



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 21, 2005

Ms. Pamela Smith
Senior Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773

OR2005-05480

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 226512.

The Texas Department of Public Safety (the "department") received a request for specific accident reports and parent-taught driver education records for named individuals, as well as all parent-taught driver education records from San Antonio and Bexar County for a specified time period. You state that you will release a portion of the requested information, but claim that the highlighted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Section 552.130 of the Government Code is applicable to information that relates to motor vehicle records. This section provides in part:

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

¹ We assume that the sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

(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. Generally, under section 552.130, the department would be permitted to release information relating to a Texas driver's license only if, and in the manner, authorized by 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.”

In this instance, you inform us that section 521.205 of the Transportation Code authorizes the department to approve driver education classes that may be taught by a relative or guardian of a person under 18 years of age. *See* Transp. Code § 521.205; *see also* 37 T.A.C. §§ 18.21 *et seq.* You explain that the submitted documents “include an application for a parent-taught [driver education] packet” and “other forms documenting completion of various aspects of the required curriculum.” You further state that the “information from these forms is used to generate a driver’s license, assuming successful completion of the course.”

Based on your representations and our review of the submitted information, we find that the department is an “agency” for purposes of chapter 730. *See* Transp. Code § 730.003(1). Furthermore, the submitted information qualifies as a “motor vehicle record,” as defined by section 730.003(4). Therefore, because the submitted documents contain “personal information” under section 730.003(6), the department may not release such personal information except as required or authorized under chapter 730 of the Transportation Code. *See id.* § 730.004; *see also id.* §§ 730.005, .006, .007. You state that the requestor has not demonstrated his eligibility to receive information under chapter 730. Therefore, we conclude that “personal information” contained in the submitted documents must be withheld under section 730.004. We agree that a portion of the information you have highlighted is personal information that must be withheld under section 730.004. However, we note that you have highlighted information as confidential that either does not identify or that is specifically excluded from the definition of “personal information.” *See* Transp. Code § 730.003(6). This information is not “personal information” for the purposes of section 730.004 and may not be withheld under that section. Accordingly, the department must only withhold the information we have marked under section 730.004 of the Transportation Code.

You also ask this office to determine “whether the death of a licensee would make a difference in the availability of the [licensee’s] personal information” under chapter 730 of the Transportation Code. We note that chapter 730 protects privacy interests. Privacy is a purely personal right that lapses at death. *See Moore v. Charles B. Pierce Film Enters. Inc.*,

589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 (1981). Thus, chapter 730 of the Transportation Code does not protect a deceased individual's personal information from disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

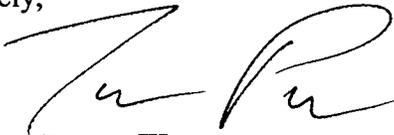
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this

ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'JAP', written in a cursive style.

James A. Person III
Assistant Attorney General
Open Records Division

JAP/sdk

Ref: ID# 226512

Enc. Submitted documents

c: Mr. Jeff Coyle
WOAI-TV
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(w/o enclosures)