45 unless the public interest requires disclosure in the particular instance:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ORS 659A.850.

2 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
3 663.180.

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
45 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,

1 with a telecommunications carrier, as defined in ORS 133.721.

2 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
3 247.967.

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

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

8 (b) Credit reports;

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

12 (d) Market studies and analyses;

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

14 (f) Commitment letters;

15 (g) Project pro forma statements;

16 (h) Project cost certifications and cost data;

17 (i) Audits;

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

19 (k) Tenant files relating to certification; and

20 (L) Housing assistance payment requests.

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

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

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

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

28 (23) Records or information that would reveal or otherwise identify security measures, or
29 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
30 protect:

31 (a) An individual;

32 (b) Buildings or other property;

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

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

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

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

45 (26) Records of the name and address of a person who files a report with or pays an assessment

1 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
2 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

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

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

8 (29) The electronic mail address of a student who attends a public university listed in ORS
9 352.002 or Oregon Health and Science University.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (c) The individual claiming the exemption from disclosure must do so by filing the claim in
45 writing with the public body for which the exemption from disclosure is being claimed on a form

1 prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall
2 list the public records in the possession of the public body to which the exemption applies. The ex-
3 emption applies until the individual claiming the exemption requests termination of the exemption
4 or ceases to qualify for the exemption.

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (c) As used in this subsection:

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

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

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

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

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

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

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

14