



U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

March 16, 2004

VIA FACSIMILE

Honorable Mary Kiffmeyer
Secretary of State
180 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155-1299

Dear Ms. Kiffmeyer:

This is in response to your March 10, 2004 letter to me about the collection of drivers license numbers on voter registration applications in compliance with the Help America Vote Act of 2002 ("HAVA"), 42 U.S.C. 15301 *et seq.*

The Attorney General has assigned to the Civil Rights Division the Department of Justice's enforcement responsibilities under Section 401 for the uniform and nondiscriminatory election technology and administration requirements of Sections 301, 302, and 303 of Title III of HAVA. 42 U.S.C. §15511. Although the Department states its formal positions with respect to statutes it enforces only through case-by-case litigation, the Department does on occasion offer its general views on the manner in which it intends to enforce a particular statute or set of laws. Therefore, while we cannot issue a formal advisory opinion, we will attempt to answer the questions you have posed to the extent we can based on the Department's responsibilities to enforce Title III of HAVA and other pertinent federal laws. The opinions expressed in this letter are not binding and would not prevent the Department from taking a different position in any future litigation under HAVA or other federal voting rights statutes.

Your specific questions are:

1. Does the definition of "Drivers Licence Number" include the use of any letters as part of the "Drivers License Number?"

Section 303(a)(5) of HAVA provides that no state may accept or process a voter registration form for an election for Federal office unless the application includes "in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's

license number.” Clearly, states such as Minnesota that use both letters and numbers as part of their “drivers license number” must collect the entire alphanumeric identification sequence. Collecting only the numerical portion of a drivers license number so that the state has an incomplete drivers license number would make it impossible for states to determine the validity of the information provided on the application form as required by part (iii) of §303(a)(5).

2. Does the definition of “Drivers License Number” include a “Minnesota Identification Card Number” produced by the same agency that produces the “Drivers License Number?”

As you are aware, similar to what Minnesota does, most state motor vehicle agencies that issue drivers licenses also issue non-driving state residents an identification card that is usually almost identical to the driver’s license. There is certainly nothing in Section 303 of HAVA that would prevent states from collecting this information and requiring it from voter registration applicants for use as a unique voter identification number. In fact, such a procedure would help carry out the intent of Congress in promulgating this particular provision to help verify the identity of voter registration applicants. Since the identification requirements for first-time voters who register by mail contained in §303(b) do not apply to registrants who supply a driver’s license number if the state is able to match that information with an existing state identification record, accepting such nondrivers license identification numbers will also help reduce the number of registrants who must provide the specified identification documents when they register or vote if Minnesota is able to match the identification card information with an existing state record.

I trust this response answers your inquiry. If you have any further questions regarding this matter, please contact us again.

Sincerely,



Hans A. von Spakovsky
Counsel to the Assistant Attorney General