



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 12, 2012

Mr. Brian Riemenschneider
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2012-03716

Dear Mr. Riemenschneider:

This office received a request for review of the redaction of certain information subject to the Public Information Act (the "Act"), chapter 552 of the Government Code. The request for review was assigned ID# 446348 (DPS PIR # 11-3101).

The Texas Department of Public Safety (the "department") received a request for a copy of the current Texas Driver's License Database. The department determined the requested information was subject to section 552.130(a) of the Government Code, and withheld the information pursuant to section 552.130(c) without requesting a decision from this office. Pursuant to section 552.130(d), the requestor has asked this office to review the information and consider his arguments regarding a potential right of access under chapter 730 of the Transportation Code. We have considered the submitted arguments and reviewed a representative sample of the requested information.¹

Section 552.130 of the Government Code, provides, in relevant part:

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Gov't Code § 552.130(a)-(b). Generally, under section 552.130, the department may release information relating to a driver's license only if, and in the manner, authorized by chapter 730 of the Transportation Code. You acknowledge the requestor may have a right of access to the information at issue under chapter 730 of the Transportation Code.

The purpose of chapter 730 of the Transportation Code, also known as the Motor Vehicle Records Disclosure Act, is to "protect the interest of an individual in the individual's personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by the individual or by law." Transp. Code § 730.002. Section 730.003 of the Transportation Code provides that, for purposes of chapter 730:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency or political subdivision of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601 [of the Transportation Code].

...

(6) "Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, but not the zip code, telephone number, and medical or disability information. The term does not include:

(A) information on vehicle accidents, driving or equipment-related violations, or driver's license or registration status; or

(B) information contained in an accident report prepared under Chapter 550 or 601.

Id. § 730.003(1), (4), (6). Section 730.004 provides as follows:

Notwithstanding any other provision of law to the contrary, including Chapter 552, Government Code, except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Id. § 730.004. Thus, except as provided by sections 730.005 through 730.007, section 730.004 does not permit the release of "personal information" obtained by an "agency" in connection with a "motor vehicle record." We find that the department is an "agency" for purposes of chapter 730. *See id.* § 730.003(1). Furthermore, we find the information in the driver's license database qualifies as "motor vehicle records," as defined by section 730.003(4). The information at issue consists of names, driver identification numbers, and addresses; thus, this information is "personal information" as defined by chapter 730. Accordingly, the department may not disclose this information except as provided by sections 730.005 through 730.007 of the Transportation Code.

The requestor contends, and you acknowledge, the requestor is eligible to receive the submitted information pursuant to subsections 730.007(a)(2)(E) and 730.007(d)(2). Section 730.007 of the Transportation Code enumerates requestors who are eligible to obtain information from the department. Section 730.007 provides, in relevant part:

(a) Personal information obtained by an agency in connection with a motor vehicle record may be disclosed to any requestor by an agency if the requestor:

(1) provides the requestor's name and address and any proof of that information required by the agency; and

(2) represents that the use of the personal information will be strictly limited to:

...

(E) use in research or in producing statistical reports, but only if the personal information is not published, redisclosed, or used to contact any individual[.]

...

(d) Personal information obtained by an agency in connection with a motor vehicle record shall be disclosed to a requestor by an agency if the requestor:

(1) provides the requestor's name and address and any proof of that information required by the agency; and

(2) represents that the intent of the requestor is to use personal information in the motor vehicle record only for the purpose of preventing, detecting, or protecting against personal identity theft or other acts of fraud and provides any proof of the requestor's intent required by the agency.

Id. § 730.007(a)(1), (a)(2)(E), (d). Subsection 730.007(e) states that, “[i]f the agency determines that the requestor intends to use personal information requested under Subsection (d) only for the represented purpose, the agency shall release to the requestor any requested personal information in the motor vehicle record.” *Id.* § 730.007(e). In this instance, the requestor states that he seeks access to the requested information for the purpose of research, and represents the information will not be published, redisclosed, or used to contact any individual. *See id.* § 730.007(a)(2)(E). The requestor also represents he will use the requested information only for the purpose of preventing, detecting, or protecting against personal identity theft or other acts of fraud, and explains the data would be used for research to aid in preventing voter fraud. *See id.* § 730.007(d)(2).

Section 730.012 sets out additional conditions for the release of personal information and provides the following:

(a) In addition to the payment of a fee adopted under Section 730.011, an agency may require a requestor to provide reasonable assurance:

(1) as to the identity of the requestor; and

(2) that use of the personal information will be only as authorized or that the consent of the person who is the subject of the information has been obtained.

(b) An agency may require the requestor to make or file a written application in the form and containing any certification requirement the agency may prescribe.

Id. § 730.012. Furthermore, section 15.141 of title 37 of the Texas Administrative Code, entitled “Bulk Requests for Driver Record Information,” provides, in part, “[t]he department will release personal information to qualified requestors only after a written agreement has been signed by both parties.” 37 T.A.C. § 15.141(a). *See generally* Transp. Code § 730.014(a) (providing an “agency may adopt rules to implement and administer [chapter 730 of the Transportation Code]”). Accordingly, once the requestor has fulfilled the requirements set forth in chapter 730 of the Transportation Code, and a written agreement has been signed by both parties pursuant to section 15.141 of title 37 of the Texas Administrative Code, the information at issue must be released.

You also raise section 521.050 of the Transportation Code. Section 521.050 provides, in pertinent part:

(a) In addition to the provisions of [Subchapter C of Chapter 521 of the Transportation Code] relating to the disclosure of driver’s license information on an individual, the department may provide a purchaser with a magnetic tape of the names, addresses, and dates of birth of all license holders that are contained in the department’s basic driver’s license record file if the purchaser certifies in writing that the purchaser is eligible to receive the information under Chapter 730 [of the Transportation Code].

...

(c) The department shall impose and collect a fee of:

(1) \$2,000 for each magnetic tape provided under Subsection (a)[.]

Id. § 521.050(a), (c)(1). Upon review, we find you have not explained how section 521.050 applies to the information at issue. As such, we find the requirements of section 521.050 are not applicable to the information at issue.

In summary, once the requestor has fulfilled the requirements set forth in chapter 730 of the Transportation Code, and a written agreement has been signed by both parties pursuant to

section 15.141 of title 37 of the Texas Administrative Code, the information at issue must be released. If the requestor does not comply with these requirements, the department must withhold the information at issue under section 552.130 of the Government Code in conjunction with section 730.004 of the Transportation Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6339. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/ag

Ref: ID# 446348

Enc. Submitted documents

c: Requestor
(w/o enclosures)