



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 29, 2020

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78207

OR2020-02741

Dear Mr. Kopp:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 808580 (COSA File Nos. W290576 and W290750).

The City of San Antonio (the "city") received two requests from different requestors for information pertaining to financial skimmers during a specified time period, including location, case number, date, and number of skimmers found. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information subject to chapter 607 of the Business and Commerce Code, which pertains to payment card skimmers on motor fuel dispensers. Section 607.056 provides, in relevant part, as follows:

(a) Except as otherwise provided by this section, information is confidential and not subject to disclosure under Chapter 552, Government Code, if the information is:

- (1) from a report received by [the Texas Department of Agriculture (the "department")] under Section 607.053 or 607.054; or
- (2) prepared or compiled by the department in connection with the report or an investigation conducted under this subchapter[.]

Bus. & Comm. Code § 607.056; *see also id.* § 607.001(2) (defining "department" for purposes of chapter 607 of the Bus. & Comm. Code to mean the state agency that is the

licensing authority for service companies and service technicians), (7); Agric. Code §§ 1.003(2), 13.451(2)-(3) (designating the Texas Department of Agriculture as licensing authority for service companies and service technicians). We note section 607.054 permits “[a]n interested person to submit a report of the discovery of a skimmer on an unattended payment terminal of a motor fuel dispenser at a merchant’s place of business to the department,” but does not require an interested person do so. *See* Bus. & Comm. Code § 607.054(b); *see also id.* § 607.054(a) (defining “interested person” for purposes of Chapter 607 of the Bus. & Comm. Code).

You inform us the information at issue was not reported to the department pursuant to section 607.053 or section 607.054 of the Business and Commerce Code. Further, we have no indication the information at issue was prepared or compiled by the department in connection with the report or an investigation conducted under subchapter B of chapter 607. Accordingly, we find the submitted information is not confidential pursuant to section 607.056 of the Business and Commerce Code. Therefore, the city may not withhold any of the submitted information under section 552.101 of the Government Code on that basis. The city must release the submitted information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Alexandra C. Burks
Attorney
Open Records Division

ACB/eb

Ref: ID# 808580

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)