May 21, 2024

The Honorable Mike J. Chaney
Commissioner of Insurance
State of Mississippi
501 North West Street, Suite 1001
Jackson, Mississippi 39201

Re: Data Transfer for the Motor Vehicle Information Verification System

Dear Commissioner Chaney:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. Does the Commissioner of Insurance have the legal authority to require insurers to provide motor vehicle liability policy status information —referred to in your request as a "data dump"— on a yearly, monthly, or weekly basis?

2. May a state agency release motor vehicle liability policy status information provided by insurers to a third-party vendor, and if so, under what circumstances?

Brief Response

1. Statutorily, the Commissioner of Insurance has the legal authority to cooperate in the establishment of the Motor Vehicle Insurance Verification System ("MVIVS") but not to require insurers to provide motor vehicle liability policy status information. Rather, pursuant to Mississippi Code Annotated Sections 63-16-3(3)(f) and 63-16-7(2)(d), the Department of Public Safety ("DPS") has the authority to direct the MVIVS program and promulgate its rules, which includes mandating the receipt of insurance information "not more often than every thirty (30) days."

2. Information recovered from MVIVS may be released to private entities if and when such action is authorized by DPS in accordance with its rules as set forth in Sections 63-16-3 and 63-16-7.

Applicable Law and Discussion

The Public Safety Verification and Enforcement Act is set forth in Sections 63-16-1, *et seq*. Pursuant to Section 63-16-3 therein, DPS, in cooperation with the Commissioner of Insurance and the Department of Revenue, shall establish MVIVS, a database for verifying a motor vehicle's compliance with Mississippi's mandatory insurance laws. Section 63-16-3(3) sets forth various statutory requirements for MVIVS. Among these, Section 63-16-3(3)(f) provides that MVIVS must:

> *Not more often than every thirty (30) days*, receive insurance information from insurers under specifications and standards set forth in paragraph (a) of this subsection or other data file formats as approved by the department to identify motor vehicle insurance policy information; however, no insurer shall be required to provide information in a format other than those set forth by the Insurance Industry Committee on Motor Vehicle Administration "Insurance Data Transfer Guide," as amended.

(emphasis added).

Further, Section 63-16-7 states that DPS "shall administer and enforce the provisions of this chapter, as applicable, and shall make rules necessary for the administration of the motor vehicle insurance verification system created under Section 63-16-3." Section 63-16-7(2) lists the requirements for said rules, including a requirement that the rules:

> (d) Provide for insurance information from insurers, *not more often than every thirty (30) days*, to identify motor vehicle insurance policy information; however, no insurer shall be required to provide such information in a format other than those set forth by the Insurance Industry Committee on Motor Vehicle Administration "Insurance Data Transfer Guide," as amended.

(emphasis added). You ask if the Commissioner of Insurance has the legal authority to require insurers to provide motor vehicle liability policy status information on a yearly, monthly, or weekly basis. Statutorily, the Commissioner of Insurance has the legal authority to cooperate in the establishment of the MVIVS system but not to require insurers to provide motor vehicle liability policy status information. Miss. Code Ann. § 63-16-3(1). Instead, DPS has the authority to direct the MVIVS program and promulgate its rules, which includes mandating the receipt of insurance information "not more often than every thirty (30) days." Miss. Code Ann. §§ 63-16-3(3)(f) and 63-16-7(2)(d).

Next, you ask if a state agency may release motor vehicle liability policy status information provided by insurers to a third-party vendor, and if so, under what circumstances. Section 63-16-3(3)(c) provides that MVIVS must "[b]e accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, *and other entities authorized by the department under the provisions of Section 63-16-7*." (emphasis added). Moreover, Section 63-16-7 gives DPS

broad authority over the administration and enforcement of MVIVS and grants DPS the power to enact rules for the same:

> (1) The Department of Public Safety . . . shall administer and enforce the provisions of this chapter, as applicable, and shall make rules necessary for the administration of the motor vehicle insurance verification system created under Section 63-16-3.

> . . .

> (3) The department may adopt additional rules to:

>> (a) Assist authorized users in interpreting responses received from the motor vehicle insurance verification system and determining the appropriate action to be taken as a result of a response; and

>> (b) Otherwise clarify system operations and business rules.

Given these provisions, information recovered from MVIVS may be released to private entities if and when such action is authorized by DPS in accordance with its rules as set forth in Sections 63-16-3 and 63-16-7.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General