

**OPINION NO. 89-042**

**Syllabus:**

1. The optical disk process of recording records is a "machine readable means" of information recording authorized by R.C. 9.01, and the Department of Highway Safety may store records

of the Administration Division and the Bureau of Motor Vehicles Division of the department by such method.

2. Providing that properly approved record retention schedules under R.C. 149.333 permit the Department of Highway Safety to dispose of the paper or other original documents after recording by the optical disk process, the original documents may be destroyed and the recorded information stored on optical disks becomes the original of the public record.
3. R.C. 9.01 permits the admission into Ohio state courts of a print or other reproduction of information in a public record stored by the optical disk process.

---

**To: William M. Denihan, Director, Ohio Department of Highway Safety, Columbus, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, June 8, 1989**

I have before me your request for my opinion whether the Department of Highway Safety has authority to use the optical disk process to store official records of the Administration Division and Bureau of Motor Vehicles Division of the department. You also ask whether information reproduced from an optical disk is admissible into evidence in Ohio state courts.

The Department of Highway Safety is charged with the duty to keep various records. *See, e.g.*, R.C. 5502.01 (department shall compile statistics relative to motor vehicle accidents); R.C. 5502.11 (motor vehicle accident report forms to be filed with department); R.C. 4507.25 (all documents in the possession of the registrar of motor vehicles are public records). Your letter indicates that such records are extremely voluminous and the department seeks to employ storage methods which would utilize storage space more efficiently than retaining the original documents after they are recorded.

The use of modern, efficient techniques for storing records of Ohio state and local governmental entities is expressly authorized by R.C. 9.01, which states in relevant part:

When any officer, office, court, commission, board, institution, department, agent, or employee of the state, or of a county, or any political subdivision, who is charged with the duty or authorized or required by law to record, preserve, keep, maintain, or file any record, document, plat, court file, paper, or instrument in writing, or to make or furnish copies of any thereof, deems it necessary or advisable, when recording any such document, plat, court file, paper, or instrument in writing, or when making a copy or reproduction of any thereof or any such record, for the purpose of recording or copying, preserving, and protecting the same, reducing space required for storage, or any similar purpose, to do so by means of any photostatic, photographic, miniature photographic, film, microfilm, or microphotographic process, or perforated tape, magnetic tape, other magnetic means, electronic data processing, *machine readable means*, graphic or video display, or any combination thereof, which correctly and accurately copies, records, or reproduces, or provides a medium of copying, recording, or reproducing, the original record, document, plat, court file, paper, or instrument in writing, such use of any such photographic or electromagnetic process, for any such purpose, is hereby authorized. (Emphasis added.)

The term "machine readable means" is not further defined. Absent statutory definition, a statutory term should be accorded its common, ordinary meaning. R.C. 1.42; *State v. Dorso*, 4 Ohio St. 3d 60, 446 N.E.2d 449 (1983). "Machine" is defined as a "system or device, such as an electronic computer, that performs or assists in the performance of a human task." American Heritage Dictionary 751 (1982). "Readable" means "[c]apable of being read easily," American Heritage Dictionary

1030, and "read" means to "examine and grasp the meaning of," American Heritage Dictionary 1030. The term "machine readable means" in this context, thus, should be construed as meaning a system or device that examines and interprets the stored information. According to information you have supplied, the optical disk method utilizes a device which captures information on the original documents and then converts and stores it as digital impulses. The information is retrievable by a laser or similar device which reconverts the stored information for display upon a video terminal or upon a paper copy produced by a printer. It, thus, is apparent that the optical disk process, employing machines to process the information, is a "machine readable means" contemplated by R.C. 9.01. As such, the information comprising the records of the Department of Highway Safety may be stored on optical disks.

Once recorded on an optical disk, the original documents need not be kept by the agency, provided that the original documents are disposed of and the recorded information stored on optical disk is retained pursuant to R.C. 149.333.<sup>1</sup> See 1975 Op. Att'y Gen. No. 75-013; 1965 Op. Att'y Gen. No. 65-173; 1962 Op. Att'y Gen. No. 2129, p. 184. If the original of a document filed and recorded with a public office is destroyed according to an approved schedule of records retention under R.C. 149.333, the information stored on optical disk becomes the original record. See 1975 Op. Att'y Gen. No. 75-055 (microfilmed records have the same effect as the original record); Op. No. 75-013.

Your second concern raises the issue of admissibility of information reproduced from an optical disk in a case where the original filed document has been destroyed under R.C. 149.333. Admissibility of records reproduced from optical disk is provided by R.C. 9.01, which states in pertinent part:

When so recorded, or copied or reproduced to reduce space required for storage or filing of such records, said photographs, microphotographs, microfilms, perforated tape, magnetic tape, other magnetic means, electronic data processing, *machine readable means*, graphic or video display, or any combination thereof, or films, or *prints made therefrom*, when properly identified by the officer by whom or under whose supervision the same were made, or who has the custody thereof, have the same effect at law as the original record or of a record made by any other legally authorized means, and may be offered in like manner and *shall be received in evidence in any court* where such original record, or record made by other legally authorized means, could have been so introduced and received. Certified or

---

<sup>1</sup> I note that although your request specifically mentions "official" records of two divisions of the Department of Highway Safety, the discussion herein applies generally to all records kept by the department not merely those specifically mentioned. As a state agency, the department is a public office. R.C. 149.011(A). All the records of the department are brought within the provisions of R.C. 149.011(G) which states: "'Records' includes any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations or other activities of the office." See *State ex rel. Beacon Journal Publishing Co. v. Andrews*, 48 Ohio St. 2d 283, 358 N.E.2d 565 (1976) (all documents in possession of Registrar of Motor Vehicles are public records). Records of the Department of Highway Safety stored by optical disk, thus, are records under R.C. Chapter 149. As such, the various provisions of R.C. Chapter 149 apply to the records of the Department of Highway Safety. See, e.g., R.C. 149.33-149.34 (retention, destruction and transfer of records of all state agencies under continuing supervision of state records administration program); R.C. 149.351 (no record of public agency may be removed, destroyed, transferred, damaged or destroyed except as provided by law); R.C. 149.40 (only records necessary to the public office's governmental function may be created); R.C. 149.43 (all public records must be made available to the public for inspection).

authenticated copies or prints of such photographs, microphotographs, films, microfilms, perforated tape, magnetic tape, other magnetic means, electronic data processing, *machine readable means*, graphic or video display, or any combination thereof, *shall be admitted in evidence equally with the original* photographs, microphotographs, films, or microfilms. (Emphasis added.)

Since the optical disk method is a "machine readable means," R.C. 9.01 specifically authorizes the offer and receipt into evidence of a print reproduced from a document recorded on optical disk. To the extent that an original document may be admitted, a print containing the same information when reproduced from optical disk may be admitted.

Moreover, public records are generally admissible in Ohio courts under liberal procedures. *See, e.g.*, Ev. R. 803(8) (records, reports, statements and data compilation of a public office or agency, "in any form" setting forth the activities of the office are admissible as an exception to the hearsay rule regardless of the availability of the declarant). An original, however, is generally required under the "best evidence rule," Ev. R. 1002, which states "[t]o prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by statute enacted by the General Assembly not in conflict with a rule of the Supreme Court of Ohio." "'Writings' and 'recordings' consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other forms of data compilation." Ev. R. 1001(1). An "original" is "the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it....If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an 'original.'" Ev. R. 1001(3). The broadly defined meaning of "original" in Ev. R. 1001(3), as applied to information stored by data compilation devices, permits the treatment of a print of information reproduced from optical disk as an original of the recorded information.

Therefore it is my opinion, and you are advised that:

1. The optical disk process of recording records is a "machine readable means" of information recording authorized by R.C. 9.01 and the Department of Highway Safety may store official records of the Administration Division and the Bureau of Motor Vehicles Division of the department by such method.
2. Providing that properly approved record retention schedules under R.C. 149.333 permit the Department of Highway Safety to dispose of the paper or other original documents after recording by the optical disk process, the original documents filed may be destroyed and the recorded information stored on optical disks becomes the original of the public record.
3. R.C. 9.01 permits the admission into Ohio state courts of a print or other reproduction of information in a public record stored by the optical disk process.