

From: Scott English <senglish@gov.sc.gov>
To: Marcia.Adams@SCDMV.net; Marcia.Adams@SCDMV.net
CC: Swati Patel; swati@sc.gov
Date: 9/20/2007 11:09:46 AM
Subject: Re: TSA Request

Marcia --

Thanks for letting me know. If your legal counsel agrees that the information can be provided to TSA for their purposes, then I think it is fine to share the information.

I doubt that we have revocation authority based upon being on some federal list. That being said, it would probably be a good idea to consult the Attorney General's office regarding this issue, at least on an informal basis. From there we can make a determination of whether or not a written opinion is necessary.

I would also suggest have the TSA attorneys provide you with a written citation of federal law that enables SCDMV to revoke a CDL. The intent of that request is not to try to get out of something, but rather to make sure that SCDMV does not open itself up to legal challenges down the road.

I have talked with Swati Patel, our General Counsel regarding this issue and your legal folks are welcome to contact her if they need assistance from our office.

Thanks and take care.

Scott

>>> <Marcia.Adams@SCDMV.net> 9/20/2007 10:42 AM >>>

Scott,
I wanted to make you aware of a request we received from the Transportation Security Administration last week. Section 125 of the Security and Accountability for Every Port of 2006 Act requires TSA to obtain information for all commercial driver license holders who may access secure areas of a port and run that information against the national terrorist watch list. TSA has interpreted this to mean that each state should submit all information, including information protected by DPPA, of all active commercial license holders. TSA will run this data against the watch list and, after some investigation, will notify both the state and the license holder of a match. TSA is then asking states to revoke licenses based on this match.

I participated in a conference call between the states and TSA, and many states have concerns about this request. First, states are not sure that they are authorized to release the data, and secondly, states feel they have no authority to revoke licenses based on information from TSA. I have asked our attorneys for a legal opinion, and they say that SC can release the data to TSA based on the fact that SC law and DPPA statutes allow the release of data to any government entity for use in carrying out its function. However, there is no current state law that allows DMV to revoke a license based on the fact that the person is on a federal watch list.

I have spoken with Chief Stewart and made him aware of the request. DMV intends to comply with the request for information but will not take any revocation action against the license holder. Please let me know if there are any concerns with this course of action.

Thanks,
Marcia