



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 26, 1993

Honorable Betty Denton
Member
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2810

Letter Opinion No. 93-32

Re: Whether the Department of Public Safety is authorized to require the presentation of an original Social Security card when a person applies for a new or a renewal driver's license (ID# 18190)

Dear Representative Denton:

In your capacity as former chair of the House Committee on Judiciary, you ask whether the Department of Public Safety (the "department") is authorized to require the presentation of an original Social Security card when a person applies for a new or a renewal driver's license. Section 6 of article 6687b, V.T.C.S., governs the issuance of new and renewal drivers' licenses and gives the department the duty of oversight. In addition to the basic information (applicant's name, age, sex, place and date of birth, residence address) section 6 also allows the department to require other information "to determine the applicant's identity, competency and eligibility." V.T.C.S., art. 6687b, § 6(b).

Under that authority, the department has enacted section 15.42 as a new rule in title 37 of the Texas Administrative Code. That rule requires that all applicants supply their social security numbers when applying for drivers' licenses and furnish documentation of the numbers when they first supply the numbers to the department. The rule expressly permits the numbers to be documented by "income tax documents, W-2 tax forms, and payroll or other employer records," in addition to the original social security card. *See* Tex. Dep't Pub. Safety, 17 Tex. Reg. 5342 (1992) (proposing the rule), *adopted* 17 Tex. Reg. 6483 (1992). Thus, if department employees are requiring an applicant to produce the original card, they are not in compliance with the rule.

Underlying your question is the apparent concern that the department's use of social security numbers may not be legitimate. Congress has amended the social security act to allow states to use social security account numbers for the purpose of identification in the administration of taxes, public assistance, driver's licensing, or motor vehicle registration. 42 U.S.C. § 405(c)(2)(C)(i). In addition, several reported cases have examined similar requirements in light of constitutional challenges and found them not to

violate constitutional guarantees. *Permer v. King*, 695 S.W.2d 887 (Mo. 1985), examined the requirement that an individual provide his social security number when applying for a driver's license. The court upheld the requirement against challenges based on freedom of religion, the constitutional right of privacy, and the federal Privacy Act of 1974. *See also Schmidt v. Powell*, 280 N.E.2d 236 (Ill. App.--4th Dist., 1972); *Ostric v. Board of Appeal on Motor Vehicle L. P. & B.*, 280 N.E. 692 (Mass. 1972).

S U M M A R Y

The Department of Public Safety is authorized to require that an applicant for a driver's license supply his social security number and some documentation of that number.

Yours very truly,



Rick Gilpin
Deputy Chief
Opinion Committee