Model Law Elements for an Automated Vehicle Insurance Identification and Enforcement System

Below are model law elements regarding the use of ALPR, (Automatic License Plate Recognition) Systems in support of identification and enforcement efforts involving uninsured vehicles. We caution that numerous changes may be necessary to the text in order to accommodate the particular circumstances and decisions of any State or other jurisdiction. You will find that some of the text is redundant and so should also be modified in that regard as you best determine. Other elements should be deleted and of course, you may also wish to add additional sections. You may find text in the introduction useful for inclusion in bill language as well and if you need additional support, you will find it available at any time. Simply contact us at 1.800.853.7267, or Dr. Miller directly at 770.380.4235.

Another version of this document is available that can potentially add identification and enforcement provisions regarding vehicle registration status, stolen vehicle identification, Amber Alerts, DHS/ICE and Hot File inquiries. Besides vehicle registration status, none of the other mentioned provisions are currently generated from an operational enquiry initiated by an approved red light camera company, but any/all can be with the proper application for access and subsequent approvals by the governing bodies, i.e., Nlets and the FBI's NCIC system. Those elements are not our core business – only vehicle insurance verification is, but ALPR is a superb tool to enhance the safety and efficiency of law enforcement personnel and so, it's important to note what else can be accomplished. That said, we caution that we are certainly not involved in "red light" or speeding monitoring, identification and enforcement. Text elements provided by this company in this and all other documents deal only with **non-invasive** technologies and systems. We caution that no element of what our Company offers deals in personal data. That said, our systems can provide accurate vehicle insurance status. With approval, Nlets or the FBI when appropriate can provide the links to other requirements in support of law enforcement and the courts.

This system and the philosophy and technology upon which it is designed is very different from that typically used regarding "red light," speeding or other traffic enforcement ALPR Systems. This technology is concerned only with objects and has no person-related focus. Our company has numerous relationships with solution providers, (Federal Signal, Adesta, etc.), but none of these are "red light camera" companies. We have carefully avoided any such formal relationship with such entities because: 1) our technology proves it is unnecessary for our purposes, 2) we feel strongly that there is far too much invasion of

privacy already and also, 3) that position would not be well-accepted by the privacy and minority advocates that support our approach. We have worked hard to be seen as what we truly are.....a strong supporter of privacy rights and a provider of benefits to the ***People***.

Objectives:

- The primary objective of an automated vehicle insurance identification and enforcement system is improved adherence to traffic laws and regulations through the use of photographic and electronic technology as a supplement for traditional traffic law enforcement. One additional opportunity that can be gleaned from this very same enforcement is improved adherence to mandatory vehicle insurance laws. This type of enforcement should be used at high crash sites, at other high-risk locations, or in situations where traffic law enforcement personnel cannot be utilized, either due to the pressing needs of other law enforcement activities or where inherent on-site problems make traditional law enforcement difficult.

- A second objective of an automated vehicle insurance identification and enforcement system is to enhance safety for law enforcement personnel by providing accurate and instant/almost instant identification of uninsured vehicles, thus reducing trooper effort and time spent at roadside as the rate of uninsured vehicles continues to be reduced. This system is "paperless" and so removes the requirement for policyholders to ensure that insurance identification document(s) are maintained in the vehicle or on their person. This too, both increases efficiency and enhances safety for law enforcement.

- A third objective of an automated vehicle insurance identification and enforcement system is the generation of revenues for State and/or local jurisdictions from "No Proof" citations that are paid. This system provides, without government funding, a complete collection and revenue distribution process that can meet all government requirements.

- A fourth objective of an automated vehicle insurance identification and enforcement system is the generation of revenues for State and/or local jurisdictions from citations and fines paid for other than vehicle insurance "No Proof" citations. For vehicle registration and other such elements, this system provides, without government funding, a complete collection and revenue distribution process for these elements as well, that can meet all government requirements.

- A fifth and collorary objective of an automated vehicle insurance identification and enforcement system can be to provide law enforcement with additional information generated from the registration number on the offending vehicle. Such information, subject to the approvals required for access, can include Amber Alerts, DHS/ICE, Stolen Vehicle or other, as determined by the needs of Law Enforcement, the Courts, and other Divisions of Government.

Again, we caution that this is not however, a "red light" or speeding camera system, and InsureNet is not in any manner a "red light" or speeding camera/identification company.

- A sixth objective of an automated vehicle insurance traffic law enforcement system is to ensure the reduction of vehicle insurance costs by improved adherence to traffic and insurance laws and regulations. As risk pools grow and the UVR, (Uninsured Vehicle Rate), is reduced, the rate of insurer payouts regarding uninsured vehicles will fall and other forms of fraud, including rate scam, premium diversion, back-dated policies, repair scams, fund float, etc., will decline, saving hundreds of millions of additional dollars annually in the average State. These savings can be monitored, thus providing the documentation necessary to force vehicle insurance price reductions.

- A seventh objective of an automated vehicle insurance traffic law enforcement system is to ensure the complete privacy protection of all vehicle drivers and vehicle insurance policyholders unless such policyholders or drivers are also the owners of vehicles identified by the insurance company of record regarding that vehicle as non-compliant regarding vehicle insurance status. It is an essential objective of such a program to ensure that unless an insurer has made an error, no vehicle owner can be cited for "No Proof" unless the vehicle in question is indeed, uninsured.

- An eighth objective of an automated vehicle insurance traffic law enforcement system is to ensure both the security of the data and the efficiency of delivery of that data. The automated vehicle insurance traffic law enforcement system must therefore, be hosted by and all communications must be handled by Nlets. Nlets, The International Justice and Public Safety Information Sharing Network is connected to all U.S. States and delivers almost 100 million transactions monthly to nationwide law enforcement officers. Nlets is owned and operated by the very states it serves. The Nlets network is also the back up network for the FBI's NCIC system. Because of Nlets' superior and secure network architecture, an automated vehicle insurance traffic law enforcement system can be confidently run on the same network and enjoy the same two second response time to the user from query initiation to response return.

An Automated vehicle insurance identification and enforcement system is not intended to replace traditional law enforcement personnel. Rather, it provides enforcement at times and locations when police manpower is unavailable or manpower use raises safety concerns.

The model law imposes only a civil fine for traffic and/or insurance law and/or regulatory violations enforced via an automated system and relies on an initial presumption of guilt. This approach is not new as it is typically utilized for the enforcement of parking law violations. If the vehicle in question is identified as non-compliant or uninsured at the moment of detection, it is also presumed to be non-compliant prior to arriving at the site at which it was identified. While parking

violations are not typically recorded in drivers' licensing files for possible point assessment or licensing action, violations resulting from an automated vehicle insurance identification and enforcement system, may be if the subject State so chooses. Attempts to unfavorably influence a person's driving privileges through the use of similar systems supporting "red light" and speeding traffic enforcement could raise due process of law concerns. Unlike other procedural due process burdens placed upon the government to prove the identify of a driver as well as the elements of an offense, an automated vehicle insurance system does not deal with such issues as it generally carries with it the presumption that the owner is liable for any such infraction placing the burden of proof on the owner of the vehicle to show that their vehicle was properly insured as opposed to the state, county, or municipality carrying that burden.

Automated Traffic Law Enforcement Model Law

§ 1 Legislative Purpose

An automated vehicle insurance identification and enforcement system is not intended to replace traditional law enforcement personnel. Rather, it provides enforcement at times and locations when police manpower is unavailable, difficult to utilize safely, or needed for other priorities.
This legislation authorizes automated traffic law enforcement at locations where on-site traffic law enforcement personnel cannot be utilized. The primary objective of an automated vehicle insurance traffic law enforcement system is a reduced incidence of uninsured vehicles crashes resulting from improved adherence to traffic and/or insurance laws and regulations achieved by effective deterrence of potential violators which could not be achieved by traditional law enforcement methods. In addition to vehicle insurance issues, studies have proven that, compared to drivers with insurance, uninsured drivers are: • ten times more likely to have been convicted of DUI, • six times more likely to have been convicted of driving a non-roadworthy vehicle, and, • three times more likely to have been convicted of driving erratically/without due care and attention. A second objective of an automated vehicle insurance traffic law enforcement system is the generation of revenues for State and/or local jurisdictions.

§ 2 Applicability of Law

The State and/or, a county, or a municipality of the State, may utilize an automated vehicle insurance traffic law enforcement system to detect such violations under State or local law, subject to the conditions and limitations specified in this Act.

§ 3 Limitations on Use of Automated Enforcement

Automated vehicle insurance identification and enforcement systems may be utilized only at locations with high incidences of violations, potentially high incidences of violations or with high crash rates and subsequent financial loss due to such violations, and where it is impractical or unsafe to utilize traditional enforcement, or where traditional enforcement has failed to deter violators. In determining deployment of automated vehicle insurance identification and enforcement systems, the judgment of the administering agency, when using due diligence in evaluating the suitability of potential deployment sites, including consideration of site violations and crash data, shall be controlling on where and when to install such automated vehicle insurance identification and enforcement systems.

Before issuing citations for "No Proof of Insurance" based on surveillance by an automated vehicle insurance identification and enforcement system, a traffic engineering analysis of the proposed site shall be conducted to verify that the location meets highway safety standards.

§ 4 Citation and Warning Notice

Pursuant to this section, an authorized agency or agent acting on behalf of an authorized agency, shall mail to the owner of a vehicle identified as uninsured, a citation, which shall include:

(1) The name and address of the registered owner of the vehicle;

(2) The registration number of the motor vehicle involved in the violation;

(3) The violation charged which must in all cases, be "No Proof of Insurance" rather than "No Insurance";

(4) The location where the violation occurred;

(5) The date and time of the violation;

(6) A copy of the recorded image(s);

(7) The amount of the civil penalty imposed and the date by which the civil penalty must be paid;

(8) A signed statement by either a law enforcement officer or a technician approved by a law enforcement agency and employed by the agency involved or by an organization under contract to the Agency involved that, based on inspection of recorded images, the motor vehicle was being operated in violation of laws and/or regulations and was so identified by a photographic traffic monitoring device;

(9) A statement that recorded images are evidence of a violation of vehicle insurance requirements;

(10) Information advising the person alleged to be liable under this Act:

(A) Of the manner, time, and place in which liability as alleged in the citation may be contested; and

(B) Of the alternative methods, including telephone, telefax, and internet by which means the vehicle owner can both contest the citation and provide proof of proper insurance for the date in question; and

(C) Warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability and may result in suspension or denial of renewal of vehicle registration, and/or suspension of driving privileges, and/or the imposition of a fine, and/or other penalties depending on jurisdiction in which the vehicle is registered, such information to be those of the specific jurisdiction in which the vehicle was identified as non-compliant and also the jurisdiction, if different, in which the vehicle is registered as evidenced by data provided from the state in question through and by Nlets, the International Justice and Public Safety Information Sharing Network. Specific details of the relevant jurisdictional penalties, along with statutory references, to also be provided in every communication.

(D) A citation issued under this section shall be mailed no later than 5, (five) days after the alleged violation.

(E) A second notice regarding the citation previously issued to those identified vehicle owners who have yet to respond twenty-one days after the first notice was sent, a complete copy of the original citation along with all other information to be included in this second notice and such notice to be sent Certified Mail, return receipt required.

(F) An owner who receives a citation pursuant to the provisions of this Act may:

(i) Pay the civil penalty;

(ii) Elect to stand trial for the alleged violation; or

(iii) If such information is available to owner, provide proof that the vehicle in question was insured at the time of citation.

§ 5 Violations

The motor vehicle owner is subject to a civil penalty not exceeding $(__) if the motor vehicle is recorded by an automated traffic law enforcement system. A violation for which a civil penalty is imposed under this Act is/is not a moving violation for the purpose of assessing points and may/may not be recorded on the driving record of the owner or driver of the vehicle.

§ 6 Failure to Pay Penalty or Contest Violation

If a person charged with a traffic violation as a result of the automated vehicle insurance identification and enforcement system does not pay the civil penalty resulting from that violation, the Department of Motor Vehicles may/will suspend the registration of the motor vehicle identified in such violation.

If a person charged with a traffic violation as a result of an automated vehicle insurance identification and enforcement system does not pay the civil penalty resulting from that violation, the Department of Motor Vehicles may/will suspend the registration of the motor vehicles owned by that person.

If a person charged with a traffic violation as a result of an automated vehicle insurance identification and enforcement system does not pay the civil penalty resulting from that violation, the Department of Motor Vehicles/Department of Public Safety may suspend the driving license of the owner of the vehicle identified for a period of ( ) days.

If a person charged with a traffic violation as a result of an automated vehicle insurance identification and enforcement system does not pay the civil penalty resulting from that violation, the Department of Motor Vehicles/Department of Public Safety may refuse to renew the drivers license of the owner of the motor vehicle until all suspensions have ended and fines have been paid.

If a person charged with a traffic violation as a result of an automated vehicle insurance identification and enforcement system does not pay the civil penalty resulting from that violation, the department of motor vehicles may/will require the payment of a fine which shall be $( ) if for a first offense, $( ), if for a second offense, and $( ), if for a subsequent offense.

§ 7 Rules of Evidence and Defenses

(1) Based on inspection of recorded images produced by an automated vehicle insurance identification and enforcement system, a citation or copy thereof alleging that the violation occurred, along with a signed statement by either a law enforcement officer or by a duly authorized agent of the agency involved, shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this section. Such evidence shall be

provided by the Agency involved along with a detailed document that describes how the evidence was obtained and that shall be provided by vendor.

(2) Adjudication of liability shall be based on a preponderance of evidence.

(3) The court may consider in defense of a violation:

(a) That the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and not under the control of or in the possession of the owner at the time of the violation. In order to demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report concerning the stolen motor vehicle or registration plates was filed in a timely manner.

(b) Any other evidence or issues that the Court deems pertinent.

(c) If the person named in the citation is an owner of a commercial vehicle with a registered gross weight of 10,000 pounds or more, a tractor vehicle, a trailer operated in combination with a tractor vehicle or a passenger bus, in order to demonstrate that he or she was not the violator, that person shall, in a letter mailed to the Court by certified mail return receipt requested:

(i) Swear that the person named in the citation was not operating the vehicle at the time of the violation; and

(ii) Swear that the person named in the citation was unaware that the vehicle was in use at the time of the violation; and

(ii) Provide the name, address, and driver's license identification number of the person who was operating the vehicle at the time of the violation.

(d) If the court finds that the person named in the citation was not operating the commercial vehicle at the time of the violation, that the person named in the citation was unaware that the vehicle was in use at the time of the violation and also receives evidence identifying the person who was driving the vehicle at the time of the violation, the clerk of the court shall provide to the agency issuing the citation a copy of the evidence identifying who was operating the vehicle at the time of the violation. Upon receipt of evidence from the court that a person other than the one initially charged was operating the vehicle at the time of the violation, an agency may issue a citation to that other person so identified. A court may/will also issue a citation to the vehicle owner who remains at fault for allowing use of such an uninsured vehicle. A citation issued under this paragraph shall be mailed no later than 2, (two) weeks after receipt of the evidence from the court.

§ 8 Public information

A public information campaign must precede the issuance of citations using an automated vehicle insurance identification and enforcement system. An integral part of such a program is a community-wide information campaign to inform the driving public. This public information campaign shall continue throughout the life of automated vehicle insurance identification and enforcement program and is to be funded from revenues derived from the program/funded as a requirement of and by the vendor. The primary goal of the automated vehicle insurance identification and enforcement program is a reduced UVR, (Uninsured Vehicle Rate) achieved by deterrence of violations, not the issuance of citations or the generation of revenues. While important and certain to substantially enhance revenues, such revenue generation must be acknowledged as secondary to the benefits provided directly to the Public.

In addition to a detailed review to be conducted at the end of three years and a published review of those results to be provided to Government and the Public within six months thereafter, at least one public portal shall be provided by the vendor to enable any member of the Public to review quarterly results along with details regarding the data sources of those results. While results are to be posted at least quarterly, access to the Public regarding those results must be guaranteed with up-time of not less than 99.95%.

§ 9 Payment for automated vehicle insurance identification and enforcement system

(1) The compensation paid for an automated vehicle insurance identification and enforcement system shall be based primarily on the revenue generated by the system. It may also be partially based on the value of the equipment and services provided. Compensation must never, at any time, exceed (__)% of total revenues generated. It is understood that revenues generated by the system from both intrastate and interstate traffic will decline over time as the UVR, (Uninsured Vehicle Rate) also declines. It is also understood that revenues generated by the system from both intrastate and interstate traffic are greatly impacted by the number and location of automated vehicle insurance identification and enforcement system units in the jurisdiction.

§ 10 Use of Revenues Derived from Automated Enforcement

Any portion of any fine collected through the use of an automated vehicle insurance identification and enforcement system, other than that portion, if any, obligated to the vendor, may/may not be utilized as general revenue of the implementing jurisdiction or for any other use that the implementing jurisdiction deems appropriate. Revenues accruing to the state, county, or municipality, may/may not be permitted to be provided to the agency in support of this program or other public safety programs or technologies. Unless otherwise agreed and documented, revenue derived from an automated vehicle insurance identification and enforcement system and provided to the vendor must be at least partially be used by vendor to fund the cost of such automated

identification and enforcement programs including equipment acquisition, service fees, communication costs, installation and replacement, program administration, public information campaigns and education, and periodic program evaluations of compliance, public awareness and impacts on highway safety.

§ 11 Adoption of Implementing Procedures

In consultation with State/local government(s), the chief judge of the (insert name of the appropriate state, county or municipal court) shall adopt/modify/endorse existing procedures for the issuance of citations, the trial of civil violations, and the collection of civil penalties under this Act. Thresholds established for determining violations and protocols for establishing acceptable evidence of committed violations shall be established/modified/endorsed and documented by the public agency responsible for administering the automated identification and enforcement program. This authority may not be delegated to equipment vendors, service providers or other private sector institutions or employees.

§12 Program Evaluation

Within three years of the establishment of an automated vehicle insurance identification and enforcement program, the implementing jurisdiction shall initiate a formal evaluation of the program to determine the program's impact on highway safety and specifically, the changes in the UVR, (Uninsured Vehicle Rate). That evaluation shall then be completed within 6, (six) months. A copy of this evaluation shall be made available to the Public. The vendor is also responsible for publishing at least quarterly reports of the UVR, (Uninsured Vehicle Rate), along with volume statistics of all volumes of vehicles identified, by jurisdiction and by collection rates, along with total receipts. This report to be available at no charge to each Government Division involved, to at least the first three thousand members of the Public who request it, and also over the internet.

§13 Definitions

"Agency" means any public organization of the State or a political subdivision that is authorized to issue citations for a violation of State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations.

" Automated vehicle insurance identification and enforcement system," means a system with one or more devices, each with one or more sensors working in conjunction with:

(1) An infrared lighting system to assist in producing recorded images of license plates on motor vehicles identified as non-compliant with State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations;

(2) A high definition color camera to assist in producing recorded images of license plates on motor vehicles identified as non-compliant with State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations;

(3) A high definition monochrome camera to assist in producing recorded images of license plates on motor vehicles identified as non-compliant with State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations;

(4) A digital image capture and recognition system to assist in producing recorded images of license plates on motor vehicles identified as non-compliant with State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations;

(5) An secure electronic transmission system to assist in sending recorded images of license plates on motor vehicles identified as non-compliant with State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations;

(6) A computer database containing all known license plates and related vehicle details other than owner identification regarding non-compliant vehicles for State and also for other States in this Region.

(7) A secure electronic transmission system to assist in sending recorded images of license plates on motor vehicles identified as non-compliant with State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations but which are not identified in the database referenced above to the identified State DMV identified for verification, such transmission to be handled entirely via NLETS;

(8) A secure electronic transmission system to assist in receiving status regarding recorded images of license plates on motor vehicles identified as non-compliant with State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations but which are not identified in the database referenced above from the identified State DMV identified for verification, such transmission to be handled entirely via NLETS;

(9) An authorization/mailing/fulfillment center which handles all citations on behalf of the State and/or local authorized jurisdiction.

10) A Help Desk System comprised of:

- staff members operational for ten hours per day weekdays during fifty weeks per year;
- an emergency telephone-based system operational twenty-fours per day, seven days per week for fifty weeks per year;
- an IVR, (Interactive Voice Recognition) Subsystem which supports English, Spanish and French, twenty-four hours per day/seven days per week;

- a TTL, (Touchtone Telephone) Subsystem which also supports use in English, Spanish and French, twenty-four hours per day/seven days per week;
- a “hand-off” system to support accident, theft and emergency reporting to insurers, twenty-four hours per day/seven days per week;
- a internet-based system to accept scanned images of proof of insurance and operational twenty-four hours per day/seven days per week;
- a telefax-based system to accept faxed images of proof of insurance and operational twenty-four hours per day/seven days per week;

11) A receipt and processing center to process and daily bank all funds received as payment of “No Proof” citations;

12) A control and reporting center to provide transparent accounting and daily formal reports to meet the specific requirements of the State and/or local jurisdiction(s) involved.

"Automated vehicle insurance identification and enforcement program" means the utilization of one or more automated vehicle insurance traffic law enforcement systems to issue citations for civil violations of State vehicle and/or insurance law and/or regulations, or of local traffic laws or regulations.

The "Manual on Uniform Traffic Control Devices" means the national standard for all traffic control devices installed on any street, highway or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a).

"Owner" means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of 1 month or more.

"Recorded images" means images recorded by an automated vehicle insurance identification and enforcement system on:

A One or more photographs;

B One or more microphotographs;

C One or more electronic images; or

D A videotape;

Showing the motor vehicle, and on at least one image or portion of tape, clearly identifying the registration plate number of the motor vehicle.

END