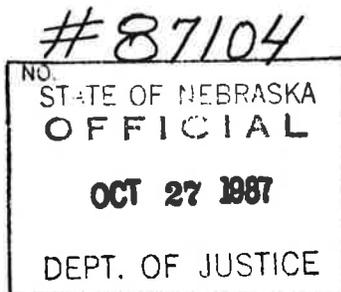


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: October 22, 1987

REQUESTED BY: Margaret L. Higgins, Director
Department of Motor Vehicles

WRITTEN BY: Robert M. Spire, Attorney General
Yvonne E. Gates, Assistant Attorney General

SUBJECT: Release of Driver's License Data List to Private
Individuals.

You have requested our opinion as to whether your department may provide lists of licensed drivers meeting given statistical criteria to private individuals. Specifically, an insurance agency has requested of your office a list of all drivers over the age of 65. No statute requires the production of such data lists; however, we believe that nothing in the law of Nebraska prohibits the Department from producing such information.

With some exceptions, all public records must be available for any person's perusal in the offices of the agency keeping the records. Neb.Rev.Stat. §84-712 (Reissue 1981). Public records include "all records and documents, regardless of physical form, of or belonging to this state," or to any department thereof. Neb.Rev.Stat. §84-712.01 (Reissue 1981). Driver's license records clearly fit this definition, and are therefore subject to the provisions of §84-712. It must be noted, however, that the statute requires only that the record-keeping agencies provide access to records; the intent of LB 505, which altered §84-712 to its present form, was "to guarantee that public records in the custody of a public officer of the state, county, or political subdivision of the state, will be available for examination by the press or any citizen interested in his government." Committee Statement, Committee Records, LB 505, 1961. This does not require even the production of copies of the records, to say nothing of derivation of data lists from agency records.

The Department of Motor Vehicles is expressly required to produce upon demand certified copies of abstracts of the driving

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Margaret L. Higgins
October 22, 1987
Page -2-

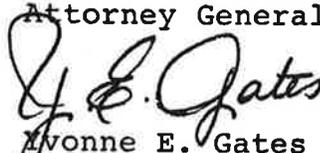
record of any individual, upon the payment of a statutory fee. Neb.Rev.Stat. §60-412 (Reissue 1984). The requester of an abstract must specify by name, and by any other identifying information required, the identity of the driver whose abstract is requested. Id. This section thus provides for production of driving records, but only for named individuals. The purpose of §84-712 is that the public have access to government records; the purpose of §60-412 is that the Department of Motor Vehicles keep and make available driver's license records. Neither of these statutes requires nor specifically grants authority to produce data lists based on departmental records. However, these statutes do not prohibit the department from providing public access to its records by means of statistical criteria.

While "[a]n administrative body has no power or authority other than that specifically conferred by statute or by a construction necessary to accomplish the plain purpose of the act" Nebraska Association of Public Employees v. Game and Parks Commission, 220 Neb. 883, 884-85, 374 N.W.2d 46, 48 (1985), it may very well be argued that retrieving records from the computer data base in the form of such lists better accomplishes the purposes of the act than requiring that the information be in the form of abstracts. We note that the utilization of the computer to store and print records is a matter left to the discretion of the director of the Department of Motor Vehicles. Additionally, specific information requested may be withheld pursuant to pertinent subsections of Neb.Rev.Stat. §84-712.

In summation, Nebraska statutes neither require nor prohibit access to public records by means of computer data lists. Production of such list is left to the discretion of the director.

Respectfully submitted,

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Attorney General



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YEG:pa

APPROVED:



Attorney General