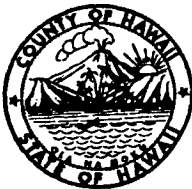


Harry Kim
Mayor



Lincoln S.T. Ashida
Corporation Counsel

County of Hawaii

OFFICE OF THE CORPORATION COUNSEL

101 Aupuni Street, Suite 325 · Hilo, Hawaii 96720-4262 · (808) 961-8251 · Fax (808) 961-8622

January 9, 2001

Naomi Patterson O'Dell
Licensing Supervisor
Hawai'i County Police Department
349 Kapiolani Street
Hilo, Hawai'i 96720

Dear Ms. O'Dell:

Re: Renewal Request by Michael Last

As a follow up to our telephone conversation, this office has received from Michael Last a communication saying that he will be going to the Kailua-Kona Driver Licensing Office to renew this driver's license and he has indicated that he does not wish to disclose this social security number pursuant to Public Law 93-579, a copy of which we have attached for your benefit.

Public Law 93-579 states:

It shall be unlawful for any Federal, State or local government agency to deny any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

However, subsection (2) states:

the provisions of paragraph (1) of this subsection shall not apply with respect to –

- (A) any disclosure which is required by Federal statute, or
- (B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual. (i.e. Hawai'i Driver Licensing System.)

Naomi Patterson O'Dell
Page -2-
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Subsection (b) further provides:

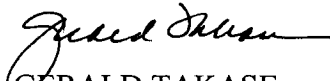
Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

Therefore, in the case of Michael Last, it is recommended that Mr. Last be provided with a copy of Act 269, which is codified in § 286-111, a copy of which is attached hereto. Section 286-111(c) states "[e]very application shall state the full name, date of birth, ... social security number ..." that are required for application. A review of the legislative history (SCRep. 1585, House Journal 1999) also indicates that the social security number requirements were placed in § 286-111 to comply with Federal law, which requires the collection and verification of social security numbers of driver license applicants, but could by statute, state that the social security numbers would not appear on the driver's license itself. The action taken by the State Legislature in amending the law under Act 269 will remove the social security number from the driver's license, however will require the number on the application for the driver's license.

To comply with § 7(b) of Public Law 93-579, the Driver Licensing Office should inform Mr. Last that the disclosure is mandatory by authority of Act 269, which is codified in § 286-111, and that its use will be to complete the driver licensing application which is required by the Department of Transportation to collect and verify social security numbers of all driver licensing applicants.

Should you have any further questions, please feel free to call.

Sincerely,



GERALD TAKASE
Assistant Corporation Counsel

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prepare and execute without consideration such instruments as may be appropriate to carry out the purposes of this Act.
Approved December 31, 1974.

Public Law 93-579

AN ACT

December 31, 1974
(S. 3418)

To amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission, and for other purposes.

Privacy Act of 1974.
5 USC 552a
note.
Congressional findings.
5 USC 552a
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Act of 1974".

SEC. 2. (a) The Congress finds that—

(1) the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;

(2) the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

(3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

(4) the right to privacy is a personal and fundamental right protected by the Constitution of the United States; and

(5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.

Statement of purpose.

(b) The purpose of this Act is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to—

(1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

(2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;

(3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;

(4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;

(5) permit exemptions from the requirements with respect to records provided in this Act only in those cases where there is an important public policy need for such exemption as has been determined by specific statutory authority; and

(6) be subject to civil suit for any damages which occur as a result of willful or intentional action which violates any individual's rights under this Act.

(f) (1) Each [the] member of the Commission who is an officer or employee of the United States shall serve without additional compensation, but shall continue to receive the salary of his regular position when engaged in the performance of the duties vested in the Commission.

Compensation.

(2) A member of the Commission other than one to whom paragraph (1) applies shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when engaged in the actual performance of the duties vested in the Commission.

Per diem.

(3) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

5 USC 5332 note.

Travel expenses.

(g) The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this section. The Commission shall make a final report to the President and to the Congress on its findings pursuant to the study required to be made under subsection (b)(1) of this section not later than two years from the date on which all of the members of the Commission are appointed. The Commission shall cease to exist thirty days after the date on which its final report is submitted to the President and the Congress.

Report to President and Congress.

(h) (1) Any member, officer, or employee of the Commission, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

Penalties.

(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

Sec. 6. The Office of Management and Budget shall—

5 USC 552a note.

(1) develop guidelines and regulations for the use of agencies in implementing the provisions of section 552a of title 5, United States Code, as added by section 8 of this Act; and

Act, p. 1897.

(2) provide continuing assistance to and oversight of the implementation of the provisions of such section by agencies.

Sec. 7. (a) (1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

5 USC 552a note.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to—

- (A) any disclosure which is required by Federal statute, or
- (B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 269

H.B. NO. 8

A Bill for an Act Relating to Motor Vehicle Driver Licensing.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-109, Hawaii Revised Statutes, is amended to read as follows:

“§286-109 General provision governing the issuance of licenses. (a) Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver’s license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of [the]:

- (1) The category or categories of motor vehicles the applicant may operate[, any];
- (2) Any restrictive provisions to which the license is subject[,]; and[, where]
- (3) When the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

(b) The examiner of drivers shall not issue or renew any driver’s license using the driver’s social security number on the driver’s license.

(c) Statutes of limitations and other provisions of this chapter notwithstanding, no driver’s license or instruction permit shall be issued or renewed under this section, where the examiner of drivers is notified by the district judge, traffic violations bureaus of the district courts, or the judge of the circuit court that the applicant has failed to respond to a traffic citation or summons for the violation of any traffic laws of a county, this chapter or [chapters] chapter¹ 286G, 287, 290, 291, or 291C, and the same remains delinquent and outstanding, or the applicant, having timely responded initially, has as of the time of the application, failed to comply in full with all orders of the court.”

SECTION 2. Section 286-111, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Every application shall state the full name, date of birth, sex, occupation, social security number, the residence address and business address, if any, of the applicant, and shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2001.

(Approved July 6, 1999.)

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The purpose of this bill is to appropriate general funds to pay claims for legislative relief, judgments, settlements, and miscellaneous claims against the State.

Your Committee has amended this measure by removing claims totalling \$2,976,861 from the total general fund appropriation, and by instead appropriating the same amount of \$2,976,861 out of the state highway fund to pay for those claims.

Your Committee has also amended this measure by adding a miscellaneous claim for attorneys fees incurred in State of Hawaii v. W.H. McVay et al Civil No. 91-4097-12, and by appropriating an additional \$269,792.50 out of general funds to pay for the claim.

Your Committee finds that a suit was filed against Harold Masumoto, the State, and others, regarding condemnation of a feedlot and other parcels in Kapolei. The State eventually settled with Hawaii Meat Company and Mr. Masumoto in his official capacity was dismissed from the suit, but he was not dismissed in his individual capacity. To this end, Mr. Masumoto hired a private attorney to defend him in this litigation. In November 1998, the remaining litigation was concluded without any findings of Mr. Masumoto acting illegally, maliciously, or for corrupt motives. The Department of the Attorney General, finding that Mr. Masumoto was at all times acting within the scope of his duties and in furtherance of the best interests of the State as he understood it, recommended that his attorneys' fees and costs be paid as a claim against the State. Your Committee concurs.

Your Committee finds that the judgments and settlements as represented in this measure have been evaluated and recommended by the Department of the Attorney General.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 989, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 989, H.D. 1, S.D. 2.

Signed by the Co-Chairs on behalf of the Committee.
Ayes, 12. Noes, none. Excused, 1 (Anderson).

SCRep. 1584 Ways and Means on H.B. No. 1017

The purpose of this bill is to authorize the issuance of bonds for the repair and maintenance of public housing, the Hula Mae program, and the rental housing trust fund.

The bill also provides assistance to mortgagees facing employment difficulties.

Specifically, the bill authorizes the issuance of bonds for:

- (1) The repair and maintenance of state-owned public housing for a bond term of five to ten years;
- (2) An increase in the bond ceiling of the Hula Mae mortgage loan program; and
- (3) The rental housing trust fund.

The bill also requires banks, savings banks, savings and loan associations, financial services loan companies, and credit unions to restructure mortgages for mortgagees facing employment and foreclosure difficulties.

Your Committee has amended the bill by removing sections 3 through 7 of the bill relating to mortgagee loan restructuring and retaining the sections relating to the issuance of bonds. Your Committee has also made technical changes that have no substantive effect.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1017, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1017, H.D. 1, S.D. 2.

Signed by the Co-Chairs on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 6 (Buen, Ige, D., Ige, M., Tam, Taniguchi, Anderson).

SCRep. 1585 Judiciary on H.B. No. 8

The purpose of this bill, as received by your Committee, is to prohibit the use of social security numbers on driver's licenses after July 31, 2001.

Your Committee finds that the widespread use of social security numbers in the private sector to identify individuals tracked by financial, credit, educational, and other institutions, has facilitated the criminal practice of identity theft through unlawful use of another's social security number. Hawaii's statewide practice of using social security numbers as driver's license numbers makes it a relatively simple matter for con artists, financial services organizations, and other unscrupulous people to obtain social security numbers for their nefarious practices.

Your Committee further finds that rules promulgated by the federal Department of Transportation will require states, beginning in October 2000, to collect and verify the social security numbers of driver's license applicants and, unless a state explicitly does not so require, to use the social security numbers on the licenses. Thus, Hawaii must collect social security numbers as part of the driver's license application to comply with these rules, but may provide by statute that the numbers shall not appear on the driver's license itself.

Testimony in support of this measure was submitted by the Office of Information Practices and the American Civil Liberties Union of Hawaii. Testimony in support of this measure with amendments was submitted by the Department of Transportation and the Department of Customer Services of the City and County of Honolulu. Testimony commenting on this measure was submitted by the Judiciary.

Upon further consideration, your Committee has amended this measure by adding a provision to require collection of social security numbers as part of the general driver's license application.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 8, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 8, H.D. 1, S.D. 2.

Signed by the Co-Chairs on behalf of the Committee.
Ayes, 6. Noes, none. Excused, 1 (Chun Oakland).

SCRep. 1586 Judiciary on H.B. No. 500

The purpose of this bill is to develop a commercial hunting industry in the State.

Specifically, the bill allows nonresident aliens to bring a limited number of firearms into the State for recreational purposes; provided the person meets the registration requirement and other criteria.

Testimony in support of the bill was received from the Board of Land and Natural Resources, the City and County of Honolulu Police Department, the Hawaii Rifle Association, and Hawaii Citizens' Rights PAC. The Manager of Lanai Pine Sporting Clays and two individuals submitted comments on the bill.

Your Committee finds that there is a growing interest in hunting and shooting competitions around the world and that hosting these events would enhance the State's economy. Furthermore, developing niche markets, such as recreational hunting, will help to expand the State's visitor industry. Your Committee believes that this measure provides the necessary safeguards to protect our citizenry while allowing residents of other states or foreign countries to participate in Hawaii's recreational shooting and game hunting events.

Your Committee has amended this bill by changing the word "three" to "seven", at page 2 line 2, to ensure that nonresident aliens bringing firearms into the State under this bill will have sufficient time to comply with the registration requirements.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 500, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 500, H.D. 3, S.D. 1, and be placed on the calendar for Third Reading.

Signed by the Co-Chairs on behalf of the Committee.
Ayes, 5. Noes, none. Excused, 2 (Chun Oakland, Anderson).

SCRep. 1587 Judiciary on H.B. No. 582

The purpose of this measure, as received by your Committee, is to provide governmental agencies with civil liability immunity when injuries occur on public trails and accesses, and to clarify that commercial property such as a hotel is not included within the landowner liability provided by chapter 520, Hawaii Revised Statutes (HRS).

Your Committee finds that government should fairly be provided with some degree of immunity for injuries that occur on public trails and accesses, to encourage government agencies to provide additional trails and accesses on government lands. However, because it is part of government's function to allow access to public lands, your Committee does not believe that government should be provided with a level of immunity as great as that provided for a private landowner voluntarily allowing public access to private land.

Your Committee is aware that under chapter 520, HRS, there have been instances of commercial landowners not intended to be provided with immunity thereunder, who have asserted immunity from claims brought by invited recreational users of the property. However, your Committee believes that changes in the scope of chapter 520 would be better addressed through a bill introduced for that purpose, to permit a thorough opportunity for public hearing by the appropriate committees.

Testimony in support of this measure was submitted by the Department of the Corporation Counsel for the City and County of Honolulu, the Hawaii Hunting Advisory Council, the Hawaii Rifle Association, Consumer Lawyers of Hawaii, and the Hawaii Equestrian and Trails Association. Testimony supporting the measure in part but opposing the commercial use provision was