

TEXAS HOUSE OF REPRESENTATIVES  
COMMITTEE ON LAW ENFORCEMENT

THOMAS LATHAM  
VICE CHAIRMAN

ALMA ALLEN  
CBO  
G.E. "BUDDY" WEST  
STEPHEN FROST  
HUBERT VO  
SOLOMON ORTIZ, JR.

CANDACE BROWN  
CHIEF CLERK  
E2.146  
512-463-0133

RECEIVED

APR 25 2008

OPINION COMMITTEE

JOE DRIVER  
CHAIRMAN

FILE # M-45656-08  
ID. # 45656

April 24, 2008

RQ-0704-GA

The Honorable Greg Abbott  
Attorney General of the State of Texas  
ATTENTION: Nancy Fuller, Chair, Opinion Committee  
Price Daniel Building  
209 West 14th Street, 6th Floor  
Austin, Texas 78701

Re: Request for Legal Opinion

Dear General Abbott:

Pursuant to section 402.042(b)(7) of the Texas Government Code, I am writing as chairman of the Law Enforcement Committee of the Texas House of Representatives (the Committee) to request your legal opinion interpreting certain provisions of Texas law. Specifically, section 552.130 of the Texas Public Information Act, TEX. GOVT. CODE §§ 552.001-.353 (the "PIA"), provides that certain "motor vehicle records" may not be publicly disclosed, except as authorized by the Texas Motor Vehicle Records Disclosure Act, TEX. TRANS. CODE §§ 730.001-.015:

Sec. 552.130. EXCEPTION: MOTOR VEHICLE RECORDS

- (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;
  - (2) a motor vehicle title or registration issued by an agency of this state; or
  - (3) a personal identification document issued by an agency of this state 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.

With regard to this section, I am seeking your guidance on the following two questions:

1. Under section 552.130(a) of the PIA, may a governmental body publicly disclose a manufacturer's permanent vehicle identification number ("VIN"), if the VIN is not accompanied by or identified with any personal information about any individual?
2. If not, does section 552.130(b) of the PIA, by incorporating Chapter 730 of the Texas Transportation Code, permit a governmental body to disclose a VIN that is not accompanied by or identified with any personal information about any individual, when the requestor is a person who uses the VIN only to gather information and provide reports regarding the history of the vehicle, for use in preventing fraud and theft and promoting vehicle safety?

I am aware of companies operating in Texas that provide vehicle history reports to consumers, auto dealers, law enforcement agencies, and others, which identify such things as whether and when a vehicle has ever been stolen, damaged, totaled, flooded, salvaged, or rented; whether its title is clear; and whether its odometer is accurate. The use of such reports has increased greatly over the past several years, to the point that most major auto dealers now offer such reports to potential buyers of pre-owned vehicles, potential buyers often obtain the reports on their own, and law enforcement agencies often use the reports to identify and locate vehicles that have been tampered with or stolen. I believe that the increased use of these reports reflects the great value of these reports in identifying fraud, preventing theft, and promoting auto safety.

I further understand that the companies who provide these reports utilize manufacturers' permanent VINs to obtain the necessary vehicle history information. More specifically, I understand that these companies often contract with governmental bodies, or with private companies who maintain vehicle information on behalf of governmental bodies, to obtain information regarding the history of a vehicle, as identified by its VIN. As I understand it, these companies *do not request, and do not obtain, any personal information about any individual associated with the vehicle*, but instead request and receive only information related specifically to the history of the vehicle itself.

I have been advised that, although most Texas governmental bodies (including the Texas Department of Public Safety and the Texas Department of Transportation) regularly provide this information to these companies, either pursuant to such a contract or upon receipt of individual PIA requests, some Texas governmental bodies have refused to do so, believing that PIA section 552.130(a) prohibits the disclosure of such information.

I am aware of no Texas cases, Attorney General Opinions, or Attorney General Open Records Decisions that support the position that these governmental bodies are taking. However, the Attorney General's 2008 Public Information Handbook states that "[e]xamples of information excepted from disclosure under section 552.130(a)(2) include a vehicle identification number

and license plate number relating to a title or registration issued by an agency of the State of Texas." See AG's Public Information Handbook at 137 (2008). In support of this statement, the Handbook cites to two Open Records Letter Rulings. See *id* at 137 n.683 (citing Open Records Letter Nos. 2000-4847 (2000), 2000-1083 (2000)).

I believe that these letter rulings have misconstrued section 552.130(a). In 1997, the 75<sup>th</sup> Texas Legislature adopted section 552.130 as part of Senate Bill 1069, through which it also adopted chapter 730 of the Transportation Code. As stated in the preamble, Senate Bill 1069 was an act "relating to the release and use of *certain personal information* from motor vehicle records." The purpose of chapter 730 was "to implement [the federal Drivers' Privacy Protection Act] 18 U.S.C. Chapter 123 and 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." TEX. TRANS. CODE § 730.002 (emphases added). To achieve this purpose, SB 1069 adopted chapters 730 and 731 of the Transportation Code, section 552.130 of the PIA, and other additions and revisions to Texas law. As your office has acknowledged, the purpose of section 552.130, like the purpose of chapter 730, "is to protect an individual's privacy." See Open Records Letter Nos. 1999-1322 at 2; 2001-0368 at 3. I do not believe that the letter rulings' interpretation of section 552.130(a) is consistent with the statutes' language or its stated purpose. A manufacturer's permanent VIN and information regarding a vehicle's history do not constitute "personal information" about any individual, and their release does not threaten, or constitute any invasion of, any individual's privacy.

More importantly, I believe that the letter rulings' interpretation of section 552.130 works to frustrate the statutes' additional purpose of promoting vehicle safety and preventing theft and fraud. Section 552.130(b) provides that information described in section 552.130(a) may be released if and in the manner authorized by chapter 730. Even when "personal information" is at issue, sections 730.005 and 730.007 require or permit disclosure of such information for use in connection with any matter of, *inter alia*, "motor vehicle or motor vehicle operator *safety*," "motor vehicle *theft*," and "motor vehicle product *alterations, recalls, or advisories*." TEX. TRANS. CODE §§ 730.005, 730.007 (emphases added). Interpreting section 552.130(a) to prohibit the disclosure of VINs, even when no personal information is at issue, frustrates this purpose by preserving the secrecy of information that is essential to promoting safety and preventing theft and fraud.

For these reasons, I respectfully request that you review these statutes and issue an opinion concluding that:

1. Section 552.130(a) does prohibit a governmental body from publicly disclose a manufacturer's permanent VIN, when such information is not accompanied by or identified with any personal information about any individual; or
2. Alternatively, that section 552.130(b), by incorporating Chapter 730, permits a governmental body to disclose a VIN that is not accompanied by

The Honorable Greg Abbott

April 24, 2008

Page 4

or identified with any personal information about any individual, when the requestor is a person who uses the VIN only to gather information and provide reports regarding the history of the vehicle, for use in preventing fraud and theft and promoting vehicle safety.

I appreciate your assistance in addressing these important issues, which are of interest to the entire Committee. Please let me know if you need any additional information about this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe L. Driver". The signature is written in a cursive, flowing style with a prominent initial "J" and "D".

State Representative Joe Driver