



Advisory Opinion 11-007

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2010). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On April 22, 2011, the Information Policy Analysis Division (IPAD) received a letter dated same, from Sheila Deyo, on behalf of Tom Landwehr, Commissioner of the Minnesota Department of Natural Resources (DNR). In her letter, Ms. Deyo asked the Commissioner (of Administration) to issue an advisory opinion regarding the classification of certain electronic licensing data (ELS) data the DNR maintains.

A summary of the facts as Ms. Deyo provided them is as follows. In her opinion request, Ms. Deyo wrote:

Electronic licensing system records include personal information about the individual applying for a license or registration of a recreational vehicle. The personal information includes name, address, date of birth, and driver's license number, which are classified as private data. [Minnesota Statutes, section 84.0874.] Additional information is also created or provided as a part of the registration or license record for example a registration number for a boat, snowmobile or OHV [off high-way vehicle]; the type, size and length of the recreational vehicle; a serial number; notice of liens; etc. The record is a mix of private data about an individual(s) and public data about the license or registration. Note that a record can contain private data about more than one individual. For example: a husband-and-wife combination fishing license or a boat that is registered with multiple owners.

When an individual registers a recreational vehicle with the DNR, some of the data provided is classified as private data and some of the data is classified as public data. DNR often receives requests for both the private and public registration data. ...

Ms. Deyo attached an example of a request DNR received for registration data. She wrote, "The private data about the registration owner has been provided by the requester, who is not the data subject."

Issue:

Based on Ms. Deyo's opinion request, the Commissioner agreed to address the following issue:

If a data requestor, who is not the subject of the data, provides DNR with data about the individual registration owner that are private pursuant to Minnesota Statutes, section 84.0874, in this case name, address, and date of birth, is DNR in compliance

with Minnesota Statutes, Chapter 13, if it releases public registration data about that individual without a court order or informed consent?

Discussion:

Pursuant to Minnesota Statutes, Chapter 13, government data are public unless otherwise classified. (Minnesota Statutes, section 13.03, subdivision 1.)

Minnesota Statutes, section 84.0874, classifies some of DNR's electronic licensing system data as not public:

The following data created, collected, stored, or maintained by the department for purposes of obtaining a noncommercial game and fish license, cross-country ski pass, horse trail pass, or snowmobile trail sticker; registering a recreational motor vehicle; or any other electronic licensing transaction are private data on individuals as defined in section 13.02, subdivision 12: name, addresses, driver's license number, and date of birth. The data may be disclosed for law enforcement purposes. The data, other than the driver's license number, may be disclosed to a government entity and for natural resources management purposes, including recruitment, retention, and training certification and verification.

Private data are accessible to the data subject and not to the public. (Minnesota Statutes, section 13.02, subdivision 12.) Private data can be disclosed outside the originating government entity if there is statutory authority to do so or if the data subject has given written informed consent. (Minnesota Statutes, section 13.05, subdivisions 3 and 4.)

In the sample data request Ms. Deyo submitted to the Commissioner, the requestor provided DNR with identifying data about an individual (data that are private pursuant to Minnesota Statutes, section 84.0874) and asked DNR to provide him with registration data related to that individual.

Although the registration data the requestor seeks - registration number for a boat, snowmobile or OHV; the type, size and length of the recreational vehicle; a serial number; notice of liens; etcetera - are public when not linked to an individual, once they are connected to an individual, pursuant to Minnesota Statutes, section 84.0874, the registration data cannot be released.

In other words, the effect of Minnesota Statutes, section 84.0874, is that DNR cannot release registration data that are linked to identifying information about the individual registrant, unless the registrant has given his/her informed consent or there is statutory authority permitting the disclosure.

DNR can release de-identified or summary data upon request. (Minnesota Statutes, sections 13.02, subdivision 19; 13.05, subdivision 7; and Minnesota Rules, Parts 1205.0200, subpart 16, and 1205.0700.)

Finally, the Commissioner's understanding is that sometimes a business, rather than an individual registers for a recreational vehicle. Data about businesses are *data not on individuals* and are not classified by Minnesota Statutes, section 84.0874. Therefore, registration data

connected to a business are public pursuant to the public presumption in Minnesota Statutes, section 13.01, subdivision 3.

Opinion:

Based on the facts and information provided, the Commissioner's opinion on the issue Ms. Deyo raised is as follows:

If a data requestor, who is not the subject of the data s/he requests, provides DNR with data about an individual registration owner that are private pursuant to Minnesota Statutes, section 84.0874, in this case name, address, and date of birth, DNR would not be in compliance with Minnesota Statutes, Chapter 13, if it releases registration data about that individual without a court order or informed consent.

Signed:



Spencer Cronk
Commissioner

Dated:

June 8, 2011