

of Commissioners of Marion County v. Millikan (1934), 207 Ind. 142, 151, 190 N. E. 185:

“* * * The office of a proviso is not to enlarge or extend an act, or the section of which it is a part, but rather to put a limitation upon and to qualify the language employed. * * *”

Accordingly, it is my further opinion that the term “any person” appearing in the proviso of said act is directly related to the ensuing phrase “his own household,” and does not have the same broad connotation as it obviously has in the main provisions of the act.

Therefore, in my opinion, I do not think the institutions named in your second question are exempt from the provisions of Acts of 1953, Ch. 236.

OFFICIAL OPINION NO. 7

February 18, 1954

Mr. Morris J. Carter, Commissioner
Bureau of Motor Vehicles
126 State House
Indianapolis, Indiana

Dear Mr. Carter:

This is in reply to a letter in which your predecessor, William L. Wilkinson, inquired as to the following:

1. Are the lists of names of persons whose driving privileges have been suspended as the result of accident or conviction public information?
2. If such lists are public information, and since a daily list containing such data is compiled for the use of the Commissioner, may a copy of said list be posted on a bulletin board in the Bureau of Motor Vehicles or published?

The statutes involved in answering your inquiry are the Acts of 1947, Ch. 347, as found in Burns' Indiana Statutes (1952 Repl.), Section 47-2408 where it is said:

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“(a) All records of the department, other than those declared by law to be confidential for the use of the department shall be open to public inspection during office hours.

“(b) The commissioner and such officers of the department as he may designate are hereby authorized to prepare and deliver upon request a certified copy of any record of the department, other than those declared by law to be confidential, charging a fee of fifty cents (\$.50) for each document so certified, in addition to the actual cost of having each such document made except certification of operating record and every such certified copy shall be admissible in any proceeding in any court in like manner as the original thereof.

“(c) The commissioner may destroy any records of the department which have been maintained on file for two (2) years which are obsolete and of no further service in carrying out the powers and duties of the department.”

A reference to the Acts of 1945, Ch. 304, as found in Burns' Indiana Statutes (1952 Repl.), Section 47-2409 reveals:

“Whenever the superintendent of the state police department, the administrator of any department of the state of Indiana, the highest officer located in the (this) state of the federal bureau of investigation, (or) the United States secret service or other agency of the United States government, makes a certification to the department that the person or persons named in said certificate are officers or employees of said department or bureau, with police power, and that the nature of their work or duties is of a secret or confidential nature and that in the course thereof they use the motor vehicle described in said certificate, then the department shall regard all of its records concerning the certificate of title or certificate of registration of such motor vehicle and the operating license of such person as confidential and they shall be disclosed only on order of a court of competent jurisdiction make (made) in a cause or matter pending before it or on the written

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request of the officer making such certificate or his successor.”

The operating records are not confidential as the Commissioner may certify an abstract thereof to any person upon request. (Acts of 1947, Ch. 159, Sec. 28, as found in Burns' Indiana Statutes [1951 Repl.], Section 47-1071.)

The Acts of 1953, Ch. 115, Sec. 2, as found in Burns' Indiana Statutes (1951 Repl., 1953 Supp.), Section 49-3905 provides:

“(1) The term ‘public records’ shall mean any writing in any form necessary, under or required, or directed to be made by any statute or by any rule or regulation of any administrative body or agency of the state or any of its political subdivisions. * * *”

This definition provision has been interpreted and construed by this office by 1953 O. A. G., page 94, No. 20, and 1953 O. A. G., page 208, No. 45. I call attention to the following excerpt from those opinions which followed immediately the quotation of Section 2 of Chapter 115 as set forth above:

O. A. G. 20:

“The above definition of ‘public records’ limits such records for the purpose of the act to those which by statute or regulation are ‘required, or directed’ to be in writing or where the statute or regulation requires a record in a ‘form necessary’ to be in writing.”

Thus, for any writing to be a “public record” there must be a statute or regulation requiring or directing the same to be kept. Although the individual case records are required to be kept, I find no such requirement or directive for the matters to which you refer.

It is therefore my opinion:

1. That the lists of names of persons whose driving privileges have been suspended as the result of accident or conviction are not public records, but are compilations made for the benefit of the Commissioner of Motor Vehicles from public records.

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2. Such lists, not being public records, it is my opinion that it is discretionary with the Commissioner as to what should be done with such lists as to posting.

OFFICIAL OPINION NO. 8

March 1, 1954

Mr. Joseph McCord, Director
Department of Financial Institutions
410 State House
Indianapolis, Indiana

Dear Sir:

Your letter addressed to the Attorney General has been received in which you request an Official Opinion on the following questions:

“1. May an industrial loan and investment company transfer its Certificate of Authority to another corporation?”

“2. May the Certificate of Authority be transferred to a foreign corporation by virtue of a merger?”

The Industrial Loan and Investment Act of 1935, Acts of 1935, Ch. 181, Sec. 4, as found in Burns' Indiana Statutes (1950 Repl.), Section 18-3104 *et seq.*, by Section 4, authorizes such business as follows:

“When authorized by the department in the manner prescribed by sections 25, 26, 27, 28, and 29 [§§ 18-222 —18-226] of the Indiana Financial Institutions Act and any amendments thereof, any domestic corporation now or hereafter organized under the general corporation laws of the state of Indiana, may engage in business as an industrial loan and investment company subject to the limitations and restrictions hereinafter set forth.”

It is to be noted that the intent of the Legislature to exclude foreign corporations is made doubly sure in that section. Not only is the word “domestic” expressly included, but “organ-