

Electronic Records

Comments on Model Electronic Records Legislation

Current laws relating to records of action taken against a driver are based upon the existence of one or more paper documents. Record keeping statutes recognize that it is not practical to permanently maintain original documents and all currently either explicitly or implicitly permit some sort of microfilm or microfiche storage. However, emerging technologies and practices have changed the way that courts and law enforcement do business. In many instances there is no paper document to copy for storage and later certification. As technology advances, paper-based systems will become more and more obsolete. The law in this area is far behind current technology and permits little, if any, flexibility in the storing and recording of information relating to driving violations, accidents, etc. To meet the practices of today, and to provide a framework for future technology, the attached language has been developed.

This language will permit motor vehicle agencies to receive electronic transmission of conviction records from courts and other jurisdictions. It will permit the admission of record summaries of such convictions without the need for extensive expert testimony by computer programmers or data entry personnel.

This language will also solidify the practices embodied in the Commercial Drivers License Information System (CDLIS) which requires that jurisdictions transmit records of convictions electronically. Without this language, many jurisdictions are required to obtain original conviction information from the transmitting jurisdiction or, in some cases, the court itself. This practice is neither efficient nor mandated by constitutional principles such as due process.

The amendments proposed presume an accurate and reliable system of transmission and translation. However, they do not propose standards for such assurances as it is felt that such standards are beyond the scope of the Uniform Vehicle Code UVC and more properly should be developed by jurisdictions in conjunction with organizations which will provide transmission services such as AAMVAnet, Inc.

In conclusion, the adoption of the attached amendments will codify and legitimize current practices, while providing a flexible legal framework for future practices of law enforcement, courts and motor vehicle agencies.

Model Electronic Records Legislation

Section 1. Microfilm and electronic records; used as evidence:

1. All persons and public bodies having custody or control of any public records of the state or any of its subdivisions may utilize any appropriate form of electronic storage process capable of reproducing a true and correct image of

the original, for the recording, filing, and preserving of all existing public records, forms and documents, or records, forms and documents hereafter accumulated which pertain to their functions and operation in order to maintain efficient and economical records management programs and to conserve storage space,

2. Any agency [*substitute name of appropriate body such as ministry, department, commission, etc.*] having a statutory duty to receive and maintain records may permit such records to be transmitted to the agency by any means, including direct electronic communications, which is designed to ensure the accuracy, reliability and authenticity of such records. The agency information received in accordance with any method approved by the agency shall constitute a "record" and shall be admissible in accordance with the provisions set forth in subdivision 3 below.

3. Any electronic record or any reproduction of a record, when properly authenticated shall be deemed an original and shall be admissible, without further proof, in evidence in all courts or administrative proceedings. Such copy or reproduction shall be admissible regardless of the existence of the original document and regardless of whether an original document hard copy ever existed.

4. As used in this section, the term "record" includes, but is not limited to, any papers, documents, facsimile information, micro-photographically stored information, electronically generated or electronically recorded information, or digitized images, deposited or filed with the agency. [*Substitute name of appropriate body such as ministry, department, commission, etc.*]

Electronic Records UVC Modifications

§ 2-308 — Authority to administer oaths and certify copies of records

(a) No change.

(b) A certified copy of any record of the department is admissible without further testimony, as evidence in any judicial proceedings or administrative hearing ~~in the same manner as the original of the record.~~

(c) In response to a subpoena, or upon request of any appropriate government or judicial official, the department shall provide a duly authenticated copy of any book, paper, entry, record, or other document of the department in the following manner:

1. The authenticated copy may consist of a photocopy ~~or~~ computer printout or reproduction of an electronically digitized or recorded document or information, whether the original document is in existence or not, and whether an original document ever existed or not.

2. No change.

§ 2-309 — Records of the department

(a) No change.

(b) No change.

(c) The department may utilize any form of microphotographic or electronic digitizing process capable of reproducing or recording a true and correct image of an original source document for the recording, filing and preserving of all its records, forms, and documents. The department may also permit the electronic transmission of information for direct recording in its records and systems. Information transmitted by electronic means, approved by the department, shall constitute a "record" for the purposes of this code whether an original source document for such information exists or ever existed.