



QUESTIONS

for the Self Storage Legal Network

Each month SSLN partners Carlos Kaslow and Scott Zucker will select a question from a SSLN subscriber on an important self storage legal issue and provide their best advice on dealing with the problem.

Question: *We require that all tenants who rent space provide us with photo identification. We make a photocopy of the ID and put it in the tenant file. In the case of customers in the military, we make a copy of their military ID. This is to verify they are entitled to the military discount and makes it easier to keep track of them if we need to do so. Recently military customers have told us it is illegal to make a copy of their military identification cards. Is this true? If so, can we take down the information from the card? Are we permitted to make a photocopy of non-military ID such as a driver's license?*

Answer: You raise a very good question. As a self storage operator and landlord you have the right to verify the identification of your tenant. This can be done by the tenant providing the operator one of a number of different government issued IDs. For example, a tenant can provide a driver's license or passport. If you are offering special discounts to your military tenants, you can require the customer to show you their military ID in order to qualify for the discount. However, the question is: can you *copy* any of these government issued IDs for your files. Storage operators typically want to copy these identification cards for two reasons: 1) to obtain a photo identification of the tenant in case there is a later question raised as to the identity of the tenant and 2) to quickly and accurately gather the necessary information concerning the customer for their files.

Interestingly, although you have the right to copy your tenant's driver's license and passport for your files, the copying of military IDs is governed under a different law and regulations. Pursuant to U.S. Code section 18 USC 33-701 it is *illegal* to copy a federal identification card. The law states:

“Whoever manufactures, sells, or possesses any badge, identification card, or other insignia, of the design prescribed by the head of any department or agency of the United States for use by any officer or employee thereof, or any color-

able imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such badge, identification card, or other insignia, or any colorable imitation thereof, except as authorized under regulations made pursuant to law, shall be fined under this title or imprisoned not more than six months, or both.”

The statutory language is very broad and would include in it the prohibition against making a photocopy of a military ID for the tenant's file. Why are military IDs considered different from other government issued IDs? The purpose of the law is to prevent the production of fraudulent military identification. However, the law does *not* prevent you from taking down the information contained on the card. If the tenant only has a military ID (and no other form of identification) we recommend that a digital photograph be taken of the tenant for later identification purposes, if necessary.

Verification of identity is a fundamental right of a self storage operator. If a tenant does not have, or is unwilling to provide the operator proof of identity, the facility operator has a clear right to deny tenancy. If you collect the information contained in a military ID, make copies of driver's licenses or other forms of identification that contain personal information such as social security numbers, you must protect that information while it is in your possession. If you have this information in paper files it should be kept in locked file cabinets. When you no longer need the information, the files that contain the information should be shredded. If you store this information in electronic files on your computer, it should be password protected. Also, if tenant information is transmitted electronically from the facility to a separate home office location, it should be transmitted in an encrypted format if it includes the names and the social security number of tenants. If identity theft can be traced back to the disclosure information or information in your possession you could be civilly liable for any losses suffered by the tenant. ❖