



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 29, 2011

Ms. Sharon Alexander
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2011-17579

Dear Ms. Alexander:

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# 435990.

The Texas Department of Transportation (the "department") received a request for information from nineteen specified fields of "vehicle specific data elements" from the department's police reported accident information records database. You state the department does not have information responsive to five of the requested data fields.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.² We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984).

²We assume the "representative 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 those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This exception encompasses section 550.065 of the Transportation Code, which provides in relevant part as follows:

(a) This section applies only to information that is held by the department or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004 [of the Transportation Code], including accident report information compiled under Section 201.805 [of the Transportation Code.]

(b) Except as provided by Subsection (c) or (e), the information is privileged and for the confidential use of:

(1) the department; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

...

(e) In addition to the information required to be released under Subsection (c), the department may release:

...

(2) a vehicle identification number and specific accident information relating to that vehicle.

(f) The department:

(1) may not release under Subsection (e) information that:

(A) is personal information, as defined by Section 730.003 [of the Transportation Code]; or

(B) would allow a person to satisfy the requirements of Subsection (c)(4) for the release of information for a specific motor vehicle accident; and

(2) shall withhold or redact the following items of information:

...

(E) the license plate number of any vehicle listed in an accident report; [and]

(F) the date of any accident, other than the year[.]

Transp. Code § 550.065(a), (b), (e)(2), (f)(1), (2)(E)-(F). You state the submitted information is taken from the department's police reported accident information records database and consists of motor vehicle accident information reported pursuant to chapter 550 or section 601.004 of the Transportation Code. We note Open Records Decision No. 686 determined section 550.065 applies both to accident reports and to information obtained from accident reports and subsequently compiled into a database. *See* Open Records Decision No. 686 at 6 (2010). Based on your representations and our review, we find the submitted database information is generally confidential under section 550.065(b). However, pursuant to section 550.065(e)(2), the department has the discretion to release vehicle identification numbers and specific accident information relating to those vehicles from the submitted database information. *See* Transp. Code § 550.065(e)(2). If the department chooses to release this information, the department must redact the submitted license plate numbers and the dates of the accidents, other than the year, pursuant to section 552.101 in conjunction with section 550.065(f)(2) of the Transportation Code.³ *See id.* § 550.065(f)(2)(E)-(F). If the department does not choose to release the submitted database information pursuant to section 550.065(e), then this information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 550.065(b).⁴

In the event the department chooses to release the information authorized by subsection 550.065(e)(2), you ask whether the submitted state of issuance or vehicle identification numbers ("VINs") are subject to section 552.130 of the Government Code. As previously noted, chapter 550 of the Transportation Code specifically applies, in pertinent part, to information held by the department that relates to a motor vehicle accident reported under chapter 550 or section 601.004 of the Transportation Code. Further, section 550.065(e)(2) specifically gives the department the discretion to release a VIN from the information subject to chapter 550. In construing a statute, our objective is to determine and give effect to the legislative intent. *Leland v. Brandal*, 257 S.W.3d 204, 206 (Tex. 2008). We find the legislature intended chapter 550 of the Transportation Code to

³We note the identity of the city in which the accident occurred would not allow a person to satisfy any of the requirements of section 550.065(c)(4). *See* Transp. Code § 550.065(c)(4) (providing for release of accident report to person who provides two of three specified pieces of information); *see also id.* § 550.065(f)(1)(B).

⁴As our ruling on this information is dispositive in this situation, we need not address your remaining argument against its disclosure.

govern the release of information related to a motor vehicle accident reported under chapter 550 or section 601.004 of the Transportation Code. Accordingly, we find section 552.130 does not apply to the submitted information.

In summary, if the department chooses to release the submitted database information pursuant to section 550.065(e)(2) of the Transportation Code, the department must redact the submitted license plate numbers and the dates of the accidents, other than the year, pursuant to section 552.101 of the Government Code in conjunction with section 550.065(f)(2) of the Transportation Code. If the department does not choose to release the submitted database information, then it must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 550.065(b) 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) 673-6839. 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 435990

Enc. Submitted documents

c: Requestor
(w/o enclosures)