TN MUNICIPAL JUDGES CONFERENCE SEMINAR 2022

TABLE OF CONTENTS

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-301

§ 16-18-301. Short title; definitions

Effective: August 11, 2009
Currentness

(a) This part shall be known and may be cited as the "Municipal Court Reform Act of 2004."

(b) As used in this part:

(1) “Any law to the contrary” includes, but is not limited to, any conflicting provision of any general statute, local law, private act, charter provision, municipal law or municipal ordinance; and

(2) “Municipal court” includes the city, town, mayor's, recorder's or municipal court, or other similarly functioning court, however designated, for any city, town, municipality or metropolitan government, whether the court exists pursuant to general statute, local law, private act, charter provision, municipal law, municipal ordinance or other legal authorization.

Credits
2004 Pub.Acts, c. 914, § 1, eff. March 1, 2005.

T. C. A. § 16-18-301, TN ST § 16-18-301
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-302

§ 16-18-302. Municipal court jurisdiction

Effective: May 5, 2009
Currentness

(a) For any municipality that does not have, on May 5, 2009, a municipal court that was ordained and established by the general assembly, a municipal court is created to be presided over by a city judge. Notwithstanding any law to the contrary:

(1) A municipal court possesses jurisdiction in and over cases:

(A) For violation of the laws and ordinances of the municipality; or

(B) Arising under the laws and ordinances of the municipality; and

(2) A municipal court also possesses jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty dollars ($50.00).

(b) Notwithstanding subdivision (a)(2) or any other law to the contrary, in any municipality having a population in excess of one hundred fifty thousand (150,000), according to the 2000 federal census or any subsequent federal census, a municipal court also possesses jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of any of the following state criminal statutes relative to:

(1) The offense of operating a motor vehicle without a valid driver license, § 55-50-301;

(2) The Class B misdemeanor offense of reckless driving, § 55-10-205;

(3) The Class A misdemeanor offenses of underage purchasing, possession, transportation or consumption of alcoholic beverages, wine or beer, § 1-3-113(b);

(4) The Class A misdemeanor offenses of underage consumption, possession or transportation of beer or any intoxicating liquor, § 57-3-412(a)(3);

(5) The Class A misdemeanor offenses of underage purchasing or attempting to purchase any alcoholic beverage, § 57-3-412(a)(5);

(6) The Class A misdemeanor offenses of underage purchasing, attempting to purchase or possession of any alcoholic beverages, § 57-4-203(b)(2);

(7) The Class A misdemeanor offenses of underage purchasing or attempting to purchase beer or alcoholic beverages, § 57-5-301(d); or

(8) The Class A misdemeanor offenses of underage possession or transportation of beer, § 57-5-301(e).

(c) Notwithstanding any law to the contrary, in addition to jurisdiction authorized pursuant to subsection (a) or (b), a municipal court may also exercise concurrent jurisdiction with the court of general sessions if, and only if:

(1) The municipal court possessed and exercised such concurrent general sessions jurisdiction continuously on and before May 11, 2003; or

(2) After May 12, 2003, concurrent general sessions jurisdiction is duly conferred upon the municipal court in accordance with the procedures and requirements set forth in § 16-18-311.

(d) Notwithstanding any law to the contrary, a municipal court may exercise no jurisdiction other than the jurisdiction authorized by this section; provided, however, that this section shall not be construed to impair or in any way restrict the authority of a juvenile judge to waive jurisdiction over any cases or class of cases of alleged traffic violations, as authorized pursuant to § 37-1-146, or the authority of a municipal court to receive and dispose of such cases or classes of cases of alleged traffic violations.

Credits

2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005; 2006 Pub.Acts, c. 1004, § 1, eff. June 27, 2006; 2009 Pub.Acts, c. 144, § 1, eff. May 5, 2009.

T. C. A. § 16-18-302, TN ST § 16-18-302

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-303

§ 16-18-303. Municipal court oath administration

Effective: August 11, 2009
Currentness

Notwithstanding any law to the contrary, every popularly elected or appointed judge of a municipal court is authorized to administer oaths.

Credits
2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005.

T. C. A. § 16-18-303, TN ST § 16-18-303
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-304

§ 16-18-304. Municipal court costs

Effective: August 11, 2009
Currentness

(a) Notwithstanding any law to the contrary, municipal court costs shall be set and collected in the amount prescribed by municipal law or ordinance. From such amount, one dollar ($1.00) shall be forwarded by the municipal court clerk to the state treasurer for deposit and shall be credited to the account for the administrative office of the courts (AOC) for the sole purpose of defraying the administrative director's expenses in providing training and continuing education courses for municipal court judges and municipal court clerks. The AOC shall allocate fifty percent (50%) of such funds exclusively for the purpose of providing training and continuing education for municipal court clerks. The AOC is authorized to contract with qualified persons, entities or organizations in order to provide required training or continuing education for municipal court judges. The AOC shall contract with the municipal technical advisory service of the University of Tennessee institute for public service in order to provide required training or continuing education for municipal court clerks and may contract with other qualified persons, entities or organizations to provide additional or alternate training to municipal court clerks.

(b) Notwithstanding any law to the contrary, to the extent that a municipal court is exercising its duly conferred, concurrent general sessions court jurisdiction in a given case, this section does not apply and costs in such case shall be assessed, collected and distributed in the same manner as such costs are assessed, collected and distributed in the court of general sessions.

Credits
2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005.

T. C. A. § 16-18-304, TN ST § 16-18-304
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-305

§ 16-18-305. State privilege tax on litigation in municipal courts

Effective: August 11, 2009
Currentness

(a) Notwithstanding § 67-4-602, or any other law to the contrary, there is levied a state privilege tax on litigation of thirteen dollars and seventy-five cents ($13.75) in all cases in a municipal court. All taxes levied pursuant to this subsection (a) shall be collected in accordance with § 67-4-603 and shall be paid into the state treasury and allocated in accordance with § 67-4-606.

(b) There is also levied a state privilege tax on litigation of one dollar ($1.00) for each and every violation of any municipal law or ordinance governing use of a public parking space. The tax is due and shall be collected even if the offender does not appear before the court. Notwithstanding this section or any other law to the contrary, the only litigation privilege tax collected for a violation of any municipal law or ordinance governing the use of a public parking space shall be the one dollar ($1.00) litigation tax levied by this subsection (b). The revenue generated by the privilege tax levied by this subsection (b) shall be apportioned in accordance with § 67-4-606.

(c) Notwithstanding § 67-4-602, or any other law to the contrary, no other state privilege tax on litigation shall be levied or collected with respect to litigation in a municipal court; provided, however, that this section shall not be construed to repeal existing authority for the levy of a municipal litigation tax, nor shall this section be construed to grant new authority for the levy of a municipal litigation tax.

(d) Any state privilege tax imposed pursuant to this section that the clerk of the court fails to collect and pay over to the department of revenue shall be a debt of the clerk. Any clerk of the court failing or refusing to collect and pay over to the department state litigation taxes imposed pursuant to this section shall be liable for the taxes and the clerk's official bondsman shall also be liable for the taxes, and the commissioner or the commissioner's delegate may collect the amount of the tax from the clerk or the clerk's official bondsman pursuant to title 67, chapter 1, part 14.

(e) Notwithstanding any law to the contrary, to the extent that a municipal court is exercising its duly conferred concurrent general sessions jurisdiction in a given case, this section does not apply and litigation taxes in the case shall be levied and collected in the same manner as taxes are levied and collected in the general sessions court.

(f) For receiving and paying over all privilege taxes on litigation, the clerk of a municipal court is entitled to a commission of two percent (2%).

Credits
2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005; 2005 Pub.Acts, c. 429, §§ 20, 27, eff. Jan. 1, 2006.

Notes of Decisions (1)

T. C. A. § 16-18-305, TN ST § 16-18-305

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

T. C. A. § 16-18-306

§ 16-18-306. Contempt of municipal court

Effective: August 11, 2009
Currentness

Notwithstanding any law to the contrary, contempt of a municipal court shall be punishable by fine in the amount of fifty dollars ($50.00), or such lesser amount as may be imposed in the judge's discretion.

Credits
2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005.

T. C. A. § 16-18-306, TN ST § 16-18-306
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-307

§ 16-18-307. Appeal of municipal court judgment

Effective: August 11, 2009
Currentness

Notwithstanding any law to the contrary, any person dissatisfied with the judgment of a municipal court, in any case or cases heard and determined by the court acting pursuant to § 16-18-302(a), may, within ten (10) days thereafter, Sundays exclusive, appeal to the circuit court of the county, upon giving bond in the amount of two hundred fifty dollars ($250) for the person's appearance and the faithful prosecution of the appeal. As used in this section, person includes, but is not limited to, a natural person, corporation, business entity or the municipality.

Credits
2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005.

Notes of Decisions (1)

T. C. A. § 16-18-307, TN ST § 16-18-307
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-308

§ 16-18-308. Municipal court judges

Effective: June 25, 2009
Currentness

(a) Notwithstanding any law to the contrary, a judge of a municipal court may not concurrently hold any other office or employment with the municipality. This section does not apply to any municipal official or employee who, on March 1, 2005, concurrently holds office as judge of the municipal court; provided, however, that if the official or employee either discontinues service as a municipal official or employee or discontinues service as judge of the municipal court, then the exemption granted by this section no longer applies.

(b) Notwithstanding the provisions of subsection (a) to the contrary, if a municipal charter provides that the person who serves as judge of the municipal court shall also serve as the recorder for the municipality, then the person may concurrently hold both offices.

Credits
2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005; 2009 Pub.Acts, c. 505, § 1, eff. June 25, 2009.

T. C. A. § 16-18-308, TN ST § 16-18-308
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-309

§ 16-18-309. Training and continuing education requirements for municipal court judges and clerks

Effective: June 25, 2009
Currentness

(a)(1) Except as otherwise provided in subdivision (a)(4), each calendar year, the judge of each municipal court must attend at least three (3) hours of training or continuing education courses provided by, through or with approval of the administrative office of the courts (AOC) and must certify attendance to the administrative director. The three (3) hours of training or continuing education required by this subsection (a) shall consist of material specifically designed for municipal court judges and for training the judges concerning the issues, procedures and new developments relevant to the judges. General legal training or continuing legal education shall not be sufficient to satisfy the requirement. If a municipal court judge fails to timely comply with such requirements, then the judge shall be extended a six (6) month grace period in order to achieve compliance; provided, however, that training obtained to satisfy requirements for the preceding calendar year shall not also be used to satisfy requirements for the current calendar year. The failure of the judge to achieve compliance prior to conclusion of the six (6) month grace period shall render all subsequent judgments of the judge null and void and of no effect, until such time as the requirements are met. The training and continuing education courses may be offered by the AOC in conjunction with the annual meeting of the Tennessee municipal judges' conference held in accordance with § 17-3-301(c).

(2) Each municipal judge shall be compensated and reimbursed for attending required training or continuing education in accordance with the travel policy of the municipality.

(3) If a municipal court judge attends more than three (3) hours of qualifying training or continuing education in a calendar year, the hours in excess of three (3) hours may be carried over for one (1) calendar year.

(4) If the judge of a municipal court is authorized to practice law in the courts of this state, and if the judge satisfies the annual continuing legal education requirements for practicing attorneys and three (3) of the hours completed in satisfying the continuing legal education requirements are training or continuing education courses required by subdivision (a)(1), then the judge shall not be required to complete three (3) additional hours of training or continuing education courses required by subdivision (a)(1). By March 1 following the year for which the requirements are met, the judge shall submit to the administrative office of the courts a copy of the statement of compliance issued by the commission on continuing legal education verifying the number of continuing legal education hours completed for such year.

(b)(1) Each calendar year, the clerk of each municipal court must attend at least three (3) hours of training or continuing education courses provided by, through or with approval of the AOC and must certify attendance to the administrative director; provided, however, that such attendance requirements do not apply to any municipal clerk who is required to be certified pursuant to § 6-54-120.

(2) Each municipal court clerk shall be compensated and reimbursed for attending required training and continuing education in accordance with the travel policy of the municipality.

Credits

2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005; 2006 Pub.Acts, c. 1004, §§ 3, 4, eff. June 27, 2006; 2009 Pub.Acts, c. 505, §§ 2, 3, eff. June 25, 2009.

Notes of Decisions (1)

T. C. A. § 16-18-309, TN ST § 16-18-309

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-310

§ 16-18-310. Clerk of the municipal court

Effective: August 11, 2009
Currentness

(a) Notwithstanding any law to the contrary, at all times there shall be a person elected, appointed or otherwise designated to serve as clerk of the municipal court. Immediately upon each such election, appointment or designation, the chief administrative officer of the municipality shall promptly certify the results of the election, appointment or designation to the administrative office of the courts and shall supply such additional information concerning the clerk as required by the administrative director.

(b) Notwithstanding any law to the contrary, the clerk of the municipal court shall maintain an accurate and detailed record and summary report of all financial transactions and affairs of the court. The record and report shall accurately reflect all disposed cases, assessments, collections, suspensions, waivers and transmittals of litigation taxes, court costs, forfeitures, fines, fees and any other receipts and disbursements. An audit of the financial records and transactions of the municipal court shall be made each year as part of any audit performed pursuant to § 6-56-101 or § 6-56-105.

Credits
2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005.

Notes of Decisions (1)

T. C. A. § 16-18-310, TN ST § 16-18-310
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-311

§ 16-18-311. Concurrent jurisdiction of municipal courts; feasibility studies

Effective: March 29, 2021
Currentness

(a) Notwithstanding any law to the contrary, on or after May 12, 2003, concurrent general sessions jurisdiction shall be newly conferred upon an existing or newly created municipal court only in compliance with the procedures and requirements set forth in this section.

(1) A majority of the total membership of the municipal legislative body must vote in favor of seeking concurrent general sessions jurisdiction for an existing or newly created municipal court.

(2) The municipal legislative body must notify, by petition, the county legislative body of the municipality's intention to seek concurrent general sessions jurisdiction for the municipal court.

(3) The petition must contain the following:

(A) A plan for an adequate and secure courtroom;

(B) Agreement to comply with state mandated technical computer support comparable with the Tennessee court information system (TnCIS) program specifications and requirements;

(C) Agreement to comply with state laws governing general sessions court litigation taxes, costs, fees and assessments and to legally remit such items to the state department of revenue or to the county government, if appropriate; and

(D) Agreement to comply with state laws subjecting the financial transactions of the court to annual public audits.

(4) The municipal legislative body and the county legislative body must appoint a feasibility study committee. The membership of the committee shall consist of the county mayor, the municipal mayor, one (1) member of the municipal legislative body, one (1) member of the county legislative body, the district attorney general who serves the county and the district public defender who serves the county. The membership of the committee shall also consist of three (3) members appointed by the municipal

legislative body from the following list: the chief of police, the city recorder/clerk, the city judge, the city attorney, and one (1) citizen member. The membership of the committee shall also consist of three (3) members appointed by the county legislative body from the following list: the sheriff who serves the county, a general sessions judge who serves the county, the general sessions court clerk, the county attorney, and one (1) citizen member.

(5) The feasibility study committee shall determine whether the county requires an additional court to exercise general sessions jurisdiction. In making the determination, the committee shall consider and evaluate the following factors:

(A) The economic, administrative and personnel impact of the proposal upon the existing general sessions court;

(B) The impact of the proposal upon existing judicial services and law enforcement resources;

(C) The extent, if any, to which the proposed plan is necessary to promote and ensure the efficient administration of justice in relation to county and municipal populations, county population density, geographic logistics and distances, caseloads, the number of judges, and the current caseload burden on the existing system;

(D) The plan's provision of adequate secure and comparable courtroom facilities for the hearing of cases in that location;

(E) The extent, if any, to which the proposed plan would unduly burden the existing staffs of the district attorney general or district public defender and the extent, if any, to which the plan proposes adequate funding for additional staff requirements; and

(F) The extent, if any, to which the proposed plan would provide for compliance with state mandated technical computer support.

(6) By majority vote of its total membership, the feasibility study committee must agree upon written findings and recommendations and must submit the findings and recommendations to the municipal legislative body and to the county legislative body. The findings and recommendations must include one of the following alternatives:

(A) There is a clearly demonstrated need for a new general sessions court in the county, and the court would best be administered by the county;

(B) There is a clearly demonstrated need for a new general sessions court in the county, and the court would best be administered by the municipality, either as a new or existing municipal court with concurrent general sessions jurisdiction; or

(C) There is no clearly demonstrated need, at the time, for any of the alternatives set forth in subdivisions (a)(6)(A) and (B).

(7) If the feasibility study committee determines that there is no clearly demonstrated need for any of the alternatives set forth in subdivisions (a)(6)(A) and (B), then for one (1) year thereafter, neither the county nor the municipality may pursue further implementation of any of the alternatives set forth in subdivision (a)(6)(A) or (a)(6)(B). After passage of one (1) year, if the majority of the total membership of the municipal legislative body again votes in favor of seeking concurrent general sessions

jurisdiction for an existing or newly created municipal court, then a petition must again be submitted to the county legislative body and the procedures set forth in this section must again be followed.

(8) If the feasibility study committee recommends any one (1) of the findings set forth in subdivision (a)(6)(A) or (a)(6)(B), and if the county wishes to pursue creation of a new general sessions court in the county or if the municipality wishes to pursue extension of concurrent general sessions jurisdiction to a newly created or existing municipal court, then the county or municipality, as appropriate, shall:

(A) Submit the written findings and recommendations of the feasibility study committee to the judiciary committee of the senate and the civil justice committee of the house of representatives; and

(B) Cause legislation to be timely introduced for consideration by the general assembly.

(b) Notwithstanding any law to the contrary, any legislation proposed to create a new general sessions court or to create a new municipal court with concurrent general sessions jurisdiction or to confer concurrent general sessions jurisdiction on an existing municipal court must be approved by a majority of the total membership of the judiciary committee of the senate prior to passage by the senate and must be approved by a majority of the total membership of the civil justice committee of the house of representatives prior to passage by the house of representatives.

(c) Notwithstanding any law to the contrary, if a municipality is located in two (2) or more counties of this state, then, as used in this section, “county” means the county of this state containing the largest geographical portion of the municipality.

Credits

2004 Pub.Acts, c. 914, § 2, eff. March 1, 2005; 2013 Pub.Acts, c. 236, § 32, eff. April 19, 2013; 2019 Pub.Acts, c. 345, § 22, eff. May 10, 2019; 2019 Pub.Acts, c. 420, § 12, eff. May 21, 2019; 2021 Pub.Acts, c. 64, § 14, eff. March 29, 2021.

Notes of Decisions (1)

T. C. A. § 16-18-311, TN ST § 16-18-311

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 16. Courts
Chapter 18. Municipal Courts--Judges
Part 3. Municipal Court Reform Act

T. C. A. § 16-18-312

§ 16-18-312. Special substitute municipal judges; sitting by interchange

Effective: July 1, 2019
Currentness

(a) If a municipal judge is unable to preside over municipal court for any reason, then a special substitute municipal judge shall be determined pursuant to an ordinance of the governing body of such municipal court. In the absence of such an ordinance, then the municipal judge may designate in writing, to be filed with the clerk of the municipal court, the name of a special substitute judge to hold court in the municipal judge's place and stead. The special substitute judge must meet the qualifications of a municipal judge and the special substitute judge shall take the same oath and have the same authority as the regular municipal judge to hold court for the occasion. Such appointment of a special substitute judge is effective for no more than thirty (30) days, after which a new appointment is required.

(b) Municipal court judges and general sessions court judges are empowered to sit by interchange for other municipal court judges.

Credits
2006 Pub.Acts, c. 1004, § 5, eff. June 27, 2006; 2019 Pub.Acts, c. 72, § 1, eff. July 1, 2019.

Notes of Decisions (2)

T. C. A. § 16-18-312, TN ST § 16-18-312
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 37. Juveniles
Chapter 1. Juvenile Courts and Proceedings
Part 1. General Provisions (Refs & Annos)

T. C. A. § 37-1-146

§ 37-1-146. Traffic violations

Effective: May 8, 2019
Currentness

(a) All cases of alleged traffic violations by children coming within this part shall be heard and disposed of upon a traffic ticket or citation signed by a law enforcement officer that describes in general terms the nature of the violation. Such cases may be disposed of through informal adjustment, pretrial diversion, or judicial diversion; in any case, however, the child or the child's parents may request and shall be granted a hearing before the judge.

(b) If the court finds that the child violated a traffic law or ordinance, the court may adjudicate the child to be a traffic violator, and the court may make one (1) or any combination of the following decisions:

(1) Suspend and hold the child's driver license for a specified or indefinite time;

(2) Limit the child's driving privileges as an order of the court;

(3) Order the child to attend traffic school, if available, or to receive driving instructions;

(4) Impose a fine of not more than fifty dollars ($50.00) against the child's parent or legal guardian;

(5) Perform community service work in lieu of a fine; or

(6) Place the child on probation pursuant to § 37-1-131(a)(2).

(c) In any case or class of cases, the judge of any juvenile court may waive jurisdiction of traffic violators who are sixteen (16) years of age or older, and such cases shall be heard by the court or courts having jurisdiction of adult traffic violations, or the child's parent or legal guardian may pay the stipulated fine to a traffic bureau.

Credits
1970 Pub.Acts, c. 600, § 45; 2016 Pub.Acts, c. 600, § 11, eff. July 1, 2016; 2018 Pub.Acts, c. 1052, §§ 43, 44; 2019 Pub.Acts, c. 312, § 9, eff. May 8, 2019.

Formerly § 37-245.

Notes of Decisions (1)

T. C. A. § 37-1-146, TN ST § 37-1-146

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

April 24, 2006

Opinion No. 06-075

Constitutionality of Passing On Cost of a Collection Agent

QUESTION

Would a municipal court that assesses a monetary sanction that consists of a fine less than fifty dollars and a collection cost, both of which combine to equal more than fifty dollars, violate Article VI § 14?

OPINION

No. Because the cost of collection is remedial and not punitive in nature, any amount collected would not be counted toward the fifty dollar maximum allowed by Article VI § 14 of the Tennessee Constitution.

ANALYSIS

Article VI § 14 of the Tennessee Constitution states: "[n]o fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers[.]" In *City of Chattanooga v. Davis*, the Tennessee Supreme Court articulated the standard for determining whether an assessment is subject to the fifty dollar maximum. 54 S.W.3d 248 (2001). In *Davis*, the Court stated that the Fifty-Dollar Fine Clause does not apply to assessments in excess of fifty dollars that are not punitive in nature. *Id.* at 259.

The Court then iterated a test for whether or not an assessment was punitive. The Court stated that a monetary assessment is punitive in nature if: 1) the legislative body that enacted the assessment primarily intended for the sanction to punish the offender; or 2) despite evidence of some remedial and not punitive intent, the assessment is shown by the "clearest proof" to be so punitive in its actual purpose or effect that it cannot be reasonably considered to be remedial. *Id.* at 264. In explaining this test the Court stated that, if the legislative body intended the assessment to be punitive, the inquiry ends there and the fifty dollar maximum applies. *Id.* If, however, it appears the assessment was intended to be remedial, the Court must still look at the second prong of the test. *Id.* If the assessment was intended to be remedial but does not actually serve a remedial purpose, then it must comply with the fifty dollar limit. *Id.* at 265.

In *Dickson v. Tennessee*, the Court of Appeals of Tennessee, when analyzing the *Davis* decision, stated, "[a]s we understand the Supreme Court's analysis, the only way a fixed, determinate fine can be considered remedial is when it bears some relationship to the harm caused by the violation, compensates the state for the costs of enforcement, or requires the wrongdoer to disgorge ill-gotten gains." 116 S.W.3d 738, 744 (2003).

Here, the proposed bill would allow courts to assess the cost of collecting a fine in an amount not to exceed forty percent of the fine. Because the stated/intended purpose of this assessment is not punitive in nature, and this assessment is directly related to the cost to the court to collect the fine, it is remedial in nature and exempt from the Fifty-Dollar Fine Clause. The collection costs assessed are intended to compensate the state for the costs of enforcement, and as such, would not count toward the fifty dollar maximum

PAUL G. SUMMERS
Attorney General

MICHAEL E. MOORE
Solicitor General

WILLIAM N. HELOU
Assistant Attorney General

Requested by:

Joe F. Fowlkes
State Representative
32 Legislative Plaza
Nashville, TN 37243-0165

151 S.W.3d 427
Supreme Court of Tennessee,
at Nashville.

TOWN OF NOLENSVILLE
v.
Ronald M. KING.

No. M2001–02572–SC–R11–CV.
|
Oct. 2004 Session at Franklin. [1]
|
Dec. 16, 2004.

Synopsis

Background: Property owner filed petition for writ of certiorari, challenging as unconstitutional a municipal court judge's assessment of $18,600 in fines against him for violating town ordinance prohibiting the storage of inoperative automobiles or trailers on property within the town limits. The Circuit Court, Williamson County, Russ Heldman, J., granted the writ and remanded case back to municipal court for entry of judgment not to exceed $50. Town appealed. The Court of Appeals vacated the Circuit Court's order. After granting property owner's appeal, the Supreme Court remanded the case for reconsideration. On remand, the Court of Appeals again vacated the Circuit Court's order. Property owner appealed by permission.

[Holding:] The Supreme Court, William M. Barker, J., held that municipal court judge's assessment of fines against property owner in excess of $50 was unconstitutional under the Fifty-Dollar Fines Clause, which prohibited fines exceeding $50 unless assessed by a jury, irrespective of whether property owner had right to de novo appeal and jury trial in circuit court.

Judgment of Court of Appeals reversed.

Procedural Posture(s): On Appeal.

West Headnotes (5)

[1] **Jury** Assessment of Punishment

Fifty-Dollar Fines Clause, which prohibits fines exceeding $50 unless assessed by a jury, applies to proceedings for violation of a municipal ordinance when a monetary sanction imposed for an ordinance violation is punitive and therefore a "fine" for purposes of the Clause, rather than a remedial measure. West's T.C.A. Const. Art. 6, § 14.

6 Cases that cite this headnote

[2] **Jury** Particular Cases in General

Municipal court judge's assessment of $18,600 in fines against property owner, as punishment for his violation of town ordinance prohibiting the storage of inoperative automobiles or trailers on property within the town limits, was unconstitutional under Fifty-Dollar Fines Clause, which prohibited fines exceeding $50 unless assessed by a jury, even though property owner had right to pursue a de novo appeal and obtain a jury trial in circuit court. West's T.C.A. Const. Art. 6, § 14; West's T.C.A. § 27–5–101.

1 Cases that cite this headnote

[3] **Jury** Right to Waive Jury in General

Judges may impose fines in excess of $50 without violating Fifty-Dollar Fines Clause, which prohibits fines exceeding $50 unless assessed by a jury, so long as the defendant waives his or her right to a jury determination of fines in excess of $50. West's T.C.A. Const. Art. 6, § 14.

1 Cases that cite this headnote

[4] **Jury** Form and Sufficiency

A defendant may voluntarily relinquish his or her constitutional right to jury determination of fines greater than $50 by executing a written waiver consistent with the provisions of rules of criminal procedure governing waivers of the right to a trial

by jury and to a grand jury investigation. West's T.C.A. Const. Art. 6, § 14; Rules Crim.Proc., Rule 5(c).

[5] **Jury** Assessment of Punishment

Fifty-Dollar Fines Clause, which prohibits fines exceeding $50 unless assessed by a jury, prohibits a municipal court judge from imposing fines in excess of $50 for a violation of a municipal ordinance, absent a valid waiver of the defendant's constitutional right to jury determination of fines greater than $50; this limitation applies irrespective of any right affording the offender a right to a de novo appeal and jury trial in circuit court. West's T.C.A. Const. Art. 6, § 14; West's T.C.A. § 27–5–101.

3 Cases that cite this headnote

Attorneys and Law Firms

***428** John E. Herbison, Nashville, Tennessee, for the appellant, Ronald M. King.

Robert J. Notestine III, Nashville, Tennessee, for the appellee, Town of Nolensville.

George E. Barrett and Gerald E. Martin, Nashville, Tennessee, for Amicus Curiae, Tennessee Municipal League.

WILLIAM M. BARKER, J., delivered the opinion of the court, in which the panel of FRANK F. DROWOTA, III, C.J., and E. RILEY ANDERSON, JANICE M. HOLDER, JJ., and ALLEN WALLACE, SP.J., joined.

OPINION

WILLIAM M. BARKER, J.

The issue presented in this case is whether a fine imposed by a municipal court judge in violation of Article VI, section 14 of the Tennessee Constitution, which prohibits the laying of fines in excess of fifty dollars unless assessed by a jury, is nevertheless constitutionally permissible if the person so fined has a right to a de novo appeal and jury trial in a higher court. We hold that it is not. After concluding that this issue had been left unresolved by this Court's prior decisions, the Court of Appeals held that the right to a de novo appeal and jury trial in circuit court satisfied the constitutional requirements of Article VI, section 14. We respectfully disagree. We conclude that our decision in *City of Chattanooga v. Davis,* 54 S.W.3d 248 (Tenn.2001), in which we held that Article VI, section 14 was applicable to proceedings for violations of municipal ordinances, compels a contrary result. Accordingly, we hold that Article VI, section 14 of the Tennessee Constitution prohibits a municipal court judge from imposing fines in excess of fifty dollars for the violation of a municipal ordinance, irrespective of any right afforded the defendant to obtain a jury trial upon appeal to a higher court. Therefore, for the reasons stated herein, the judgment of the Court of Appeals is reversed.

FACTUAL BACKGROUND

This case initially arose prior to our decision in *City of Chattanooga v. Davis,* and the current appeal marks the second time this Court has reviewed the case.[2] To summarize the facts, in April of 1999, the appellant, Ronald M. King, was cited into Nolensville Municipal Court for violating a city ordinance which prohibited, among other things, the accumulation of trash or debris or the storage of inoperative automobiles or trailers on property within the town limits.[3] The appellant ***429** had, at that time, nine inoperative vehicles, one trailer, two piles of scrap and a pile of wooden pallets illegally stored on his property. The appellant was found guilty and fined fifty dollars; however, the fine was suspended for thirty days to give the appellant an opportunity to correct the violation. Apparently, all of the offending items were not removed, and in May, the appellant was issued a second citation for having an inoperative automobile, a trailer, and a "pile of assorted personal belongings" stored on his property in violation of the ordinance. The appellant was again found guilty in municipal court but given another sixty days in which to remedy the violation. Finally, in August of 1999, a third hearing was held in municipal court. The appellant was found to be in continuing violation of the ordinance and fined $300 per day for each of the sixty-two days it was determined he had been in violation up to that point. Thus, the total of the fines levied against the appellant was $18,600.

The appellant then pursued two alternative judicial remedies by (1) perfecting a de novo appeal and request for a jury

trial in circuit court pursuant to Tennessee Code Annotated section 27–5–101 (2000); and (2) filing a petition for a writ of certiorari in circuit court seeking a determination that the penalties assessed against him violated Article VI, section 14 of the Tennessee Constitution in that they were fines exceeding fifty dollars and had not been imposed by a jury. In a hearing on the petition for writ of certiorari, the circuit court concluded that although the municipal court had designated the assessments as "penalties," they amounted in substance to fines and therefore violated Article VI, section 14 because they were imposed by a judge rather than a jury. Due to this ruling, the circuit court also dismissed the appeal and request for a jury trial brought under section 27–5–101 and remanded the case back to the municipal court for entry of a judgment not to exceed fifty dollars.

The Town of Nolensville appealed to the Court of Appeals, which subsequently held that the proceedings in municipal court were constitutionally permissible as the monetary assessments were not fines for purposes of Article VI, section 14. The Court of Appeals also held that the appellant's right to a jury assessment of the fines had not been violated because he could have obtained a jury trial through the appeals procedure provided for in Tennessee Code Annotated section 27–5–101 ***430** (2000). [4] Thus, the Court of Appeals vacated the order granting the writ of certiorari. We then granted the appellant's appeal. By that stage in the proceedings, however, our opinion in *City of Chattanooga v. Davis* had been handed down, and we therefore remanded the case back to the Court of Appeals with directions to reconsider it in light of our recent holding in *Davis.*

Upon reconsideration, the Court of Appeals applied the rule announced in *Davis* to conclude that the monetary assessments against the appellant were indeed "fines" for purposes of Article VI, section 14. However, the intermediate court was of the opinion that the holding in *Davis* had left open the question of whether the right to a de novo appeal and jury trial in circuit court protected the appellant's Article VI, section 14 right. Following an analysis of the issue, the Court of Appeals reaffirmed its previous holding that there had been no constitutional violation because the appellant could have had a jury set his fines, if he so chose, by pursuing a de novo appeal to circuit court and requesting a jury trial. We then granted permission to appeal in order to clarify our interpretation of Article VI, section 14 of the Tennessee Constitution, as it applies to proceedings in a municipal court.

ANALYSIS

Article VI, section 14 of the Tennessee Constitution, commonly known as the Fifty Dollar Fines Clause, provides:

> No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.

The constitutional right established by this clause is unique to Tennessee and "no other provision like it may be found either in the Federal Constitution or in any other modern state constitution." *City of Chattanooga v. Davis,* 54 S.W.3d 248, 257 (Tenn.2001).

[1] In *Davis* we addressed the issue of whether Article VI, section 14 applied to proceedings for the violation of a municipal ordinance. *Id.* at 251. We held that Article VI, section 14 applied to such proceedings when a monetary sanction imposed for an ordinance violation was punitive and therefore a "fine" for purposes of Article VI, section 14, rather than a remedial measure. Fully explained, we held that a monetary sanction fell within the scope of Article VI, section 14 when:

> (1) the legislative body creating the sanction primarily intended that the sanction punish the offender ...; or (2) despite evidence of remedial intent, the monetary sanction is shown by the "clearest proof" to be so punitive in its actual purpose or effect that it cannot be legitimately viewed as remedial in nature.

Id. at 264.

[2] In the case before us today, both parties agree in this Court that the sanctions ***431** imposed by the municipal court judge were "fines" within the meaning of Article VI, section 14. Therefore, the only issue we need address is whether the Court of Appeals erred in holding that the municipal court judge's assessment of the fines in excess of fifty dollars was constitutionally permissible because the appellant had the right to pursue a de novo appeal and obtain a jury trial in circuit court.

In construing Article VI, section 14, the Court of Appeals held that the right to have a jury assess any fine exceeding fifty dollars was satisfied when the jury was obtained *upon appeal,* rather than in the trial court. In its analysis, the Court of Appeals characterized these proceedings—a trial in municipal court followed by a de novo appeal in circuit court—as two-tier proceedings, in which the de novo appeal and jury trial in the higher court effectively wiped the slate clean of the lower court's judgment and afforded the appellant the full panoply of constitutional rights. As a result, the Court of Appeals concluded that the initial assessment of fines by the municipal court judge did not violate Article VI, section 14. We disagree. We find no support for the proposition that a constitutional right of an individual may be violated by a judge in a court of law and that violation be allowed to stand, unless the aggrieved individual takes affirmative action by appealing to a higher court for relief. To hold that such a proceeding adequately satisfies an affirmative constitutional right would contradict our most well-established principles of constitutional jurisprudence and fundamental fairness. *See* *City of White House v. Whitley,* 979 S.W.2d 262, 268 (Tenn.1998) (rejecting the proposition that the right to a de novo appeal satisfied the constitutional right to a trial before an attorney judge and stating that "the due process violation resulting from the lack of an attorney judge [in municipal court] is not cured by the statutory right to a de novo appeal").

The Court of Appeals' characterization of the municipal court trial as being part of a valid two-tier proceeding is inappropriate in this instance because the municipal court lacked any ability to provide for the appellant's Article VI, section 14 right.[5] Not only was the municipal court judge expressly prohibited by Article VI, section 14 from imposing the fines in issue, but the court also lacked the authority to either empanel a jury or transfer the case to a higher court where a jury was available. This is the same factual scenario with which we were confronted in *Davis.*[6] The appellant in *Davis* had been found guilty in municipal court of violating a Chattanooga ***432** municipal ordinance. *Davis,* 54 S.W.3d at 252. The municipal court judge subsequently assessed a $300 fine. *Id.* Upon appeal, we held that the assessment of such a fine violated Article VI, section 14 of the Tennessee Constitution. In reaching this conclusion this Court stated:

> Assuming presently that the General Assembly has granted the Chattanooga City Council authority to enact punitive sanctions in excess of fifty dollars, we have been unable to locate any statute that confers upon the Chattanooga City Court the power or authority to empanel a jury for this purpose.... Therefore, irrespective of any city ordinance to the contrary, the discretion of the Chattanooga City Court to impose punitive monetary sanctions is necessarily limited by Article VI, section 14 to fines not exceeding fifty dollars.

Id. at 267. Consequently, the Court reduced the fine assessed by the trial judge to fifty dollars, "the maximum assessment allowed under such circumstances by Article VI, section 14." *Id.* at 281–82.

We point out that the appellant in *Davis* had the same statutory right to a de novo appeal in circuit court as does the appellant in the present case.[7] Nevertheless, the availability of a jury trial upon appeal did not affect our analysis in *Davis* of whether Article VI, section 14 had been violated. By reducing the fines in both cases considered in *Davis* to fifty dollars, this Court clearly concluded that the trial courts were constrained by Article VI, section 14 of our Constitution from imposing fines exceeding fifty dollars in these cases. Presented with the same factual scenario today, we likewise apply the same reasoning and reach the same conclusion. Because the Nolensville Municipal Court judge lacked the authority to empanel a jury to assess fines, the court's power to assess fines in this case was limited by Article VI, section 14 to fines not exceeding fifty dollars. *Davis,* 54 S.W.3d at 267.

[3] [4] By so stating, we do not hold that fines in excess of fifty dollars may never be imposed by judges rather than juries. Judges may impose fines in excess of fifty dollars so long as the defendant waives his or her right to a jury determination of fines in excess of fifty dollars. The defendant may voluntarily relinquish his or her constitutional right to jury determination of fines greater than fifty dollars by

executing a written waiver consistent with the provisions of Rule 5(c) of the Tennessee Rules of Criminal Procedure, governing waivers of the right to a trial by jury and to a grand jury investigation. *See* *City of White House,* 979 S.W.2d at 268. This is precisely the procedure employed in general sessions courts when defendants are charged with misdemeanor state offenses. If a defendant in general sessions court executes a waiver of his or her right to a jury, the court may hear the case, determine guilt, and impose punishment. If, however, a defendant chooses not to waive his or her right to a jury, the general sessions court has no option other than, upon a finding of probable cause, to bind the case over for a grand jury investigation. If the grand jury returns an indictment, a jury trial may be held.

In contrast, a municipal court has no option but to fully adjudicate the case, even when the defendant requests a jury trial. Therefore, while we agree that the right to a jury determination of fines may be waived, we cannot envision that a defendant ***433** in municipal court would knowingly waive this constitutional right, and thereby allow the court to impose a fine in excess of fifty dollars, when the alternative would be either a fine of fifty dollars or less or dismissal of the case.

[5] Accordingly, for the reasons stated herein, we hold that Article VI, section 14 of the Tennessee Constitution prohibits a municipal court judge from imposing fines in excess of fifty dollars for a violation of a municipal ordinance, absent a valid waiver of the defendant's Article VI, section 14 right. This limitation applies irrespective of any right affording the offender a right to a de novo appeal and jury trial in circuit court. In the present case, we reduce the appellant's fines to fifty dollars for each offense, the maximum the municipal court judge could have imposed. *See* *id.* at 267; *see also* *Huffman v. State,* 200 Tenn. 487, 292 S.W.2d 738, 744 (1956) (stating that it is duty of appellate court to reduce fine to fifty dollars to remedy Article VI, section 14 violation), *overruled on other grounds;* *State v. Irvin,* 603 S.W.2d 121, 123 (Tenn.1980). Because the ordinance at issue prescribes that each day in violation constitutes a separate offense, the appropriate fine is fifty dollars per day for each of the sixty-two days the appellant was found to be in violation, resulting in a total fine of $3,100 assessed against the appellant. [8]

We stress that our holding today, along with our previous holding in *City of Chattanooga v. Davis,* applies only to *punitive* monetary sanctions and preserves a municipality's power to impose *remedial* monetary assessments for violations of ordinances. *See* *Davis,* 54 S.W.3d at 259 (pointing out that Article VI, section 14 does not apply when the assessment is not punitive in nature). Primarily remedial sanctions, such as to cover the cost of clean-up, reimburse administrative costs, or to compensate for actual loss may all be imposed in greater amounts pursuant to authority granted by statute. Additionally, when confronted with cases similar to this one, we point out that municipalities continue to have the option of pursuing a remedy through other courts by filing suits to abate a nuisance. [9]

We are also not insensitive to the argument by both the appellee and the Tennessee Municipal League that the prospect of a fifty dollar fine in 1796, when this provision was first enacted, would have had a greater deterrent effect than a fifty dollar fine in the present day. It is common knowledge that the real value of currency fluctuates over time. A fifty dollar fine in contemporary value lacks the weighty and serious quality a fifty dollar fine would have had two hundred years ago. Nevertheless, there is no reliable and proper way by which this Court can translate the actual value of 1796 dollars into contemporary dollar amounts. For this very reason, it is unwise for a constitution to include monetary figures, and it is no wonder that Tennessee's Constitution is the only one in the United States to include such a figure. *Davis,* 54 S.W.3d at 257. Had the delegates to the Constitutional Convention of 1796 known that the provision would survive unchanged for more than 200 years, they likely would not ***434** have included a precise monetary figure. Nonetheless, this Court is constrained to uphold the plain language of the Tennessee Constitution. Proposed changes to the Fifty Dollar Fines provision must be addressed in a different forum. The General Assembly and the citizens of Tennessee, not this Court, have it in their power, if they so desire, to amend the constitution and change the fifty dollar provision of Article VI, section 14.

CONCLUSION

In summary, we reaffirm our previous decision in *City of Chattanooga v. Davis* in which we held that Article VI, section 14 of the Tennessee Constitution applies to

proceedings involving the violation of municipal ordinances when either the intended purpose or the actual purpose or effect of the monetary sanctions is punitive. We further hold that Article VI, section 14 prohibits a municipal court judge from imposing fines in excess of fifty dollars in such proceedings, irrespective of whether the person so fined has the right to a de novo appeal and jury trial in a higher court.

With respect to the case at bar, we reverse the judgment of the Court of Appeals, and we reduce the fines imposed against the appellant, Ronald M. King, to fifty dollars for each offense, the maximum amount allowed under Article VI, section 14. The appellant was found to be in violation of the ordinance in question for sixty-two days, with each day in violation constituting a separate offense. Therefore, the appellant's fines are reduced to fifty dollars per day for sixty-two days, resulting in a total amount of $3,100.

Costs of this appeal are taxed to the Town of Nolensville.

All Citations

151 S.W.3d 427

Footnotes

1 This case was heard on October 8, 2004 at the Williamson County Courthouse in Franklin, Tennessee as part of the S.C.A.L.E.S. (Supreme Court Advancing Legal Education for Students) project. Since the program began in October 1995 more than 14,000 students have participated in S.C.A.L.E.S. projects across the State.

2 This Court originally granted an application to appeal in this case in 2001. Thereafter, in October of 2001, we remanded the case to the Court of Appeals with directions to reconsider the case in light of our then recent opinion in *City of Chattanooga v. Davis,* 54 S.W.3d 248 (Tenn.2001). The Court of Appeals handed down a second opinion, and it is this latter opinion which we now review.

3 The Town of Nolensville municipal ordinance, as amended, provides in part:

> *Section 4. Overgrown and dirty lots.* It shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.
>
> ....
>
> *Section 7. Abandoned and/or unusable automobiles and motor vehicles and storage trailers.*
>
> It shall be unlawful for any persons to place or allow any abandoned or unusable automobiles, motor vehicles, or storage trailers to be stored or lodged on real property within the Town of Nolensville. For purposes of this Ordinance, 'unusable' shall mean that said automobile, motor vehicle or storage trailer is not suited for the purpose for which it was manufactured, in its present condition.
>
> *Section 8: Violations and penalty:* Violations of this chapter shall be (sic) subject the offender to a penalty of up to five hundred dollars ($500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

Nolensville, Tenn., Ordinance 98–04 (as amended) (May 7, 1998).

4 The appellant's right to an appeal in circuit court is set forth in Tennessee Code Annotated section 27–5–101 (2001), which provides:

> Any person dissatisfied with the judgment of a recorder or other officer of a municipality charged with the conduct of trials, in a civil action, may, within ten (10) days thereafter, Sundays exclusive, appeal to the next term of circuit court.

Id. The appeal in circuit court is subject to the same terms and restrictions as an appeal from sessions court, which includes de novo review. Tenn.Code Ann. §§ 27–5–102, 27–5–108(c); *State v. Cunningham,* 972

S.W.2d 16, 18 (Tenn.Crim.App.1998). Also, a jury trial will be provided in circuit court upon a timely demand by the appellant. *City of Chattanooga v. Myers,* 787 S.W.2d 921, 928 (Tenn.1990).

5 The Court of Appeals cited *Colten v. Kentucky,* 407 U.S. 104, 92 S.Ct. 1953, 32 L.Ed.2d 584 (1972) to support the proposition that two-tier proceedings are valid. However, the issue in *Colten* was whether a two-tier proceeding violated the Due Process Clause when the defendant was convicted in both the lower and higher courts and assessed a harsher penalty in the higher court. *Id.* at 114, 92 S.Ct. 1953. The defendant in *Colten* had waived his right to a jury trial in the lower court, thus this was not an issue. *Id.* at 113, 92 S.Ct. 1953. *Colten* did not address the validity of such proceedings when a defendant has an affirmative right to have a jury assess any fine exceeding fifty dollars. As we have pointed out, this right provided for under Article VI, section 14 of the Tennessee Constitution is unique to our State, and no comparable provision may be found in any other modern constitution.

6 *Davis* actually involved two cases: *City of Chattanooga v. Davis* and *Barrett v. Metro. Gov't of Nashville and Davidson County*. These cases were consolidated for consideration on appeal because they involved the same issue. *Davis,* 54 S.W.3d at 251. The appellants in both cases had violated a municipal ordinance and were subsequently assessed a fine in excess of fifty dollars by a trial judge. *Id.* at 252, 255.

7 *See* Tenn.Code Ann. § 27–5–101 (2001). The appellant in *Barrett*, the companion case to *Davis,* also had a statutory right to a de novo appeal, although it was pursuant to Tennessee Code Annotated section 27–5–108 (2000) because the case initiated in general sessions court rather than municipal court.

8 While the appellee argues that our holding today should not be applied retroactively to the present case, we note that this case was in the appeals process when this Court's decision in *City of Chattanooga v. Davis,* 54 S.W.3d 248 (Tenn.2001) was handed down. At that time, we directed the Court of Appeals to reconsider its earlier decision in appellant's case in light of the holding in *Davis.* As the present case has been under review in the appeals process during this entire time, our holding today is properly applied to this case without implicating the issue of retroactive application.

9 *See* Tenn.Code Ann. § 29–3–101 et. seq. (2000).

West's Tennessee Code Annotated
Title 38. Prevention and Detection of Crime
Chapter 6. Tennessee Bureau of Investigation (Refs & Annos)
Part 1. General Provisions

T. C. A. § 38-6-103

§ 38-6-103. Forensic services division

Effective: April 2, 2020
Currentness

(a) The forensic services division shall consist of experts in the scientific detection of crime. The director is empowered to employ, either upon a temporary or permanent basis, but is not limited to, ballistics experts, pathologists, toxicologists, experts in the detection of human bloodstains and fingerprint experts and such other persons of expert knowledge in the detection of crime as may be found feasible. It shall be the duty of the forensic services division to keep a complete record of fingerprints obtained by it through exchange with the federal bureau of investigation, with similar bureaus in other states and from fingerprints obtained in this state. Each peace officer of this state, upon fingerprinting any person arrested, shall furnish a copy of the fingerprints to the forensic services division of the bureau. Likewise, such fingerprints as are now on file at the state penitentiary shall be transferred from the penitentiary to the bureau and maintained by it. Each person received at the state penitentiary shall be fingerprinted and a copy of the fingerprints furnished to the bureau. The bureau is authorized to exchange with the federal bureau of investigation any and all information obtained by the bureau in the course of its work and to request of the federal bureau of investigation such information as the bureau may desire.

(b) The services of the forensic services division may be made available by the director to any district attorney general of this state, the chief medical examiner and all county medical examiners in the performance of their duties under the post-mortem examination law or to any peace officer upon the approval of the district attorney general of the district in which such peace officer is located. The forensic services division likewise is authorized to avail itself of the services of any and all other departments of the state where the same may be of benefit to it, including, but not limited to, the state chemists and other expert personnel.

(c) The Tennessee crime laboratory and all regional crime laboratories shall be under the supervision of the director of the bureau or the director's designated representatives.

(d)(1)(A) The following fees shall be adjudged as a part of the costs in each case upon conviction of the following offenses:

(i) Controlled substances, controlled substance analogues, narcotics, drugs..... $20.00

(ii) Driving a motor vehicle, or operating a boat while under the influence of intoxicants and/or drugs, except as provided in § 55-10-413(d).....17.50

(iii) Certification of criminal histories and records...Amount fixed by the federal bureau of investigation

(iv) Upon the forfeiture of a cash bond or other surety entered as a result of a municipal traffic citation, whether considered a fine, a bond or a tax.....13.75.

(B) Such fees shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law.

(C) Except when and as provided in this subdivision (d)(1) and subdivision (e)(2), the appropriate clerk, after deducting five percent (5%) as compensation when applicable, shall identify those fees set out in subdivisions (d)(1)(A)(i)-(iv) to the Tennessee bureau of investigation and remit the fees to the state treasury to be expended as appropriated by the general assembly.

(D) Any moneys in the TBI fund, created pursuant to Chapter 1019 of the Public Acts of 2010, on June 30, 2020, shall revert to the general fund on such date, to be used only as appropriated by the general assembly.

(2) Upon approval of the director, local governing bodies which have the responsibility for providing funding for sheriffs' offices and police departments are authorized to purchase from state contracts approved for bureau purchases, scientific instruments designed to examine a person's breath and measure the alcohol content of a person's breath, for use as evidence in the trial of cases; provided, that prior to use of the scientific instruments, such instruments must be delivered to the forensic services division for testing and certification pursuant to subsection (g). The bureau shall continue to maintain and certify the instruments and operating personnel, pursuant to subsection (g), and furnish expert testimony in support of the use of the scientific instruments when required.

(e)(1) Any fees authorized for services rendered by the bureau that are not incident to a court case shall be paid to the Tennessee bureau of investigation for deposit with the state treasurer for expenditure as provided for by this section.

(2) Every local governing body purchasing the instruments pursuant to subsection (d) shall report the use of the instrument to the clerk of the court, for inclusion of the service fee as a part of the court costs, which service fee shall be disbursed to the local governing body until the purchase price is recovered. Thereafter, the service fee shall be disbursed by the clerk to the bureau, for payment to the state treasurer as required by subsection (f).

(f) All revenue resulting from fines, forfeitures and services rendered by the bureau shall be paid to the state treasurer and used only as appropriated by the general assembly.

(g) The bureau, through its forensic services division, shall establish, authorize, approve and certify techniques, methods, procedures and instruments for the scientific examination and analysis of evidence, including blood, urine, breath or other bodily substances, and teach and certify qualifying personnel in the operation of such instruments to meet the requirements of the law for the admissibility of evidence. When examinations, tests and analyses have been performed in compliance with these standards and procedures, the results shall be prima facie admissible into evidence in any judicial or quasi-judicial proceeding, subject to the rules of evidence as administered by the courts.

(h)(1) Effective July 1, 2006, there is created within the Tennessee bureau of investigation's serology/DNA unit, six (6) additional special agent/forensic scientist positions to perform DNA analysis in criminal investigations. The positions shall be in addition

to any position that was created and funded prior to July 1, 2006, or that may be created in the future. The director shall determine to which of the bureau's forensic laboratories each of the six (6) special agents/forensic scientists employed pursuant to this subsection (h) shall be assigned. The assignments shall be based upon the number of criminal investigations requiring DNA analysis in each of the laboratories, the DNA analysis backlog and such other factors as the director determines will most quickly and efficiently reduce the backlog of DNA samples awaiting analysis.

(2) When the backlog of criminal investigations awaiting DNA analysis becomes current, the director shall continue to utilize these six (6) positions in the various bureau laboratories, as needed to prevent any future backlog of analysis requests and to expedite the analysis of future requests.

Credits

1951 Pub.Acts, c. 173, § 3; 1980 Pub.Acts, c. 636, § 3; 1980 Pub.Acts, c. 810, § 1; 1981 Pub.Acts, c. 512, § 1; 1985 Pub.Acts, c. 124, §§ 1 to 3; 1987 Pub.Acts, c. 104, § 1; 1990 Pub.Acts, c. 847, § 1; 2006 Pub.Acts, c. 891, § 1, eff. July 1, 2006; 2006 Pub.Acts, c. 998, § 3, eff. July 1, 2006; 2007 Pub.Acts, c. 374, § 3, eff. July 1, 2007; 2010 Pub.Acts, c. 1019, § 1, eff. July 1, 2010; 2011 Pub.Acts, c. 49, § 1, eff. July 1, 2011; 2012 Pub.Acts, c. 848, § 10, eff. May 15, 2012; 2012 Pub.Acts, c. 1088, § 1, eff. July 1, 2012; 2013 Pub.Acts, c. 154, § 32, eff. July 1, 2013; 2020 Pub.Acts, c. 668, § 1, eff. April 2, 2020.

Notes of Decisions (16)

T. C. A. § 38-6-103, TN ST § 38-6-103

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

Sample Court Cost and Local Litigation Tax Ordinance

Reference Number:
MTAS-2130

ORDINANCE NO._____

AN ORDINANCE TO ESTABLISH REASONABLE COURT COSTS AND LEVY A LOCAL LITIGATION TAX.

WHEREAS, Tennessee Code Annotated § 16-18-304 allows cities to set and collect reasonable municipal court costs and Tennessee Code Annotated § 67-4-601 allows cities to levy and collect local litigation taxes;

WHEREAS, the City of _____ has determined that it is the best interest of the City to set court costs and levy a local litigation tax;

NOW, therefore, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF _____, TENNESSEE, THAT:

Section 1.

In all cases heard and determined by him or her, the city judge shall impose court costs in the amount of $ _____. One dollar ($1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. In addition, the court shall levy a local litigation tax in the amount of thirteen dollars and seventy five cents ($13.75) in all cases in which the state litigation tax is levied.

Section 2. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it.

Passed 1st reading, _____, 2019.

Passed 2nd reading, _____, 2019.

_____

Mayor

_____

Recorder

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 10. Accidents, Crimes and Penalties (Refs & Annos)
Part 2. Crimes

T. C. A. § 55-10-207

§ 55-10-207. Citations

Effective: July 15, 2020
Currentness

(a) As used in this section, "traffic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(b)(1) Whenever a person is arrested for a violation of any provision of chapter 8, 9, 10 or 50 of this title or § 55-12-139, or chapter 52, part 2 of this title, punishable as a misdemeanor, and the person is not required to be taken before a magistrate or judge as provided in § 55-10-203, the arresting officer shall issue a traffic citation to the person in lieu of arrest, continued custody and the taking of the arrested person before a magistrate, except as provided in subsection (h).

(2) A law enforcement officer at the scene of a traffic accident may issue a traffic citation to the driver or drivers of any vehicles involved in the accident when, based on personal investigation, the officer has reasonable and probable grounds to believe that the person or persons have committed an offense under chapter 8, 9, 10 or 50 of this title.

(3) Whenever a person is arrested for a violation of any provision of chapter 4, part 4 of this title that is punishable as a misdemeanor, the arresting officer may issue a traffic citation to the person in lieu of arrest, continued custody and the taking of the arrested person before a magistrate.

(c)(1) The traffic citation shall demand the person cited to appear in court at a stated time and it shall state the name and address of the person cited, the name of the issuing officer, and the offense charged. Unless the person cited requests an earlier date, the time specified on the traffic citation to appear shall be as fixed by the arresting officer. The traffic citation shall give notice to the person cited that failure to appear as ordered is punishable as contempt of court. The person cited shall signify the acceptance of the traffic citation and the agreement to appear in court as directed by signing the citation. An electronic signature may be used to sign a citation issued electronically and has the same force and effect as a written signature.

(2) Any traffic citation prepared as a paper copy shall be executed in triplicate, the original to be delivered to the court specified therein, one (1) copy to be given to the person cited, and one (1) copy to be retained by the officer issuing the citation.

(3) Replicas of traffic citation data sent by electronic transmission shall be sent within three (3) days of the issuance of the citation to the court having jurisdiction over the alleged offense. Any person issued a traffic citation prepared by a law enforcement officer electronically shall be provided with a paper copy of the traffic citation. A law enforcement officer who files a citation

electronically shall be considered to have certified the citation and has the same rights, responsibilities, and liabilities as other citations issued pursuant to this section.

(d) Whenever a traffic citation has been prepared, accepted, and the original citation delivered to the court as provided herein, the original citation delivered to the court shall constitute a complaint to which the person cited must answer and the officer issuing the citation shall not be required to file any other affidavit of complaint with the court.

(e)(1) Each court clerk shall charge and collect an electronic traffic citation fee of five dollars ($5.00) for each traffic citation resulting in a conviction. Such fee shall be assessable as court costs and paid by the defendant for any offense cited in a traffic citation delivered that results in a plea of guilty or nolo contendere, or a judgment of guilty. This fee shall be in addition to all other fees, taxes and charges. One dollar ($1.00) of such fee shall be retained by the court clerk. The remaining four dollars ($4.00) of the fee shall be transmitted monthly by the court clerk to the law enforcement agency that prepared the traffic citation that resulted in a plea of guilty or nolo contendere, or a judgment of guilty.

(2) All funds derived from the electronic traffic citation fee that are transmitted to the law enforcement agency that prepared the traffic citation pursuant to subdivision (e)(1) shall be accounted for in a special revenue fund of such law enforcement agency and may only be used for the following purposes:

(A) Electronic citation system and program related expenditures; and

(B) Related expenditures by such local law enforcement agency for technology, equipment, repairs, replacement and training to maintain electronic citation programs.

(3) All funds derived from the electronic citation fee set aside for court clerks pursuant to subdivision (e)(1) shall be used for computer hardware purchases, usual and necessary computer related expenses, or replacement. Such funds shall be preserved for those purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(4) The local legislative body of any county or municipality may, by majority vote, adopt a resolution or ordinance to authorize a county or municipal court clerk to charge and collect electronic traffic citation fees pursuant to this subsection (e). Any electronic traffic citation fee imposed pursuant to an ordinance or resolution under this subdivision (e)(4) shall terminate five (5) years from the date on which the ordinance or resolution is adopted.

(f) Prior to the time set for the person to appear in court to answer the charge, the person cited may elect not to contest the charge and may, in lieu of appearance in court, submit the fine and costs to the clerk of the court. The submission to fine must be with the approval of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed. The submission to fine shall not otherwise be exclusive of any other method or procedure prescribed by law for disposition of a traffic citation that may be issued for a violation of any provision of this chapter or chapter 8, 9, or 50 of this title or § 55-12-139 or chapter 4, part 4 of this title.

(g) If the person cited has not paid the traffic citation upon submission to fine as provided in this section and the person cited fails to appear in court at the time specified, or such later date as may be fixed by the court, the court may issue a warrant for the person's arrest or may declare a judgment of forfeiture for the offense charged. The judgment of forfeiture shall in no

case be more than the total amount of fine and costs prescribed by law for the offense and may be collected in the manner provided in § 40-24-105.

(h)(1) This section shall not be applicable to any person arrested for a violation of any of the offenses enumerated in § 55-10-203, or to any person arrested for a violation of any provision of this chapter or chapter 8, 9 or 50 of this title that is punishable by a fine of more than fifty dollars ($50.00) or by imprisonment for more than thirty (30) days. This section shall not supersede § 40-7-118, nor shall it require the use of a traffic citation in lieu of arrest in any of the circumstances specified in § 40-7-118(d).

(2) This section shall not be applicable to a person who is subject to arrest pursuant to § 55-10-119.

(i) Notwithstanding any other law to the contrary, all traffic citations used in Tennessee shall contain, as a minimum, the following information:

(1) Citation number;

(2) Violator's first name, middle name or middle initial, last name and date of birth;

(3) Violator's driver license number, state of issuance and class of the license;

(4) Whether or not the license is a commercial driver license;

(5) The vehicle make, model, year, color, and owner;

(6) The license plate number, year, and state of issuance;

(7) Whether or not the vehicle is a commercial motor vehicle;

(8) Whether or not the vehicle is transporting hazardous materials requiring placards;

(9) Whether or not the vehicle can transport sixteen (16) or more passengers;

(10) The offense committed, including the date and time, if applicable;

(11) The location of the offense;

(12) The issuing officer's name, rank, badge/ID number, and employing agency; and

(13) The time, date, location, and court where the offense will be heard.

Credits

1984 Pub.Acts, c. 777, § 1; 1985 Pub.Acts, c. 334, § 1; 1986 Pub.Acts, c. 619, §§ 1, 2; 2002 Pub.Acts, c. 648, §§ 2, 3, eff. April 24, 2002; 2002 Pub.Acts, c. 803, §§ 15, 16; 2007 Pub.Acts, c. 481, § 4, eff. July 1, 2007; 2010 Pub.Acts, c. 1037, § 1; 2012 Pub.Acts, c. 737, § 4, eff. July 1, 2012; 2014 Pub.Acts, c. 750, §§ 1 to 4, eff. July 1, 2014; 2020 Pub.Acts, c. 781, § 3, eff. July 15, 2020.

Notes of Decisions (10)

T. C. A. § 55-10-207, TN ST § 55-10-207

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 50. Uniform Classified and Commercial Driver License Act (Refs & Annos)
Part 5. Suspension and Revocation (Refs & Annos)

T. C. A. § 55-50-502

§ 55-50-502. Suspension; cancellation; surrender; installment plans for payment of fines and costs; restricted license

Effective: July 1, 2019
Currentness

(a)(1) The department is authorized to suspend the license of an operator or chauffeur upon a showing by its records or other sufficient evidence that the licensee:

(A) Has committed an offense for which mandatory revocation of license is required upon conviction; provided, that in the event of a conviction resulting from the offense, the time of mandatory revocation shall be counted from the date upon which the driver license was received by the department or the circuit court clerk;

(B) Has contributed as a driver in any accident resulting in the death or personal injury of another or serious property damage;

(C) Has been convicted with a frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways. For purposes of this subdivision (a)(1)(C), no conviction of exceeding the speed limit in a state other than Tennessee shall be considered by the department unless the conviction was for exceeding the lawful speed in the other state by more than five miles per hour (5 mph). This five miles per hour (5 mph) allowance shall not apply in marked school zones;

(D) Is an habitually reckless or negligent driver of a motor vehicle;

(E) Is incompetent to drive a motor vehicle;

(F) Has permitted an unlawful or fraudulent use of the license;

(G) Has committed an offense in another state that if committed in this state would be grounds for suspension or revocation;

(H) Has been finally convicted of any driving offense in any court and has not paid or secured any fine or costs imposed for that offense;

(I) Has failed to appear in any court to answer or to satisfy any traffic citation issued for violating any statute regulating traffic. No license shall be suspended pursuant to this subdivision (a)(1)(I) for failure to appear in court on or failure to pay a parking

ticket or citation or for a violation of § 55-9-603. Any request from the court for suspension under this subdivision (a)(1)(I) must be submitted to the department of safety within six (6) months of the violation date. No suspension action shall be taken by the department unless the request is made within six (6) months of the violation date except in the case where the driver is a commercial license holder, or the violation occurred in a commercial motor vehicle. Prior to suspending the license of any person as authorized in this subsection (a), the department shall notify the licensee in writing of the proposed suspension and, upon the licensee's request, shall afford the licensee an opportunity for a hearing to show that there is an error in the records received by the department; provided, that the request is made within thirty (30) days following the notification of proposed suspension or cancellation. Failure to make the request within the time specified shall without exception constitute a waiver of that right;

(J) Is under eighteen (18) years of age and has withdrawn either voluntarily or involuntarily or has failed to maintain satisfactory academic progress from a secondary school as provided in § 49-6-3017; or

(K)(i) Has contributed as a driver to the occurrence of an accident on school property, or on a highway with special speed limits, in which a pedestrian child suffers serious bodily injury as the result of the accident;

(ii) As used in this subdivision (a)(1)(K), unless the context otherwise requires:

(*a*) "Highway with special speed limits" means any highway with reduced speed limits, authorized pursuant to § 55-8-152, when a warning flasher or flashers are in operation, and while children are actually present;

(*b*) "Pedestrian child" means any person under eighteen (18) years of age afoot, in a mechanized wheelchair or on a nonmotorized wheeled device, including, but not limited to, a bicycle, a scooter, a skateboard, roller skates, in-line skates or a wheelchair;

(*c*) "School property" means any outdoor grounds contained within a public or private preschool, nursery school, kindergarten, elementary or secondary school's legally defined property boundaries, as registered in a county register's office; and

(*d*) "Serious bodily injury" means bodily injury that involves:

(*1*) A substantial risk of death;

(*2*) Protracted unconsciousness;

(*3*) Extreme physical pain;

(*4*) Protracted or obvious disfigurement; or

(*5*) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 10. Accidents, Crimes and Penalties (Refs & Annos)
Part 3. Penalties and Procedure (Refs & Annos)

T. C. A. § 55-10-308

§ 55-10-308. Enforcement

Effective: July 1, 2014
Currentness

(a) For purposes of this section:

(1) “Interstate highway” means a portion of any highway designated and known as part of the national system of interstate and defense highways; and

(2) “Marked law enforcement vehicle” means a law enforcement vehicle equipped with:

(A) At least one (1) light bar assembly designed to display more than one (1) steady burning, flashing, or revolving beam of light with three hundred sixty degrees (360°) visibility;

(B) A horn, siren, electronic device, or exhaust whistle from which audible signals may sound; and

(C) Graphics, markings, or decals clearly identifying the agency or department on at least three (3) of the following four (4) sides:

(i) Front;

(ii) Rear;

(iii) Left side; or

(iv) Right side.

(b) Where chapter 8 of this title and §§ 55-10-101 -- 55-10-310 apply to territory within the limits of a municipality, the primary responsibility for enforcing the sections shall be on the municipality which shall be further authorized to enforce the additional ordinances for the regulation of the operation of vehicles as it deems proper.

(c) Notwithstanding subsection (b), any municipality having a population of at least two thousand five hundred (2,500) and no more than ten thousand (10,000), according to the 2010 federal census or any subsequent federal census, with at least one (1) entrance ramp to and at least one (1) exit ramp from an interstate highway within the limits of such municipality, or any municipality having a population of less than two thousand five hundred (2,500), according to the 2010 federal census or any subsequent federal census, with at least two (2) entrance ramps to and at least two (2) exit ramps from an interstate highway within the limits of such municipality, may regulate enforcement of chapter 8 of this title and §§ 55-10-101 -- 55-10-310, on the portions of any interstate highway lying within the territorial limits of the municipalities exercise if:

(1) The local legislative body of the municipality authorizes such enforcement of the rules of the road;

(2) Any ordinance or resolution authorizing the enforcement of rules of the road is submitted to the commissioner of safety; and

(3) The municipality enforces the rules of the road in full compliance with the rules promulgated by the commissioner of safety; provided, that this restriction shall not apply to drug interdiction officers employed by the municipality while the officers are actively serving with any judicial district drug force.

(d) Any municipal law enforcement agency enforcing rules of the road on interstate highways pursuant to subsection (c) shall use only marked law enforcement vehicles. Graphics, markings, or decals that are transparent, translucent, or create a holographic effect do not clearly identify the agency or department for purposes of this subsection (d).

(e)(1) The commissioner may refuse to issue or may suspend for up to three (3) years the authorization of a municipality, having a population of ten thousand (10,000) or less, according to the 2010 federal census or any subsequent federal census, to enforce the rules of the road on the interstate highways, if the commissioner determines that the municipality is not complying with the requirements set forth in this section or the rules promulgated by the department.

(2) Suspension of authorization shall be made in writing and sent by certified mail, return receipt requested, to both the chief law enforcement officer and the mayor of the municipality no less than thirty (30) days prior to the effective date of the suspension of authority.

(3) The municipal law enforcement agency shall have twenty (20) days from receipt of the suspension notice to provide proof to the department that the municipal law enforcement agency is complying with the rules promulgated by the department. Timely submission of proof to the department shall stay a suspension until the department makes a determination regarding the suspension of authority of the municipality to enforce the rules of the road on the interstate highways.

(4) If the proof submitted pursuant to subdivision (e)(3) is acceptable to the department, the commissioner shall inform in writing the chief law enforcement officer and mayor that the suspension is being rescinded.

(5) If the proof submitted pursuant to subdivision (e)(3) is not acceptable to the department, the commissioner shall inform the chief law enforcement officer and the mayor and the suspension of authorization shall be reinstituted.

(f) No municipality having a population of ten thousand (10,000) or less, according to the 2010 federal census or any subsequent federal census, and with at least two (2) entrance ramps to and at least two (2) exit ramps from an interstate highway shall be authorized to enforce chapter 8 of this title and §§ 55-10-101 -- 55-10-310 when the contiguous stretch of the interstate highway between such entrance and exit ramps does not lie solely within the territorial limits of the municipality.

Credits

1955 Pub.Acts, c. 329, § 111A; 2004 Pub.Acts, c. 914, § 5, eff. March 1, 2005; 2005 Pub.Acts, c. 506, § 28, eff. July 1, 2005; 2010 Pub.Acts, c. 966, § 2, eff. May 26, 2010; 2013 Pub.Acts, c. 90, § 1, eff. July 1, 2013; 2014 Pub.Acts, c. 674, § 1.

Formerly § 59-1029.

Notes of Decisions (2)

T. C. A. § 55-10-308, TN ST § 55-10-308

Current with laws from the 2022 Second Regular Sess. of the 112th Tennessee General Assembly, eff. through February 28, 2022. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

2016 WL 6124117
Only the Westlaw citation is currently available.

SEE COURT OF APPEALS RULES 11 AND 12

Court of Appeals of Tennessee,
AT NASHVILLE.

City of La Vergne
v.
Randall T. LeQuire

No. M2016-00028-COA-R3-CV
|
September 20, 2016 Session
|
Filed October 19, 2016

Appeal from the Circuit Court for Rutherford County, No. 70238, Howard W. Wilson, Chancellor

Attorneys and Law Firms

Randall T. LeQuire, Franklin, Tennessee, pro se.

Nicholas C. Christiansen, Murfreesboro, Tennessee, for the appellee, City of La Vergne, Tennessee.

ARNOLD B. GOLDIN, J., delivered the opinion of the Court, in which ANDY D. BENNETT and KENNY ARMSTRONG, JJ., joined.

OPINION

ARNOLD B. GOLDIN, J.

This appeal arises from a traffic citation issued to the appellant by a municipal police officer. The citation charged the appellant with a violation of "SPEEDING 55-8-152," a reference to Tennessee's statutory prohibition on speeding codified at Tennessee Code Annotated section 55-8-152 (2012). The appellant was found guilty of speeding in the municipal court and appealed to the circuit court. The circuit court judge entered a judgment against the appellant for a violation of a municipal ordinance rather than for a violation of the state statute charged on the citation. On appeal, the appellant contends that the citation was insufficient to provide him with notice of the charge for which he was convicted. We agree. We, therefore, reverse the judgment of the circuit court and dismiss this case.

BACKGROUND AND PROCEDURAL HISTORY

***1** On February 24, 2015, Randall T. LeQuire was issued a traffic citation in La Vergne, Tennessee ("the City"). The citation was issued by one of the City's police officers and charged Mr. LeQuire with the offense of "SPEEDING 55-8-152." The citation ordered Mr. LeQuire to appear in the La Vergne City Court. Following a hearing in the city court on August 26, 2015, the word "GUILTY" was stamped on the citation and a judgment was entered against Mr. LeQuire. [1] Shortly thereafter, Mr. LeQuire filed an appeal to the Rutherford County Circuit Court. [2]

The case was heard in the circuit court on November 9, 2015. Mr. LeQuire appeared pro se at the hearing; the City was represented by counsel. At the outset of the hearing, the following exchange occurred:

> [Mr. LeQuire]: Your honor, the defense request trial by jury.
>
> [The City's Counsel]: Objection, Your Honor, the defendant was cited for a violation of the City of La Vergne municipal code, a civil violation, and is, therefore, not entitled to a jury trial.
>
> [Mr. LeQuire]: Your Honor, the defendant was not charged with a civil violation. The defendant was charged with a violation of the Tennessee Code Annotated, a class C misdemeanor, which is a criminal charge.
>
> [The City's Counsel]: Your Honor, the defendant was cited for violating Section 15-801 of the La Vergne Municipal Code, which incorporates by reference Tennessee Code Annotated 55-8-152. Specifically, Section 15-801 states "By the authority granted under Tennessee Code Annotated, § 16-18-302, the City of La Vergne adopts by reference as if fully set forth in this section, the Rules of the Road as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, and §§ 55-8-133 through 55-8-180. Additionally, the City of La Vergne adopts Tennessee Code Annotated, §§ 55-8-101 through 55-8-193, §§ 55-9-601 through 55-9-606 and § 55-12-139 by reference as if fully set forth in this section." The defendant was first tried in the City of La Vergne Municipal Court for a civil penalty relating to speeding in violation of City of La Vergne Municipal Code Section

15-801 via T.C.A. § 55-8-152, which, again, is incorporated by reference as part of the City's municipal code via City of La Vergne Code Section 15-801. The City is only seeking to impose a civil fine against the Defendant and is not seeking a ruling that the defendant is guilty of a class C misdemeanor.

Judge: [Mr. LeQuire], this type of civil charge does not entitle you to a jury trial.

The City then presented the testimony of Officer Ken Vaughn of the La Vergne Police Department who testified that he clocked Mr. LeQuire's vehicle on his radar detector as traveling at 55 mph in a 35 mph zone after observing the vehicle pass him at a high rate of speed. Mr. LeQuire cross-examined Officer Vaughn but did not present any evidence. At the close of proof, the circuit court judge announced his judgment in favor of the City.

***2** On November 20, 2015, the circuit court entered a written order reflecting its ruling. The circuit court found, by a preponderance of the evidence, that Mr. LeQuire "violated the City of La Vergne Municipal Code Section 15-801 via a violation of T.C.A. 55-8-152, which is incorporated by reference pursuant to City of La Vergne Municipal Code Section 15-801, for speeding." Based on that violation, the circuit court held that Mr. LeQuire "should be liable for the fines and court costs related to the City of La Vergne Municipal Court judgment and the appeal to [the circuit court]." Mr. LeQuire timely filed a notice of appeal to this Court.

DISCUSSION

Mr. LeQuire presents the following issue for review on appeal, restated from his appellate brief:

1. Whether the trial court erred in granting judgment against Mr. LeQuire on the basis of La Vergne Municipal Code section 15-801 when Mr. LeQuire was not aware that he was charged with violating that ordinance.

The City raises the following additional issue for review on appeal, restated from its appellate brief:

1. Whether this appeal should be dismissed in light of Mr. LeQuire's failure to submit an appellate brief that complies with Rule 27 of the Tennessee Rules of Appellate Procedure.

The issues raised on appeal present questions of law. We review questions of law de novo without affording any presumption of correctness to the trial court's decision. *Tennessean v. Metro. Gov't of Nashville*, 485 S.W.3d 857, 862-63 (Tenn. 2016).

Mr. LeQuire's Appellate Brief

As an initial matter, we address the alleged shortcomings of Mr. LeQuire's appellate brief. In doing so, we recognize that Mr. LeQuire is proceeding pro se in this appeal and, therefore, may have little familiarity with the rules of this Court. Parties who decide to represent themselves are entitled to equal treatment by the courts and are expected to comply with the same substantive and procedural rules that represented parties are expected to observe. *Murray v. Miracle*, 457 S.W.3d 399, 402 (Tenn. Ct. App. 2014). Nevertheless, pro se litigants who are untrained in the law are entitled to a certain amount of leeway in their pleadings and briefs. *Hessmer v. Hessmer*, 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003). The courts are encouraged to give effect to the substance, rather than the form or terminology, of a pro se litigant's filings. *Id*. at 904.

Rule 27 of the Tennessee Rules of Appellate Procedure provides that the brief of an appellant should contain, among other things, citations to relevant legal authority. Tenn. R. App. P. 27(a)(7). As the City points out, Tennessee courts have routinely held that the failure to cite relevant authority in compliance with that rule constitutes a waiver of the issue. *Bean v. Bean*, 40 S.W.3d 52, 55-56 (Tenn. Ct. App. 2000) (citations omitted). The City, therefore, contends that this appeal should be dismissed for Mr. LeQuire's failure to cite relevant legal authority in his appellate brief.

While we agree that Mr. LeQuire's brief is not in strict compliance with Rule 27, an appellate court may, in its discretion, suspend or relax the procedural rules in a given case for good cause. Tenn. R. App. P. 2; *see also Bean*, 40 S.W.3d at 54-55; *Paehler v. Union Planters Nat'l Bank*, 971 S.W.2d 393, 397 (Tenn. Ct. App. 1997). Having considered the circumstances, we find that such good cause exists in this case. Tennessee public policy strongly favors the resolution of disputes on their merits rather than on procedural technicalities. *See, e.g.*, *Norton v. Everhart*, 895 S.W.2d 317, 322 (Tenn. 1995). Additionally, the Rules of Appellate Procedure are to be interpreted and applied in a manner that enables appeals to be considered on their merits. Tenn. R. App. P. 1; *Fayne v. Vincent*, 301 S.W.3d 162, 171 (Tenn. 2009). Despite its shortcomings, Mr. LeQuire's brief does not impede our ability to consider the merits of his argument on appeal. Moreover, the City does not contend that it would be unfairly prejudiced by our doing so. The substantive argument Mr. LeQuire advances on appeal is clear: that the trial court erred in entering a judgment against him for a violation of La Vergne City Code section 15-801 because he was not charged with violating that ordinance. We, therefore, find no compelling reason to dismiss this appeal based on the shortcomings of Mr. LeQuire's brief and will proceed to consider the substance of this case.

Sufficiency of the Citation

***3** Proceedings to enforce municipal ordinances occupy an unusual place in our jurisprudence. The Municipal Court Reform Act of 2004, codified at Tennessee Code Annotated section 16-18-301, *et seq.*, sets forth the jurisdiction of municipal courts in Tennessee. In pertinent part, the statute provides:

> (1) A municipal court possesses jurisdiction in and over cases:
>
> (A) For violation of the laws and ordinances of the municipality; or
>
> (B) Arising under the laws and ordinances of the municipality; and
>
> (2) A municipal court also possesses jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty dollars ($50.00).

Tenn. Code Ann. § 16-18-302(a). However, while municipal courts have jurisdiction to enforce ordinances that mirror, duplicate, or cross-reference certain state criminal statutes, proceedings for the violation of a municipal ordinance are not criminal prosecutions. *City of Chattanooga v. Myers*, 787 S.W.2d 921, 928 (Tenn. 1990) (quoting *City of Sparta v. Lewis*, 23 S.W. 182, 183 (1892)). Rather, they are civil actions brought by the municipality to recover the penalty imposed for violation of the ordinance. *Id*. Despite having been characterized as "quasi criminal," "partly criminal," and "criminal rather than civil in substance," the law is settled that proceedings to enforce a municipal ordinance are considered civil actions for procedural and appellate purposes. *City of Chattanooga v. Davis*, 54 S.W.3d 248, 259-60 (Tenn. 2001) (citations omitted). They are therefore governed "by the rules of pleading applicable to civil actions." *Myers*, 787 S.W.2d at 926 n.5 (quoting *Robinson v. City of Memphis*, 277 S.W.2d 341, 342 (Tenn. 1955)).

All civil actions are initiated by the filing of a complaint. Tenn. R. Civ. P. 3. In Tennessee, a municipal officer may initiate proceedings for the violation of a municipal ordinance by issuing a complaint, or citation, for the offense. Tenn. Code Ann. § 7-63-101. The citation should contain the offense charged and the time and place when the offender should appear in court, and the officer should give the offender a copy of the citation. *Id*. On several occasions in the past, Tennessee courts have considered the sufficiency of the language used in such citations.

In *Guidi v. City of Memphis*, the defendant was arrested and tried on a warrant charging him with "the offense of Vio. Sec. 1683 Exceeding the Speed Limit within the City of Memphis." 236 S.W.2d 532, 533 (Tenn. 1953). A judgment was entered against him in the city court and subsequently in the circuit court. *Id*. The Tennessee Supreme Court granted certiorari to consider "whether or not the warrant charges an offense, and, if so, is the language used sufficient to enable the defendant to make a proper defense thereto." *Id*. at 534. The court held that the warrant was sufficient, explaining its reasoning as follows:

> The declaration should state the cause of action clearly, explicitly, and briefly.

> ***4** But how clear and explicit must the statement be? No more than to convey a 'reasonable certainty of meaning,' and 'by a fair and natural construction,' to show a substantial cause of action. No cavil, or straining, or criticism, is to be allowed as ground of exception, if the statement is intelligible enough, according to the ordinary meaning of the language used.
>
> Had the warrant merely charged the defendant with the violation of a certain numbered section of the traffic laws of Memphis, and nothing more, it would have been fatal.
>
> There is no merit in the insistence of counsel that the statement or charge in the warrant 'Exceeding Speed Limit' is a mere conclusion of law. On the contrary it is a clear and intelligible statement of a fact, i.e. that the defendant was violating the traffic laws of the City of Memphis and named a specific offense. Moreover we think the language in the warrant is sufficient notice to the defendant that he was arrested for exceeding the speed limit as fixed by the laws and ordinances of the City of Memphis. We are justified in the assumption that the defendant was driving an automobile when he was arrested and held a driver's license which authorized him to operate it. It is not unreasonable to suppose that operators of motor-propelled vehicles in Memphis and Shelby County are fully cognizant of all traffic laws in said city, including the limit as to the speed of such vehicles.

Id. at 534-35 (citations omitted). Thereafter, the defendant filed a petition to rehear in which he relied on criminal cases involving the sufficiency of criminal warrants in support of his position. *Id*. at 535. The court denied the petition, concluding that the cited criminal cases were inapplicable because "a proceeding for the violation of a municipal ordinance is not a criminal prosecution but a civil action." *Id*. at 536. The court explained that the "technical nicety of pleading [required in a criminal prosecution] is not required in a warrant charging the violation of a municipal ordinance." *Id*. "The only requirement is that the accused be given reasonable notice of the nature of the *ordinance* alleged to have been violated." *Id*. (emphasis added).

Two years later, in *Robinson v. City of Memphis*, the Tennessee Supreme Court examined another city warrant to consider "whether it gave [the defendant] reasonable notice of the offense it call[ed] upon him to answer." 277 S.W.2d 341, 343 (Tenn. 1955). In that case, the warrant charged the defendant with "the offense of Vio. Sec. 152 violating liquor law-within the City of Memphis, Shelby County, in violation of the ordinances of said City." *Id*. However, the referenced ordinance provided that "[t]he manufacture, sale, receipt, possession, storage, transportation, distribution, or in any manner dealing in alcoholic beverages within the corporate limits of the city, shall be regulated in accordance with the provisions of Chapter 49 of the Public Acts of Tennessee for 1939[.]" *Id*. The referenced state statutes provided that doing any one of many different acts with reference to alcoholic beverages was a criminal offense. *Id*. As such, the court found the warrant was "totally insufficient to give [the defendant] any notice of the offense he will be called upon to answer" and therefore insufficient under the standard set forth in *Guidi*. *Id*. at 343-44.

Most recently, in *City of Murfreesboro v. Norton*, the defendant was issued a citation after he was involved in an automobile accident. No. M2009-02105-COA-R3-CV, 2010 WL 1838068, at *1 (Tenn. Ct. App. May 6, 2010). The citation stated that the defendant "did unlawfully commit the following offense in violation of city code: failure to yield." *Id*. A judgment was entered against the defendant in the city court, and he appealed to the circuit court. *Id*. At the outset of the circuit court proceedings, the City moved to amend its complaint (the citation) pursuant to Rule 15.02 of the Rules of Civil Procedure to specify a violation of City Code section 32-741. *Id*. The circuit court granted the motion, and the citation was so amended. *Id*. The circuit court offered the defendant a continuance if he needed further time to prepare a defense to the amended citation, but the defendant declined. *Id*. at *2. Following a bench trial, the circuit court found no evidence that the defendant violated City Code section 32-741 but *sua sponte* found that the defendant violated City Code section 32-713(b). *Id*. The circuit court permitted the City to amend the citation to allege a violation of City Code section 32-713(b) after it announced its ruling and entered a judgment against the defendant for a violation of that ordinance. *Id*. On appeal, this Court expressed doubt as to whether the original citation gave the defendant reasonable notice of the offense charged but recognized that "a traffic citation is 'subject to amendment under conditions of fairness as any other civil pleading,' and that an amendment is 'permissible so long as the defendant was allowed a fair opportunity to prepare a defense to it.' " *Id*. at *6 (quoting *Clark v. Metro. Gov't of Nashville & Davidson Cnty.*, 827 S.W.2d 312, 315-16 (Tenn. Ct. App. 1991)). Nevertheless, the Court expressed that the trial judge "reached the outer limits of the discretion accorded him" by *sua sponte* entering judgment for the violation of an ordinance other than the one alleged and permitting the City

to amend the citation after its ruling was announced. *Id*. at *7. Additionally, the Court noted that there was no ordinance in the record stating the penalty imposed for a violation of City Code section 32-713(b). *Id*. The Court held that "the penalty ordinance as well as the ordinance contended to have been violated must be introduced in evidence before a valid fine may be assessed and a valid judgment entered thereon." *Id*. (quoting *Town of Madisonville v. Tucker*, No. C.A.69, 1990 WL 6369, at *2 (Jan. 31, 1990)). Because no such ordinance was included in the record, the Court dismissed the case. *Id*. at *8.

***5** Unlike the aforementioned cases, the citation issued to Mr. LeQuire in this case does not reference a specific ordinance number, and the record does not reflect that the City ever requested to amend it. The citation states only that Mr. LeQuire committed the offense of "SPEEDING 55-8-152," yet the circuit court found Mr. LeQuire in violation of La Vergne Municipal Code section 15-801. Section 15-801 states:

> **Adoption of state traffic statutes.** By the authority granted under Tennessee Code Annotated, § 16-18-302, the City of La Vergne adopts by reference as if fully set forth in this section the Rules of the Road as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, and §§ 55-8-133 through 55-8-180. Additionally, the City of La Vergne adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606 and § 55-12-139 by reference as if fully set forth in this section.

The City argues that because La Vergne Municipal Code section 15-801 incorporates Tennessee Code Annotated section 55-8-152–the state criminal statute that generally prohibits speeding–by cross-reference, the use of "SPEEDING 55-8-152" in the citation was sufficient to give notice that Mr. LeQuire was charged with a violation of the municipal ordinance. In support of its argument, the City points out that the citation does not expressly reference the Tennessee Code. Mr. LeQuire, on the other hand, contends that by stating that he committed the offense of "SPEEDING 55-8-152," the citation put him on notice that he was charged with a violation of Tennessee Code Annotated section 55-8-152.

In our view, Mr. LeQuire's argument clearly prevails. Although the citation does not expressly reference the Tennessee Code, it is plainly more reasonable for an individual charged with "SPEEDING 55-8-152" to believe he or she has been charged with a violation of the state criminal statute, Tennessee Code Annotated section 55-8-152, than a violation of La Vergne Municipal Code section 15-801. Indeed, the City's assertion that "SPEEDING 55-8-152" is not a reference to a state statute is seriously undermined by its argument that the charge is, instead, a reference to the municipal ordinance adopting that state statute. Accordingly, we hold that the citation failed to give notice that Mr. LeQuire was charged with violating a municipal ordinance.

The City contends that this Court should affirm the circuit court's judgment against Mr. LeQuire even if the language used in the citation was insufficient to give him notice that he was charged with violating a municipal ordinance rather than a state criminal statute because the error was harmless. The City argues that because La Vergne Municipal Code section 15-801 incorporates Tennessee Code Annotated section 55-8-152 by reference, the elements and defenses for a violation of the ordinance are the same as those for a violation of the statute. The City submits that, in light of the evidence presented, a judgment against Mr. LeQuire would therefore be appropriate under either. We disagree. The fact that the elements to be proven under state and local law are identical does not make the two interchangeable. Although the elements of the statute and ordinance at issue in this case are identical, the punishments available for a violation of each are not. *See generally Davis*, 54 S.W.3d 248, 277 ("[W]e do not believe that a municipality's failure to require the same penalties as mandated by state law violates the Class Legislation Clause, even when the elements required to be proven by state and local law are identical."). Pursuant to Tennessee Code Annotated section 16-18-302(a)(2), the maximum penalty available for a violation of La Vergne Municipal Code section 15-801 is a civil fine not to exceed of $50. Conversely, a violation of Tennessee Code Annotated section 55-8-152 is a Class C misdemeanor punishable by up to 30 days incarceration, a fine not to exceed $50, or both. Tenn. Code Ann. § 55-8-152(f). In our view, Mr. LeQuire was entitled to know the possible penalties he faced prior to the city court hearing. Additionally, whether a defendant is charged with violating a municipal ordinance or a state statute affects the subject matter jurisdiction of this Court on appeal. If the speed limit is set by the state and the defendant is charged with violating a state statute, the Criminal Court of Appeals has jurisdiction. *See State v. Tubwell*, No. W2012-01385-CCA-R3-WM, 2012 WL 6476097, at *2 (Tenn. Crim. App. Dec. 13, 2012) (remanding the case for findings on the issue of whether the defendant was charged violating a state statute or a municipal ordinance). However, if the speed limit is set by the city and the defendant

is charged with violating a municipal ordinance, this Court has jurisdiction. *See City of Knoxville v. Brown*, 284 S.W.3d 330, 338 (Tenn. Ct. App. 2008). Accordingly, we hold that the absence of a reference to a specific municipal ordinance in the citation at issue in this case was not harmless error.

***6** In sum, we hold that the citation issued to Mr. LeQuire in this case was insufficient to provide reasonable notice of the municipal ordinance he was charged with violating. While the City could have cured the deficiency by moving to amend the citation to specify a violation of La Vergne Municipal Code section 15-801 and allowing Mr. LeQuire further time to prepare his defense, the record does not reflect that it did so. As such, the case should have been dismissed.

CONCLUSION

For the foregoing reasons, we reverse the decision of the circuit court and dismiss this case. Costs of this appeal are taxed to the appellee, the City of La Vergne, for which execution may issue if necessary.

All Citations

Slip Copy, 2016 WL 6124117

Footnotes

1 Mr. LeQuire contends that the city court found him in violation of a state statute. The City contends that the city court found him in violation of a municipal ordinance. The municipal court's judgment is not in the record.

2 Tennessee Code Annotated section 16-18-307 (2009) provides that any person dissatisfied with the judgment of a municipal court may appeal to the circuit court of the county within 10 days.

Sample Ordinance - State Traffic Offenses & Rules of the Road

Reference Number: MTAS-1484

SAMPLE ORDINANCE FOR THE CITY OF _____ TO ADOPT BY REFERENCE STATE TRAFFIC OFFENSES AND RULES OF THE ROAD

ORDINANCE 06-___

AN ORDINANCE OF THE CITY OF _____, TENNESSEE, REPLACING MUNICIPAL CODE § _____ AND ADOPTING BY REFERENCE STATE TRAFFIC OFFENSES AND RULES OF THE ROAD.

WHEREAS, the Board of Mayor and Aldermen desires to adopt by reference state traffic offenses, registration requirements and rules of the road; and

WHEREAS, the Tennessee General Assembly amended the laws pertaining to adoption of state laws by municipalities by reference, by changing the statute under which such adoption is made and by further specifying that only Class C misdemeanors may be adopted by municipalities and enforced as municipal ordinance violations;

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen, that

Section 1. Municipal Code § _____, "Rules of the Road," is repealed in its entirety.

Section 2. The following provision is added as the new § _____ of the Municipal Code of _____:

15-126. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated § 16-18-302, the City of _____ adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated §§ 55-8-101 through 55-8-131 and §§ 55-8-133 through 55-8-180. Additionally, the City of _____ adopts Tennessee Code Annotated §§ 55-4-101 through 55-4-128, §§ 55-4-130 through 55-4-133, §§ 55-4-135 through 55-4-138, §§ 55-8-181 through 55-8-191, § 55-8-193, § 55-8-199, §§ 55-9-401 through 55-9-408, §§ 55-9-601 through 55-9-606, § 55-12-139, and § 55-50-351, by reference as if fully set forth in this section.

Section 3. This ordinance shall take effect upon its final reading, the public welfare requiring it.

FIRST READING: _____

SECOND READING: _____

_____
Mayor
ATTEST:

_____
City Recorder

Approved as to form:_____
City Attorney

Note: The sample ordinance is a guide. Prior to adoption, a municipality should review the referenced statutes in the sample ordinance along with the jurisdiction requirements of T.C.A. § 16-18-302. The statutes should be current with the Tennessee Code.

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 10. Accidents, Crimes and Penalties (Refs & Annos)
Part 3. Penalties and Procedure (Refs & Annos)

T. C. A. § 55-10-303

§ 55-10-303. Disposition of fines; penalties and forfeitures

Effective: August 14, 2008
Currentness

(a) All fines, penalties and forfeitures of bonds imposed or collected under any of the provisions of chapters 8 and 9 of this title, parts 1-5 of this chapter and § 55-12-139, except such as may be imposed or collected under § 55-10-401, shall, within fifteen (15) days following the last day of the month in which the fines, penalties and forfeitures of bond were received, be paid to the commissioner of safety, with a statement accompanying the same, setting forth the action or proceeding in which the moneys were collected, the name and residence of the defendant, the nature of the offense and fines, penalties, forfeitures or sentence, if any, imposed.

(b) The fines, penalties, and forfeitures of bonds imposed or collected under § 55-10-401 shall be paid to the jurisdiction that initiated the arrest; provided, that the collections that were initiated by state officers shall be retained and deposited in the general funds of the county wherein the case is tried. In counties having a population over six hundred thousand (600,000), according to the 1970 federal census or any subsequent federal census, the collections shall be retained and deposited in the general fund of the county wherein the case is tried, except that whenever the case is tried in a municipal court of a municipality that lies in any county falling within the population category hereinbefore provided, the collections shall be retained and deposited in the general fund of the municipality.

Credits
1931 Pub.Acts, c. 82, § 17; 1937 Pub.Acts, c. 245, § 7; 1939 Pub.Acts, c. 206, § 6; 1955 Pub.Acts, c. 329, § 104; 1957 Pub.Acts, c. 70, § 1; 1977 Pub.Acts, c. 470, § 1; 1981 Pub.Acts, c. 178, § 1; 1986 Pub.Acts, c. 753, § 1; 2001 Pub.Acts, c. 292, § 2, eff. Jan. 1, 2002.

Formerly 1950 Code Supp., § 2700.18; Williams' Code, § 2697; § 59-1024.

Notes of Decisions (1)

T. C. A. § 55-10-303, TN ST § 55-10-303
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 10. Accidents, Crimes and Penalties (Refs & Annos)
Part 3. Penalties and Procedure (Refs & Annos)

T. C. A. § 55-10-307

§ 55-10-307. Municipal ordinances; validity

Effective: July 9, 2012
Currentness

(a) Any incorporated municipality may by ordinance adopt, by reference, any of the appropriate provisions of chapter 8 of this title, §§ 55-10-101 -- 55-10-310, 55-12-139, 55-50-301, 55-50-302, 55-50-304, 55-50-305, 55-50-311, and 55-10-312, and may by ordinance provide additional regulations for the operation of vehicles within the municipality, which shall not be in conflict with the listed sections. All fines, penalties, and forfeitures of bonds imposed or collected under the terms of §§ 55-50-311 and 55-50-312, shall be paid over to the appropriate state agency as provided in § 55-50-604.

(b) The offenses enumerated in subdivisions (b)(1)-(5) are state offenses and any person arrested for violation of the offenses shall be tried for violation of state law in state courts or in courts having state jurisdiction in which the jurisdiction shall be exclusive. Any existing ordinance presently regulating any of the enumerated offenses and any such ordinance enacted after July 1, 1977, is declared void and of no effect. The enumerated offenses are:

(1) Driving while intoxicated or drugged, as prohibited by § 55-10-401;

(2) Failing to stop after a traffic accident, as prohibited by part 1 of this chapter;

(3) Driving while license suspended or revoked, as prohibited by § 55-50-504;

(4) Drag racing, as defined and prohibited by § 55-10-501; and

(5) Possession of five (5) or more grams of methamphetamine, as scheduled in § 39-17-408(d)(2), while operating a motor vehicle in this state. A motor vehicle is in operation if its engine is operating, whether or not the motor vehicle is moving.

Credits
2007 Pub.Acts, c. 143, § 1, eff. May 10, 2007; 2010 Pub.Acts, c. 966, § 1, eff. May 26, 2010.

Notes of Decisions (2)

T. C. A. § 55-10-307, TN ST § 55-10-307

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 9. Equipment--Lighting Regulations (Refs & Annos)
Part 6. Safety Belts

T. C. A. § 55-9-602

§ 55-9-602. Child passenger restraint systems; use of safety belts

Effective: June 6, 2017
Currentness

(a)(1) Any person transporting any child, under one (1) year of age, or any child, weighing twenty pounds (20 lbs.) or less, in a motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a child passenger restraint system in a rear facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(2) Notwithstanding § 55-9-603, any person transporting any child, one through three (1-3) years of age weighing greater than twenty pounds (20 lbs.), in a motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a child passenger restraint system in a forward facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(3) Notwithstanding § 55-9-603, any person transporting any child, four through eight (4-8) years of age and measuring less than four feet, nine inches (4′ 9″) in height, in a passenger motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a belt positioning booster seat system, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(4)(A) If a child is not capable of being safely transported in a conventional child passenger restraint system as provided for in this subsection (a), a specially modified, professionally manufactured restraint system meeting the intent of this subsection (a) shall be in use; provided, however, that this subdivision (a)(4) shall not be satisfied by use of the vehicle's standard lap or shoulder safety belts independent of any other child passenger restraint system. A motor vehicle operator who is transporting a child in a specially modified, professionally manufactured child passenger restraint system shall possess a copy of the physician's signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system.

(B) A person shall not be charged with a violation of this subsection (a) if the person presents a copy of the physician's prescription in compliance with this subdivision (a)(4) to the arresting officer at the time of the alleged violation.

(C) A person charged with a violation of this subsection (a) may, on or before the court date, submit a copy of the physician's prescription and evidence of possession of a specially modified, professionally manufactured child passenger restraint system to the court. If the court is satisfied that compliance was in effect at the time of the violation, the charge for violating this subsection (a) may be dismissed.

(5) A person who is operating an autocycle shall not carry a child as a passenger if such child is required to be secured in a motor vehicle in a manner in accordance with this section unless:

(A) The autocycle has an enclosed cab;

(B) The autocycle meets the federal motor vehicle safety standards for child restraints found in 49 CFR 571.213 and 49 CFR 571.225; and

(C) The child is secured in a manner in accordance with this section.

(6) With respect to a vehicle equipped with an ADS, responsibility ascribed in this subsection (a) shall belong solely to the parent, guardian, or other human person accompanying the child in the vehicle, and not to the ADS or the owner of the ADS-operated vehicle.

(b) All passenger vehicle rental agencies doing business in the state shall make available at a reasonable rate to those renting the vehicles an approved restraint as described in subsection (a).

(c)(1) A violation of this section is a Class C misdemeanor.

(2) In addition to or in lieu of the penalty imposed under subdivision (c)(1), persons found guilty of a first offense of violating this section may be required to attend a court approved offenders' class designed to educate offenders on the hazards of not properly transporting children in motor vehicles. A fee may be charged for the classes sufficient to defray all costs of providing the classes.

(d) Any incorporated municipality may by ordinance adopt by reference any of the provisions of this section, it being the legislative intent to promote the protection of children wherever and whenever possible.

(e) Prior to the initial discharge of any newborn child from a health care institution offering obstetrical services, the institution shall inform the parent that use of a child passenger restraint system is required by law. Further, the health care institution shall distribute to the parent related information provided by the department of safety.

(f)(1) There is established within the general fund a revolving special account to be known as the child safety fund, hereinafter referred to as the “fund.”

(2) All fines imposed by this section shall be sent by the clerk of the court to the state treasurer for deposit in the fund.

(3) Any unencumbered funds and any unexpended balance of this fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward until expended in accordance with this section and § 55-9-610.

(4) Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund.

(5) Disbursements from, investments of and deposits to the fund shall be administered and invested pursuant to title 9, chapter 4, part 5.

(6) The state treasurer may deduct reasonable service charges from the fund pursuant to procedures established by the state treasurer and the commissioner of finance and administration.

(7) The department of health is authorized, pursuant to duly promulgated rules and regulations, to determine equitable distribution of the moneys in the fund to those entities that are best suited for child passenger safety system distribution. Funds distributed pursuant to this section shall only be used for the purchase of child passenger safety systems to be loaned or given to the parent or guardian.

(g)(1)(A) Notwithstanding § 55-9-603, any person transporting any child, nine through twelve (9-12) years of age, or any child through twelve (12) years of age, measuring four feet, nine inches (4′ 9″) or more in height, in a passenger motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a seat belt system meeting federal motor vehicle safety standards. It is recommended that any such child be placed in the rear seat if available.

(B) Notwithstanding § 55-9-603, any person transporting any child, thirteen through fifteen (13-15) years of age, in a passenger motor vehicle upon a road, street or highway of this state is responsible for the protection of the child and properly using a passenger restraint system, including safety belts, meeting federal motor vehicle safety standards.

(2) A person charged with a violation of this subsection (g) may, in lieu of appearance in court, submit a fine of fifty dollars ($50.00) to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(3) No litigation tax levied pursuant to title 67, chapter 4, part 6, shall be imposed or assessed against anyone convicted of a violation of this subsection (g), nor shall any clerk's fee or court costs, including but not limited to any statutory fees of officers, be imposed or assessed against anyone convicted of a violation of this subsection (g).

(4)(A) Notwithstanding subsection (f) to the contrary, the revenue generated by ten dollars ($10.00) of the fifty-dollar fine under subdivision (g)(2) for a person's first conviction under this subsection (g), shall be deposited in the state general fund without being designated for any specific purpose. The remaining forty dollars ($40.00) of the fifty-dollar fine for a person's first conviction under this subsection (g) shall be deposited to the child safety fund in accordance with subsection (f).

(B) The revenue generated from the person's second or subsequent conviction under this subsection (g) shall be deposited to the child safety fund in accordance with subsection (f).

(5)(A) Notwithstanding any law to the contrary, no more than one (1) citation may be issued for a violation of this subsection (g) per vehicle per occasion. If the driver is neither a parent nor legal guardian of the child and the child's parent or legal guardian is present in the vehicle, the parent or legal guardian is responsible for ensuring compliance with this subsection (g).

(B)(i) If no parent or legal guardian is present at the time of the violation, the driver is solely responsible for compliance with this subsection (g) if the vehicle is operated by conventional means.

(ii) If the vehicle is operated by an ADS and:

(*a*) If no parent or legal guardian is present at the time of the violation, the human person accompanying the child is solely responsible for compliance with this subsection (g);

(*b*) If no parent or guardian is present at the time of the violation and more than one (1) human person accompanies the child, each person is jointly responsible for compliance with this subsection (g); or

(*c*) If no human person accompanies the child, the parent or legal guardian of the child is responsible for compliance with this subsection (g).

(h) As used in this section, unless specified otherwise, "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds (10,000 lbs.) or less, that is not used as a public or livery conveyance for passengers. "Passenger motor vehicle" does not apply to motor vehicles that are not required by federal law to be equipped with safety belts.

(i) A person who has successfully met the minimum required training standards for installation of child restraint devices established by the national highway traffic safety administration of the United States department of transportation, who in good faith installs or inspects the installation of a child restraint device shall not be liable for any damages resulting from any act or omission related to the installation or inspection unless the act or omission was the result of the person's gross negligence or willful misconduct.

(j) Notwithstanding any of this part to the contrary, for any child transported by child care agencies licensed by the department of human services pursuant to title 71, chapter 3, part 5 and transported pursuant to the rules and regulations of the department, such rules and regulations shall remain effective until the department amends the rules and regulations; provided, however, that the department shall either promulgate rules consistent with this part or promulgate rules exceeding, based on applicable federal regulations or standards, this part no later than January 1, 2007.

(k)(1) The failure to use a child restraint system shall not be admissible into evidence in a civil action; provided, however, that evidence of a failure to use a child restraint system, as required by this section, may be admitted in a civil action as to the causal relationship between noncompliance and the injuries alleged, if the following conditions have been satisfied:

(A) The plaintiff has filed a products liability claim;

(B) The defendant alleging noncompliance with this section shall raise this defense in its answer or timely amendment thereto in accordance with the rules of civil procedure; and

(C) Each defendant seeking to offer evidence alleging noncompliance with this section has the burden of proving noncompliance with this section, that compliance with this section would have reduced injuries and the extent of the reduction of the injuries.

(2) Upon request of any party, the trial judge shall hold a hearing out of the presence of the jury as to the admissibility of the evidence in accordance with this subsection (k) and the Tennessee Rules of Evidence.

(3) Notwithstanding this subsection (k) to the contrary, if a party to the civil action is not the parent or legal guardian, then evidence of a failure to use a child restraint system, as required by this section, may be admitted in the action as to the causal relationship between noncompliance and the injuries alleged.

Credits

1963 Pub.Acts, c. 102, §§ 1, 2; 1977 Pub.Acts, c. 114, §§ 1, 2; 1981 Pub.Acts, c. 86, §§ 1, 2; 1985 Pub.Acts, c. 183, § 1; 1986 Pub.Acts, c. 866, §§ 2, 3; 1989 Pub.Acts, c. 564, §§ 2 to 6, 9; 1989 Pub.Acts, c. 591, § 113; 1995 Pub.Acts, c. 112, §§ 1, 2, eff. July 1, 1995; 2000 Pub.Acts, c. 945, § 1, eff. July 1, 2000; 2001 Pub.Acts, c. 463, §§ 1, 2; 2003 Pub.Acts, c. 299, §§ 1 to 9, eff. July 1, 2004; 2004 Pub.Acts, c. 809, § 1, eff. July 1, 2004; 2005 Pub.Acts, c. 55, §§ 1, 2, eff. July 1, 2005; 2016 Pub.Acts, c. 1015, § 16, eff. July 1, 2016; 2017 Pub.Acts, c. 474, §§ 6, 7, eff. June 6, 2017.

Notes of Decisions (5)

T. C. A. § 55-9-602, TN ST § 55-9-602

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 9. Equipment--Lighting Regulations (Refs & Annos)
Part 6. Safety Belts

T. C. A. § 55-9-603

§ 55-9-603. Use; definitions; crimes and offenses; license suspension or revocation; exceptions

Effective: July 1, 2017
Currentness

(a)(1) No person shall operate a passenger motor vehicle on any highway, as defined in § 55-8-101, in this state unless the person and all passengers four (4) years of age or older are restrained by a safety belt at all times the vehicle is in forward motion.

(2) No person four (4) years of age or older shall be a passenger in a passenger motor vehicle on any highway, as defined in § 55-8-101, in this state, unless the person is restrained by a safety belt at all times the vehicle is in forward motion.

(b)(1) This section shall apply only to the operator and all passengers occupying the front seat of a passenger motor vehicle.

(2) If the vehicle is equipped with a rear seat that is capable of folding, this section shall only apply to front seat passengers and the operator if the back seat is in the fold down position.

(c) As used in this section, unless specified otherwise, "passenger car" or "passenger motor vehicle" does not include any motor vehicle that is used as a public or livery conveyance for passengers or any motor vehicles that are not required by federal law to be equipped with safety belts, except autocycles as defined in § 55-1-103.

(d)(1) A violation of this section is a Class C misdemeanor. All proceeds from the fines imposed by this subsection (d), except as otherwise provided by subdivisions (d)(2) and (3), shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in § 49-11-602, who have been severely injured in motor vehicle accidents.

(2)(A) A person charged with a violation of this section may, in lieu of appearance in court, submit a fine of thirty dollars ($30.00) for a first violation, and fifty-five dollars ($55.00) for a second or subsequent violation to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(B) The revenue generated by fifteen dollars ($15.00) of the thirty-dollar fine in subdivision (d)(2)(A) for a person's first conviction shall be deposited in the state general fund without being designated for any specific purpose. Ten dollars ($10.00) of the thirty-dollar fine for the person's first conviction under subdivision (d)(2)(A) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in § 49-11-602, who have been severely injured in motor vehicle accidents. The remaining five dollars ($5.00) of the thirty-dollar fine for the person's first conviction under subdivision (d)(2)(A) shall be retained by the court clerk.

(C) The revenue generated by thirty dollars ($30.00) of the fifty-five-dollar fine under subdivision (d)(2)(A) for a person's second or subsequent conviction shall be deposited in the state general fund without being designated for any specific purpose. Twenty dollars ($20.00) of the fifty-five-dollar fine for the person's second or subsequent conviction under subdivision (d)(2)(A) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in § 49-11-602, who have been severely injured in motor vehicle accidents. The remaining five dollars ($5.00) of the fifty-five-dollar fine for the person's second or subsequent conviction under subdivision (d)(2)(A) shall be retained by the court clerk.

(3)(A) Notwithstanding subdivision (d)(2), a person charged with a violation of subsection (i) may, in lieu of appearance in court, submit a fine of thirty dollars ($30.00) to the clerk of the court that has jurisdiction of the offense within the county in which the offense charged is alleged to have been committed.

(B) Notwithstanding subdivision (d)(2), the revenue generated by fifteen dollars ($15.00) of the thirty-dollar fine under subdivision (d)(3)(A) for a person's first conviction under subsection (i) shall be deposited in the state general fund without being designated for any specific purpose. Ten dollars ($10.00) of the thirty-dollar fine for the person's first conviction under subsection (i) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in § 49-11-602, who have been severely injured in motor vehicle accidents. The remaining five dollars ($5.00) of the thirty-dollar fine for the person's first conviction under subsection (i) shall be retained by the court clerk.

(C) The revenue generated by five dollars ($5.00) of the thirty-dollar fine under subdivision (d)(3)(A) for a person's second or subsequent conviction under subsection (i) shall be deposited in the state general fund without being designated for any specific purpose. Twenty dollars ($20.00) of the thirty-dollar fine for the person's second or subsequent conviction under subsection (i) shall be deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible individuals with disabilities, as defined in § 49-11-602, who have been severely injured in motor vehicle accidents. The remaining five dollars ($5.00) of the thirty-dollar fine for the person's second or subsequent conviction under subsection (i) shall be retained by the court clerk.

(e) Except as otherwise provided by subdivisions (d)(2) and (3), no clerk's fee nor court costs, including, but not limited to, any statutory fees of officers, shall be imposed or assessed against anyone convicted of a violation of this section. No litigation tax levied pursuant to title 67, chapter 4, part 6, shall be imposed or assessed against anyone convicted of a violation of this section.

(f)(1) A law enforcement officer observing a violation of this section shall issue a citation to the violator, but shall not arrest or take into custody any person solely for a violation of this section.

(2) The department of safety shall not report any convictions under this section except for law enforcement or governmental purposes.

(g) In no event shall a violation of this section be assigned a point value for suspension or revocation of a license by the department of safety, nor shall the violation be construed as any other offense under this title.

(h) This section does not apply to:

(1) A passenger or operator with a physical disability which prevents appropriate restraint in a safety seat or safety belt; provided, that the condition is duly certified in writing by a physician who shall state the nature of the disability, as well as the reason a restraint is inappropriate;

(2) A passenger motor vehicle operated by a rural letter carrier of the United States postal service while performing the duties of a rural letter carrier;

(3) Salespersons or mechanics employed by an automobile dealer who, in the course of their employment, test-drive a motor vehicle, if the dealership customarily test-drives fifty (50) or more motor vehicles a day, and if the test-drives occur within one (1) mile of the location of the dealership;

(4) Water, gas, and electric meter readers, and utility workers, while the meter reader or utility worker is:

(A) Emerging from and reentering a vehicle at frequent intervals; and

(B) Operating the vehicle at speeds not exceeding forty miles per hour (40 mph);

(5) A newspaper delivery motor carrier service while performing the duties of a newspaper delivery motor carrier service; provided, that this exemption shall only apply from the time of the actual first delivery to the customer until the last actual delivery to the customer;

(6) A vehicle in use in a parade if operated at less than fifteen miles per hour (15 mph);

(7) A vehicle in use in a hayride if operated at less than fifteen miles per hour (15 mph);

(8) A vehicle crossing a highway from one field to another if operated at less than fifteen miles per hour (15 mph); or

(9) An ADS or an ADS-operated vehicle. Except as otherwise provided by § 55-9-606(2), for purposes of an ADS-operated vehicle, a passenger or human operator required to be restrained by a safety belt pursuant to this section is solely responsible for the passenger's or human operator's compliance with such requirement.

(i)(1) Notwithstanding this section to the contrary, no person between sixteen (16) years of age and up to and through the age of seventeen (17) years of age, shall operate a passenger motor vehicle, or be a passenger therein, unless the person is restrained by a safety belt at all times the vehicle is in forward motion.

(2) Notwithstanding subdivision (b)(1), this subsection (i) shall apply to all occupants between sixteen (16) years of age and eighteen (18) years of age occupying any seat in a passenger motor vehicle.

(3) Notwithstanding subdivision (f)(1), a law enforcement officer observing a violation of this subsection (i) shall issue a citation to the violator, but shall not arrest or take into custody any person solely for a violation of this subsection (i).

(j) Notwithstanding subsection (b), no person with a learner permit or an intermediate driver license shall operate a passenger motor vehicle in this state unless the person and all passengers between the ages of four (4) and seventeen (17) years of age are restrained by a safety belt at all times the vehicle is in forward motion.

Credits

1986 Pub.Acts, c. 866, §§ 3, 4, 7, 8, 11; 1989 Pub.Acts, c. 591, § 113; 1994 Pub.Acts, c. 661, §§ 2, 4, eff. March 23, 1994; 2000 Pub.Acts, c. 700, § 3, eff. July 1, 2001; 2000 Pub.Acts, c. 945, §§ 2 to 4, eff. July 1, 2000; 2004 Pub.Acts, c. 893, §§ 1 to 5, eff. July 1, 2004; 2011 Pub.Acts, c. 47, §§ 59, 60, eff. July 1, 2011; 2015 Pub.Acts, c. 25, § 1, eff. July 1, 2015; 2015 Pub.Acts, c. 296, § 1, eff. Jan. 1, 2016; 2016 Pub.Acts, c. 723, § 1, eff. April 7, 2016; 2016 Pub.Acts, c. 1015, § 17, eff. July 1, 2016; 2017 Pub.Acts, c. 358, §§ 2, 3, eff. July 1, 2017; 2017 Pub.Acts, c. 474, § 8, eff. June 6, 2017.

Notes of Decisions (4)

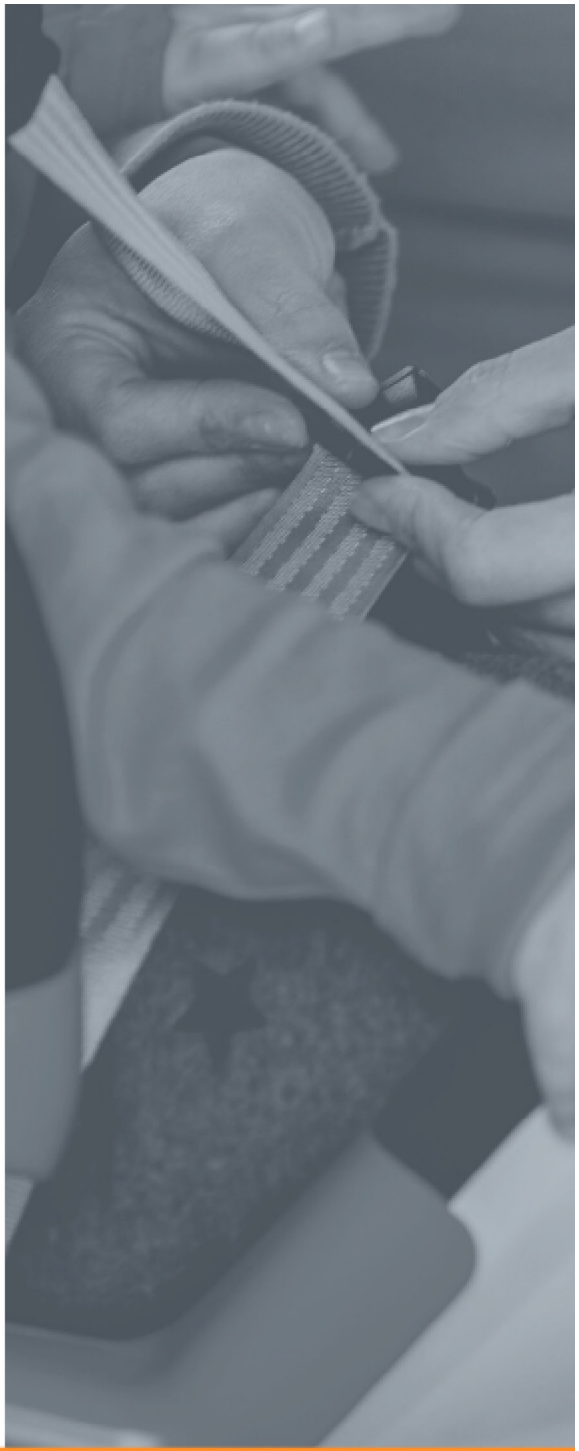
T. C. A. § 55-9-603, TN ST § 55-9-603

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

SAFETY BELT LAW: CHILD RESTRAINTS

Infant to 8 years old (Shorter than 4'9")	9-12 years old (4'9" or more)
To Driver/Guardian (for each child in violation)	To Driver/Guardian (One citation per vehcile)
$50 to Dept. of Safety	$50 to Dept. of Safety
Collect regular court cost (Cities keep) Collect litigation tax (Remit to Dept. of Revenue)	No court cost No litigation tax



TCA 55-9-602,

SAFETY BELT LAW: ADULTS

16 to 17 year olds

To Violator
(Even if a minor)

$30
$25 to Dept. of Safety
$5 retained by court clerk

No court cost
No litigation tax

18 & older

To Violator

First offense=$30
$25 to Dept. of Safety
$5 retained by court clerk

Subsequent offense=$50
$45 to Dept. of Safety
$5 retained by court clerk

No court costs
No litigation tax

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 8. Operation of Vehicles--Rules of the Road (Refs & Annos)
Part 1. Operation of Vehicles--Rules of the Road

T. C. A. § 55-8-199

§ 55-8-199. Unlawful use of wireless telecommunication devices

Effective: July 1, 2019
Currentness

(a) As used in this section:

(1) "Stand-alone electronic device" means a portable device other than a wireless telecommunications device that stores audio or video data files to be retrieved on demand by a user;

(2) "Utility services" means electric, natural gas, water, wastewater, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights of way, or associated infrastructure; and

(3) "Wireless telecommunications device" means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. "Wireless telecommunications device" does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, autonomous technology, or remote diagnostics system.

(b)(1) A person, while operating a motor vehicle on any road or highway in this state, shall not:

(A) Physically hold or support, with any part of the person's body, a:

(i) Wireless telecommunications device. This subdivision (b)(1)(A)(i) does not prohibit a person eighteen (18) years of age or older from:

(*a*) Using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or

(*b*) Using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or

(ii) Stand-alone electronic device;

(B) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1)(B) does not apply to any person eighteen (18) years of age or older who uses such devices:

(i) To automatically convert a voice-based communication to be sent as a message in a written form; or

(ii) For navigation of the motor vehicle through use of a device's global positioning system;

(C) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be:

(i) In a seated driving position; or

(ii) Properly restrained by a safety belt;

(D) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or

(E) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1) does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

(2) Notwithstanding subdivisions (b)(1)(A) and (B), and in addition to the exceptions described in those subdivisions, a function or feature of a wireless telecommunications device or stand-alone electronic device may be activated or deactivated in a manner requiring the physical use of the driver's hand while the driver is operating a motor vehicle if:

(A) The wireless telecommunications device or stand-alone electronic device is mounted on the vehicle's windshield, dashboard, or center console in a manner that does not hinder the driver's view of the road; and

(B) The driver's hand is used to activate or deactivate a feature or function of the wireless telecommunications device or stand-alone electronic device with the motion of one (1) swipe or tap of the driver's finger, and does not activate camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than features or functions related to the transportation of persons or property for compensation or payment of a fee.

(c)(1) A violation of this section is a Class C misdemeanor, subject only to imposition of a fine not to exceed fifty dollars ($50.00). However, if the violation is the person's third or subsequent offense or if the violation results in an accident, the fine is one hundred dollars ($100); or if the violation occurs in a work zone when employees of the department of transportation

or construction workers are present or in a marked school zone when a warning flasher or flashers are in operation, the fine is two hundred dollars ($200). Any person violating this section is subject to the imposition of court costs not to exceed ten dollars ($10.00), including, but not limited to, any statutory fees of officers. State and local litigation taxes are not applicable to a case prosecuted under this section.

(2) In lieu of any fine imposed under subdivision (c)(1), a person who violates this section as a first offense may attend and complete a driver education course pursuant to § 55-10-301.

(3) Each violation of this section constitutes a separate offense.

(d) This section does not apply to the following persons:

(1) Officers of this state or of any county, city, or town charged with the enforcement of the laws of this state, or federal law enforcement officers when in the actual discharge of their official duties;

(2) Campus police officers and public safety officers, as defined by § 49-7-118, when in the actual discharge of their official duties;

(3) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;

(4) Emergency management agency officers of this state or of any county, city, or town, when in the actual discharge of their official duties;

(5) Persons using a wireless telecommunications device to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property;

(6) Employees or contractors of utility services providers acting within the scope of their employment; and

(7) Persons who are lawfully stopped or parked in their motor vehicles or who lawfully leave standing their motor vehicles.

(e) A traffic citation that is based solely upon a violation of this section is considered a moving traffic violation.

(f) The department of transportation is directed to utilize the department's permanent electronic overhead informational displays located throughout this state to provide periodic messages to the motoring public as to this section.

(g) The department of safety is directed to include distracted driving as part of the instructional information used in driver education training.

Credits

2009 Pub.Acts, c. 201, § 1, eff. July 1, 2009; 2016 Pub.Acts, c. 1077, §§ 1, 2, eff. July 1, 2016; 2017 Pub.Acts, c. 416, §§ 2 to 4, eff. Jan. 1, 2018; 2019 Pub.Acts, c. 412, § 1, eff. July 1, 2019.

Notes of Decisions (2)

T. C. A. § 55-8-199, TN ST § 55-8-199

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 50. Uniform Classified and Commercial Driver License Act (Refs & Annos)
Part 3. Application, Examination, and Issuance (Refs & Annos)

T. C. A. § 55-50-351

§ 55-50-351. Possession; display upon demand; fines and penalties

Effective: August 14, 2008
Currentness

(a) Every licensee shall have the licensee's license in immediate possession at all times when operating a motor vehicle and shall display it upon demand of any officer or agent of the department or any police officer of the state, county or municipality, except that where the licensee has previously deposited the license with the officer or court demanding bail, and has received a receipt from the officer or the court, the receipt is to serve as a substitute for the license until the specified date for court appearance of licensee or the license is otherwise returned to the licensee by the officer or court accepting the license for deposit. Any peace officer, field deputy, or inspector of the department, or any other law enforcement officer of this state or municipality thereof, has the right to demand the exhibition of the license of any operator of a motor-driven cycle as described in § 55-8-101, and effect the arrest of any person so found to be in violation of this section.

(b) A violation of this section is a Class C misdemeanor.

Credits
1937 Pub.Acts, c. 90, § 8; impl. am. by 1939 Pub.Acts, c. 205, §§ 2, 3; 1957 Pub.Acts, c. 209, § 2; 1989 Pub.Acts, c. 591, § 113; 2000 Pub.Acts, c. 700, § 12, eff. July 1, 2001.

Formerly 1950 Code Supp., § 2715.16; Williams' Code, § 2715.21; § 59-709; § 55-7-109; § 55-7-351.

Notes of Decisions (20)

T. C. A. § 55-50-351, TN ST § 55-50-351
Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 12. Financial Responsibility (Refs & Annos)
Part 1. Tennessee Financial Responsibility Law of 1977

T. C. A. § 55-12-139

§ 55-12-139. Evidence of compliance with financial responsibility law; penalty

Effective: May 2, 2019
Currentness

(a) This part shall apply to every vehicle subject to the registration and certificate of title provisions.

(b)(1)(A) At the time a driver of a motor vehicle is charged with any violation under chapters 8 and 10, parts 1-5, and chapter 50 of this title; chapter 9 of this title; any other local ordinance regulating traffic; or at the time of an accident for which notice is required under § 55-10-106, an officer shall request evidence of financial responsibility as required by this section.

(B) In case of an accident for which notice is required under § 55-10-106, the officer shall request evidence of financial responsibility from all drivers involved in the accident without regard to apparent or actual fault.

(C) If the driver of a motor vehicle fails to show an officer evidence of financial responsibility, or provides the officer with evidence of a motor vehicle liability policy as evidence of financial responsibility, the officer shall utilize the vehicle insurance verification program as defined in § 55-12-203 and may rely on the information provided by the vehicle insurance verification program, for the purpose of verifying evidence of liability insurance coverage.

(2) For the purposes of this section, "financial responsibility" means:

(A) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in this state, whether in paper or electronic format, stating that a policy of insurance meeting the requirements of this part has been issued;

(B) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that:

(i) A cash deposit or bond in the amount required by this part has been paid or filed with the commissioner of revenue; or

(ii) The driver has qualified as a self-insurer under § 55-12-111; or

(C) The motor vehicle being operated at the time of the violation was owned by a common carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, this state, or any political subdivision thereof, and that the motor vehicle was being operated with the owner's consent.

(c)(1) It is an offense to fail to provide evidence of financial responsibility pursuant to this section.

(2) Except as provided in subdivision (c)(3), a violation of subdivision (c)(1) is a Class C misdemeanor punishable only by a fine of not more than three hundred dollars ($300).

(3)(A) A violation of subdivision (c)(1) is a Class A misdemeanor, if a person is not in compliance with the financial responsibility requirements of this part at the time of an accident resulting in bodily injury or death and such person was at fault for the accident.

(B) For purposes of subdivision (c)(3)(A), a person is at fault for an accident if the person acted with criminal negligence, as defined in § 39-11-106, in the operation of such person's motor vehicle.

(C) A violation of subdivision (c)(1) is a Class A misdemeanor, if a person acts to demonstrate financial responsibility as required by this section by providing proof of motor vehicle liability insurance that the person knows is not valid.

(4) If the driver of a motor vehicle fails to provide evidence of financial responsibility pursuant to this section, an officer may tow the motor vehicle as long as the officer's law enforcement agency has adopted a policy delineating the procedure for taking such action.

(d) The fines imposed by this section shall be in addition to any other fines imposed by this title for any other violation under this title.

(e)(1) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge that is dismissed pursuant to this subsection (e) shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

(2) A person who did not have financial responsibility that was in effect at the time of being charged with a violation of subsection (c) shall not have that person's violation of subsection (c) dismissed.

(f)(1) Notwithstanding any law to the contrary, in any county having a population in excess of seven hundred fifty thousand (750,000), according to the 2000 federal census or any subsequent federal census, police service technicians are authorized to issue traffic citations in lieu of arrest pursuant to § 55-10-207.

(2) For the purposes of subdivision (f)(1) only, “police service technician” means a person appointed by the director of police services, who responds to requests for service at accident locations and obtains information, investigates accidents and provides other services to assist the police unit, fire unit, ambulance, emergency rescue and towing service.

(g) For purposes of this section, acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic device.

(h) If a person displays the evidence in an electronic format pursuant to this section, the person is not consenting for law enforcement to access any other contents of the electronic device.

Credits

2001 Pub.Acts, c. 292, § 1, eff. Jan. 1, 2002; 2002 Pub.Acts, c. 648, § 1, eff. April 24, 2002; 2005 Pub.Acts, c. 401, § 1, eff. July 1, 2005; 2008 Pub.Acts, c. 1169, § 1, eff. July 1, 2008; 2009 Pub.Acts, c. 370, § 1, eff. July 1, 2009; 2009 Pub.Acts, c. 441, § 1, eff. July 1, 2009; 2013 Pub.Acts, c. 327, §§ 1, 2, eff. May 13, 2013; 2013 Pub.Acts, c. 479, § 1, eff. July 1, 2013; 2015 Pub.Acts, c. 511, § 3, eff. July 1, 2015; 2015 Pub.Acts, c. 511, §§ 2, 4, 5; 2019 Pub.Acts, c. 246, § 1, eff. May 2, 2019.

Notes of Decisions (3)

T. C. A. § 55-12-139, TN ST § 55-12-139

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

West's Tennessee Code Annotated
Title 55. Motor and Other Vehicles (Refs & Annos)
Chapter 50. Uniform Classified and Commercial Driver License Act (Refs & Annos)
Part 5. Suspension and Revocation (Refs & Annos)

T. C. A. § 55-50-502

§ 55-50-502. Suspension; cancellation; surrender; installment plans for payment of fines and costs; restricted license

Effective: July 1, 2019
Currentness

(a)(1) The department is authorized to suspend the license of an operator or chauffeur upon a showing by its records or other sufficient evidence that the licensee:

(A) Has committed an offense for which mandatory revocation of license is required upon conviction; provided, that in the event of a conviction resulting from the offense, the time of mandatory revocation shall be counted from the date upon which the driver license was received by the department or the circuit court clerk;

(B) Has contributed as a driver in any accident resulting in the death or personal injury of another or serious property damage;

(C) Has been convicted with a frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways. For purposes of this subdivision (a)(1)(C), no conviction of exceeding the speed limit in a state other than Tennessee shall be considered by the department unless the conviction was for exceeding the lawful speed in the other state by more than five miles per hour (5 mph). This five miles per hour (5 mph) allowance shall not apply in marked school zones;

(D) Is an habitually reckless or negligent driver of a motor vehicle;

(E) Is incompetent to drive a motor vehicle;

(F) Has permitted an unlawful or fraudulent use of the license;

(G) Has committed an offense in another state that if committed in this state would be grounds for suspension or revocation;

(H) Has been finally convicted of any driving offense in any court and has not paid or secured any fine or costs imposed for that offense;

(I) Has failed to appear in any court to answer or to satisfy any traffic citation issued for violating any statute regulating traffic. No license shall be suspended pursuant to this subdivision (a)(1)(I) for failure to appear in court on or failure to pay a parking

ticket or citation or for a violation of § 55-9-603. Any request from the court for suspension under this subdivision (a)(1)(I) must be submitted to the department of safety within six (6) months of the violation date. No suspension action shall be taken by the department unless the request is made within six (6) months of the violation date except in the case where the driver is a commercial license holder, or the violation occurred in a commercial motor vehicle. Prior to suspending the license of any person as authorized in this subsection (a), the department shall notify the licensee in writing of the proposed suspension and, upon the licensee's request, shall afford the licensee an opportunity for a hearing to show that there is an error in the records received by the department; provided, that the request is made within thirty (30) days following the notification of proposed suspension or cancellation. Failure to make the request within the time specified shall without exception constitute a waiver of that right;

(J) Is under eighteen (18) years of age and has withdrawn either voluntarily or involuntarily or has failed to maintain satisfactory academic progress from a secondary school as provided in § 49-6-3017; or

(K)(i) Has contributed as a driver to the occurrence of an accident on school property, or on a highway with special speed limits, in which a pedestrian child suffers serious bodily injury as the result of the accident;

(ii) As used in this subdivision (a)(1)(K), unless the context otherwise requires:

(*a*) "Highway with special speed limits" means any highway with reduced speed limits, authorized pursuant to § 55-8-152, when a warning flasher or flashers are in operation, and while children are actually present;

(*b*) "Pedestrian child" means any person under eighteen (18) years of age afoot, in a mechanized wheelchair or on a nonmotorized wheeled device, including, but not limited to, a bicycle, a scooter, a skateboard, roller skates, in-line skates or a wheelchair;

(*c*) "School property" means any outdoor grounds contained within a public or private preschool, nursery school, kindergarten, elementary or secondary school's legally defined property boundaries, as registered in a county register's office; and

(*d*) "Serious bodily injury" means bodily injury that involves:

(*1*) A substantial risk of death;

(*2*) Protracted unconsciousness;

(*3*) Extreme physical pain;

(*4*) Protracted or obvious disfigurement; or

(*5*) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty.

(2) No municipal law enforcement officer is authorized to seize the license of an operator or chauffeur for a traffic offense in violation of a municipal ordinance or a traffic offense as provided in chapter 8 of this title.

(b)(1) The department is authorized to cancel any operator's or chauffeur's license upon determining that the licensee was not entitled to the issuance of the license or that the licensee failed to give the required or correct information in the application or committed any fraud in making the application.

(2) Upon the cancellation, the licensee must surrender the license so cancelled to the department.

(c)(1) The department, upon suspending or revoking a license, shall require that the license be surrendered to and be retained by the department. Prior to the reissuance of any license revoked because of a conviction of driving while under the influence of liquor or an intoxicating drug, after a second or subsequent conviction, the department shall require the owner to submit evidence that the owner has completed a program of alcohol or drug abuse education, or has completed treatment by a physician board certified or eligible in psychiatry or a licensed psychologist certified with competence in clinical psychology; or, at a facility licensed by the department of mental health and substance abuse services to provide this treatment. Certification of the psychiatrist or clinical psychologist or facility licensed by the department of mental health and substance abuse services under this section is not to be construed as a prediction of future behavior but merely certification of completion of the program.

(2) When the examination, as required by this subsection (c), is administered by a state supported mental health facility, the facility and medical doctors or doctors of psychology employed by the facility who administer the examinations within the course and scope of the doctor's authority under the statute, shall be immune from tort liability for the proper dissemination of any report or findings to the department of safety that results from the examination; provided, that this immunity shall not extend to any other person, institution, or other member of the private sector, not employed or attached to a state supported mental health facility.

(3)(A)(i) The trial judge of the court, in which the trial for the offense of operating a vehicle under the influence of alcohol or an intoxicating drug is pending, may order the issuance of a restricted license. The restricted license may only allow the person arrested to operate a motor vehicle for the purpose of going to and from, and working at, the person's regular place of employment, or to operate only a motor vehicle that is equipped with a functioning ignition interlock device, during the period of time between arrest and conviction, dismissal or acquittal. Any restriction ordered pursuant to this subsection (c) shall be in addition to any restrictions currently placed on the person's driver license. The trial judge may order the issuance of a restricted license allowing a person, whose license has been suspended due to a conviction for violating § 39-14-151 or chapter 10, part 5 of this title, to operate a motor vehicle for the purpose of going to and from and working at the person's regular place of employment.

(ii) A resident of this state, whose operator's license has been suspended because of an arrest in another jurisdiction on a charge of operating a motor vehicle while under the influence of an intoxicating liquor or a narcotic drug, may apply for a restricted motor vehicle operator's license during the period of time between arrest and conviction, dismissal or acquittal. Such resident shall apply for the license with any court of the county of the person's residence having jurisdiction to try charges.

(iii) Any restriction ordered pursuant to this subsection (c) shall be in addition to any restrictions currently placed on the person's driver license.

(B) The judge may order the issuance of a restricted license, if:

(i) Based upon the records of the department of safety the person does not have a prior conviction for a violation of vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218, or, if the conviction occurs in another state, does not constitute a prior conviction pursuant to § 55-10-405(b);

(ii) No person was seriously injured or killed in the course of the conduct that resulted in the driver's conviction under § 55-10-401.

(C) If the trial judge imposes geographic restrictions, the trial judge may issue the order allowing the person so convicted to operate a motor vehicle for the limited purposes of going to and from:

(i) And working at the person's regular place of employment;

(ii) The office of the person's probation officer or other similar location for the sole purpose of attending a regularly scheduled meeting or other function with the probation officer by a route to be designated by the probation officer;

(iii) A court-ordered alcohol safety program;

(iv) A college or university in the case of a student enrolled full time in the college or university;

(v) A scheduled interlock monitoring appointment;

(vi) A court ordered outpatient alcohol and drug treatment program; and

(vii) The person's regular place of worship for regularly scheduled religious services conducted by a bona fide religious institution as defined in § 48-101-502(c).

(D) If the violation resulting in the person's conviction for driving under the influence occurred prior to July 1, 2013, the law in effect when the violation occurred shall govern the person's eligibility for a restricted motor vehicle operator license unless the person petitions the court to consider the person's eligibility under the law in effect when the petition is filed.

(E) The person so arrested may obtain a certified copy of the order and within ten (10) days after it is issued present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall forthwith issue a restricted license embodying the limitations imposed in the order.

(4) Where a nonresident whose license has been suspended or revoked by any other state subsequently becomes a bona fide resident of this state, and where the person has been granted a restricted license by the other state if the triggering offense would under the laws of this state provide for the issuance of a restricted driver license upon petition to a judge of the court of general sessions, or its equivalent, for the county wherein the person resides, the court may order the issuance of a restricted motor vehicle operator's license. The court shall have discretion to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device or place additional limitations on the person's restricted license; provided, however, that a restricted license issued pursuant to this subdivision (c)(4) without an ignition interlock requirement shall be subject to geographic restrictions, as provided in subdivision (c)(3), during the mandatory revocation/suspension period. If the person has a prior conviction within the past ten (10) years for a violation of § 55-10-401 or § 55-10-421, in this state or a similar offense in any other jurisdiction, the court shall be required to order the person to operate only a motor vehicle that is equipped with a functioning ignition interlock device. The person may obtain a certified copy of the order and within thirty (30) days after it is issued present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall then issue a restricted license embodying the limitations imposed in the order.

(d)(1) This subsection (d) applies statewide.

(2) A person whose license has been suspended, pursuant to subdivision (a)(1)(I), subject to the approval of the court, may pay any local fines or costs, arising from the convictions or failure to appear in any court, by establishing a payment plan with the local court or the court clerk of the jurisdiction. Notwithstanding § 55-50-303(b)(2), the fines and costs for a conviction of driving while suspended, when the conviction was a result of a suspension pursuant to subdivision (a)(1)(I), may be included in such payment plan, subject to the approval of the court.

(3) The department is authorized to reinstate a person's driving privileges when the person provides the department with certification from the local court, or court clerk of the jurisdiction that the person has entered into a payment plan with the local court or the court clerk of the jurisdiction and has satisfied all other provisions of law relating to the issuance and restoration of a driver license.

(4) The department shall, upon notice of the person's failure to comply with any payment plan established pursuant to this subsection (d), suspend the license of the person. Persons who default under this subsection (d) shall not be eligible for any future payment plans under this subsection (d). The department shall notify the person in writing of the proposed suspension, and upon request of the person within thirty (30) days of the notification, shall provide the person an opportunity for a hearing to show that the person has, in fact, complied with the local court's or the court clerk's payment plan. Failure to make the request within thirty (30) days of receipt of notification shall, without exception, constitute a waiver of the right.

(5) Any person who has defaulted on a pay plan to pay fines and costs for suspension actions taken under subdivision (a)(1)(I), shall not be eligible to participate in a payment plan, nor shall the department of safety have the authority to accept a payment plan as a condition precedent to the restoration of driving privileges.

(6) Any county that participates in the payment plan authorized by this subsection (d) shall pay to the state any expense required to be paid for state implementation of this subsection (d). The payment shall be divided pro rata among the counties to which this subsection (d) applies. The payment shall be made prior to the implementation by the county of this subsection (d).

(e)(1) Any resident or nonresident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this chapter shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after the revocation until a new license is obtained when and as permitted under this chapter.

(2) The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder is subject to suspension or revocation by the department in like manner and for like cause as an operator's or chauffeur's license issued under this chapter may be suspended or revoked.

(3) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward a certified copy of the record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(4) The department is authorized to suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of the person in another state of an offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of an operator or chauffeur.

(f)(1) The department shall not suspend a driver license or privilege to drive a motor vehicle on the public highways for a period of more than six (6) months for a first offense nor more than one (1) year for a subsequent offense, except as permitted under § 55-50-504, unless in any case an order of a court provides for a longer period of suspension. At the end of the period for which a license has been suspended, the department is authorized, in its discretion, to require a reexamination of the licensee as a prerequisite to the reissuance of the license.

(2) Any person whose license is suspended for driving under the influence of drugs or intoxicants, or for refusal to submit to a blood test under §§ 55-10-406 and 55-10-407, shall have the period of suspension computed from the time that the person's driver license was actually taken from the person's possession, and the period of license suspension shall begin to run from that point until the license is returned.

(3) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have the license or privilege renewed or restored unless the revocation was for a cause that has been removed, except that after the expiration of one (1) year or the period of suspension prescribed by a court from the date on which the revoked license was surrendered to and received by the department, the person may make application for a new license as provided by law, but the department shall not issue a new license unless and until it is satisfied after investigation of the character, habits and driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. No license that has been revoked, on account of the conviction of the licensee for murder or manslaughter resulting from the operation of a motor vehicle, shall be reissued except as provided in § 55-50-501(a)(1).

(4) Where the revocation involved is the first revocation of the license or privilege of the person, the application for a new license may be made after the expiration of six (6) months from the date on which the revoked license was surrendered and received by the department. No license that has been revoked on account of the conviction of the licensee for murder or manslaughter resulting from the operation of a motor vehicle shall be reissued except as provided in § 55-50-501(a)(1).

(g) When considering the suspension of a driver license, the department may take into account offenses committed by that driver outside this state and reported to the department only if the offenses would, under the laws of this state, be considered grounds for suspension in this state. If the offenses would be grounds for suspension in the state of conviction, but not in this state they shall be disregarded by the department.

(h) Drivers of commercial motor vehicles shall have their licenses suspended for violations and for the length of time specified in § 55-50-405.

(i)(1) The department shall establish a method by which any person who makes application for or who holds a commercial driver license may elect an alternate address to which any suspension notices shall be mailed.

(2) At least two (2) times per month during two (2) different weeks of the month, the department shall make available for public inspection a list of persons whose commercial driver license has been suspended.

(j)(1) The court shall require every licensee who is convicted of a driving offense and who does not pay the assessed fines and costs in full on the date of disposition to make payments pursuant to an installment payment plan.

(2) The clerk of any court that handles traffic citations shall offer a payment plan, which must be reasonable and based on a person's income and ability to pay, to any person convicted of a driving offense.

(3) A person may request, and the court clerk shall grant, modifications to a payment plan upon a change in the person's financial circumstances or upon good cause shown. If the request for modification is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modifications to the payment plan based upon a change in the person's financial circumstances or upon good cause shown.

(4)(A) The court clerk shall inform a person who enters into a payment plan pursuant to this subsection (j) that:

(i) Failure to timely make the payments as ordered by the court results in the suspension of the person's license and the issuance of a restricted license; and

(ii) Any default on the payment plan while the person is issued a restricted license results in the revocation of the restricted license and the person's driving privileges as described in subdivision (j)(6).

(B) The court clerk shall notify the department of a person's failure to comply with a payment plan established pursuant to this subsection (j).

(C)(i) Upon notice of the person's failure to comply with the payment plan established pursuant to this subsection (j), the department shall notify the person in writing of the pending suspension of the person's license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (j)(4)(C).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (j)(4)(C)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (j)(4)(C)(ii), then the department shall not suspend the person's license.

(iv) A person who fails to reestablish compliance with the payment plan or demonstrate to the court clerk or court's satisfaction that the person complied with the court clerk's payment plan and whose license is suspended in accordance with this subdivision (j)(4) may apply to the court for the issuance of a restricted license. The court shall order the issuance of a restricted license if the person is otherwise eligible for a driver license.

(D) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall suspend the person's license. Upon the person presenting a certified copy of the court order and paying the application fee to the department in accordance with subdivision (j)(5)(B), the department shall issue a restricted license in place of the suspended license.

(5)(A) A restricted license issued pursuant to this subsection (j) is valid only for travel necessary for:

(i) Employment;

(ii) School;

(iii) Religious worship;

(iv) Participation in a recovery court, which includes drug courts under the Drug Court Treatment Act of 2003, compiled in title 16, chapter 22; DUI courts; mental health courts; and veterans treatment courts; or

(v) Serious illness of the person or an immediate family member.

(B) The order for the issuance of a restricted license must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle. The person may obtain a certified copy of the order and, within ten (10) days after the order is issued, present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the order. After proper application and until the restricted license is issued, a certified copy of the order may serve in lieu of a driver license.

(6)(A) If a person who is issued a restricted license fails to comply with a payment plan established pursuant to this subsection (j), the court clerk shall notify the department of the person's failure to comply with the payment plan.

(B)(i) Upon notice of the person's failure to comply with the payment plan, the department shall notify the person in writing of the pending revocation of the person's restricted license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (j)(6)(B).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (j)(6)(B)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (j)(6)(B)(ii), then the department shall not revoke the person's restricted license.

(C) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall revoke the person's restricted license.

(D) No sooner than six (6) months from the date of revocation, a person whose restricted license is revoked pursuant to this subdivision (j)(6) may apply with the court clerk for a certification that the person is eligible to be reissued a restricted license; provided, that the person must be actively participating in an installment payment plan in accordance with subdivision (j)(2).

(E) Upon the person's application for a certification that the person is eligible to receive a reissued restricted license pursuant to subdivision (j)(6)(D), the court clerk shall certify whether the person is actively participating in a payment plan and request the reissuance of a restricted driver license for the person if the person is otherwise eligible for a driver license. The certification must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle for purposes described in subdivision (j)(5)(A). The person may obtain a copy of the certification and, within ten (10) days after the certification is issued, present it, together with an application fee of sixty-five dollars ($65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the certification. After proper application and until the restricted license is issued, a copy of the certification may serve in lieu of a driver license.

(7) Notwithstanding this subsection (j), a person will be issued a restricted license or have the person's license reinstated only if the person is otherwise eligible for a driver license.

(8) The process described by this subsection (j) applies until the person fully pays the moneys owed the court or any outstanding fines or costs are waived by the court.

(9) If otherwise eligible for a driver license, any person whose driver license was suspended under subdivision (a)(1)(H), prior to July 1, 2019, for nonpayment of court costs or fines may apply to the court having original jurisdiction over the traffic offense for an order reinstating the person's license upon entering into an installment payment plan under this subsection (j). The person may present a certified copy of the court's order to the department of safety, which shall reissue a driver license at no cost to the person if the person is otherwise eligible for a driver license.

(10) A restricted license issued under this subsection (j) shall not be subject to the requirements of § 55-12-114(b).

(k)(1) This subsection (k) shall apply only in any municipality located in any county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census.

(2) Notwithstanding § 28-3-110, the court clerk of any municipality may establish an accounts receivable amnesty plan for payment of any outstanding judgment resulting from failure to pay local fines or costs owed by a person whose license has been suspended, pursuant to subdivision (a)(1)(H) or (a)(1)(I). The plan shall allow the person to pay the outstanding judgment, older than ten (10) years after the cause of action has commenced, at a reduced rate of fifty percent (50%) during the first six fiscal months of each year.

(3) The department is authorized to reinstate a person's driving privileges when the person provides the department with certification from the court clerk of any municipality that the person has paid pursuant to this subsection (k) and has satisfied all other provisions of law relating to the issuance and restoration of a driver license.

Credits

1937 Pub.Acts, c. 90, § 12; impl. am. by 1939 Pub.Acts, c. 205, §§ 2, 3; 1939 Pub.Acts, c. 205, § 6; 1949 Pub.Acts, c. 65, § 1; 1955 Pub.Acts, c. 114, §§ 6 to 9; 1957 Pub.Acts, c. 241, §§ 2, 3; 1971 Pub.Acts, c. 135, § 1; 1971 Pub.Acts, c. 243, § 1; 1973 Pub.Acts, c. 64, § 1; 1973 Pub.Acts, c. 319, § 1; 1975 Pub.Acts, c. 238, § 1; 1976 Pub.Acts, c. 450, § 1; 1976 Pub.Acts, c. 570, § 1; 1976 Pub.Acts, c. 607, § 1; 1978 Pub.Acts, c. 660, §§ 2, 3; 1980 Pub.Acts, c. 547, § 1; 1980 Pub.Acts, c. 685, §§ 1, 2; 1980 Pub.Acts, c. 817, § 3; 1982 Pub.Acts, c. 745, § 1; 1984 Pub.Acts, c. 861, §§ 1, 2; 1986 Pub.Acts, c. 738, § 3; 1986 Pub.Acts, c. 842, §§ 3, 4; 1988 Pub.Acts, c. 584, § 11; 1988 Pub.Acts, c. 664, § 1; 1989 Pub.Acts, c. 156, § 1; 1990 Pub.Acts, c. 819, § 4; 1991 Pub.Acts, c. 296, § 1; 1995 Pub.Acts, c. 156, § 1; 1996 Pub.Acts, c. 763, § 3, eff. July 1, 1996; 1997 Pub.Acts, c. 438, §§ 1, 2, eff. Sept. 1, 1997; 1998 Pub.Acts, c. 682, § 6, eff. July 1, 1998; 1998 Pub.Acts, c. 900, § 1, eff. May 7, 1998; 1999 Pub.Acts, c. 140, §§ 1 to 3, eff. July 1, 1999; 2000 Pub.Acts, c. 863, § 3, eff. July 1, 2000; 2000 Pub.Acts, c. 892, § 2; 2000 Pub.Acts, c. 947, § 6, eff. June 23, 2000; 2002 Pub.Acts, c. 546, § 3; 2005 Pub.Acts, c. 155, § 1, eff. July 1, 2005; 2005 Pub.Acts, c. 241, § 1, eff. July 1, 2005; 2005 Pub.Acts, c. 468, § 1, eff. July 1, 2005; 2007 Pub.Acts, c. 171, § 2, eff. May 15, 2007; 2007 Pub.Acts, c. 279, § 1, eff. July 1, 2007; 2010 Pub.Acts, c. 1029, §§ 1, 2, eff. July 1, 2010; 2010 Pub.Acts, c. 1100, § 89, eff. Jan. 15, 2011; 2011 Pub.Acts, c. 81, § 1, eff. April 14, 2011; 2012 Pub.Acts, c. 575, § 1, eff. July 1, 2012; 2013 Pub.Acts, c. 154, §§ 48, 52, eff. July 1, 2013; 2013 Pub.Acts, c. 344, §§ 14 to 19, eff. July 1, 2013; 2014 Pub.Acts, c. 587, § 6, eff. July 1, 2014; 2016 Pub.Acts, c. 876, § 11, eff. July 1, 2016; 2019 Pub.Acts, c. 438, §§ 1 to 3, eff. July 1, 2019.

Formerly 1950 Code Supp., § 2715.20; Williams' Code, § 2715.25; § 59-713; § 55-7-113; § 55-7-502.

Notes of Decisions (20)

T. C. A. § 55-50-502, TN ST § 55-50-502

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

KeyCite Yellow Flag - Negative Treatment
Unconstitutional or Preempted Negative Treatment Vacated by Thomas v. Lee, 6th Cir.(Tenn.), Sep. 12, 2019

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Tennessee Code Annotated
Title 40. Criminal Procedure
Chapter 24. Fines

T. C. A. § 40-24-105

§ 40-24-105. Collection of fines, costs, and litigation taxes; license revocation; hardship exception; payment plans

Effective: January 1, 2022
Currentness

<Text of section effective Jan. 1, 2022. See, also, § 40-24-105 effective until Jan. 1, 2022.>

(a) Unless discharged by payment or service of imprisonment in default of a fine, a fine may be collected in the same manner as a judgment in a civil action. The trial court may also enforce all orders assessing any fine remaining in default by contempt upon a finding by the court that the defendant has the present ability to pay the fine and willfully refuses to pay. Costs and litigation taxes due may be collected in the same manner as a judgment in a civil action, but shall not be deemed part of the penalty, and no person shall be imprisoned under this section in default of payment of costs or litigation taxes. The following shall be the allocation formula for moneys paid into court in matters adjudicated on or after January 1, 2022: the first moneys paid in a case shall first be credited toward the payment of restitution owed to the victim, if any, and once restitution has been paid in full, the next moneys shall be credited toward payment of litigation taxes, and once litigation taxes have been paid, the next moneys shall be credited toward payment of costs; then additional moneys shall be credited toward payment of the fine.

(b)(1) Any person who is issued a license under title 55 and who has not paid all litigation taxes, court costs, and fines assessed as a result of disposition of any offense under the criminal laws of this state within one (1) year of the date of the completion of the sentence shall enter into an installment payment plan with the clerk of the court ordering disposition of the offense to make payments on the taxes, costs, and fines owed.

(2) The clerk of the court ordering disposition of an offense shall offer a payment plan, which must be reasonable and based on a person's income and ability to pay, to any person convicted of an offense under the criminal laws of this state who requests to make payments pursuant to an installment payment plan or who is required to enter into an installment payment plan in accordance with subdivision (b)(1). A person may request, and the court clerk shall grant, modifications to the payment plan upon a change in the person's financial circumstances or upon good cause shown. If the request for modification is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modifications to the payment plan based upon a change in the person's financial circumstances or upon good cause shown.

(3)(A) The court clerk shall inform a person who enters into a payment plan pursuant to this subsection (b) that:

(i) Failure to timely make the payments as ordered by the court results in the suspension of the person's license and the issuance of a restricted license; and

(ii) Any default on the payment plan while the person is issued a restricted license results in the revocation of the restricted license and the person's driving privileges as described in subdivision (b)(5).

(B) The court clerk shall notify the department of a person's failure to comply with a payment plan established pursuant to this subsection (b).

(C)(i) Upon notice of the person's failure to comply with the payment plan established pursuant to this subsection (b), the department shall notify the person in writing of the pending suspension of the person's license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (b)(3)(C).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (b)(3)(C)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (b)(3)(C)(ii), then the department shall not suspend the person's license.

(iv) A person who fails to reestablish compliance with the payment plan or demonstrate to the court clerk or court's satisfaction that the person complied with the court clerk's payment plan and whose license is suspended in accordance with this subdivision (b)(3) may apply to the court for the issuance of a restricted license. The court shall order the issuance of a restricted license if the person is otherwise eligible for a driver license.

(D) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall suspend the person's license. Upon the person presenting a certified copy of the court order in accordance with subdivision (b)(4)(B), the department shall issue a restricted license in place of the suspended license.

(4)(A) A restricted license issued pursuant to this subsection (b) is valid only for travel necessary for:

(i) Employment;

(ii) School;

(iii) Religious worship;

(iv) Participation in a recovery court, which includes drug courts under the Drug Court Treatment Act of 2003, compiled in title 16, chapter 22; DUI courts; mental health courts; and veterans treatment courts; or

(v) Serious illness of the person or an immediate family member.

(B) The order for the issuance of a restricted license must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle. The person may obtain a certified copy of the order and, within ten (10) days after the order is issued, present it to the department, which shall issue a restricted license embodying the limitations imposed in the order. After proper application and until the restricted license is issued, a certified copy of the order may serve in lieu of a driver license.

(5)(A) If a person who is issued a restricted license fails to comply with a payment plan established pursuant to this subsection (b), the court clerk shall notify the department of the person's failure to comply with the payment plan.

(B)(i) Upon notice of the person's failure to comply with the payment plan, the department shall notify the person in writing of the pending revocation of the person's restricted license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (b)(5)(B).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (b)(5)(B)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (b)(5)(B)(ii), then the department shall not revoke the person's restricted license.

(C) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall revoke the person's restricted license.

(D) No sooner than six (6) months from the date of revocation, a person whose restricted license is revoked pursuant to this subdivision (b)(5) may apply with the court clerk for a certification that the person is eligible to be reissued a restricted license; provided, that the person must be actively participating in an installment payment plan in accordance with subdivision (b)(2).

(E) Upon the person's application for a certification that the person is eligible to receive a reissued restricted license pursuant to subdivision (b)(5)(D), the court clerk shall certify whether the person is actively participating in a payment plan and request the reissuance of a restricted driver license for the person if the person is otherwise eligible for a driver license. The certification must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle for purposes described in subdivision (b)(4)(A). The person may obtain a copy of the certification and, within ten (10) days after the certification is issued, present it to the department, which shall issue a restricted license embodying the limitations imposed in the certification. After proper application and until the restricted license is issued, a copy of the certification may serve in lieu of a driver license.

(6)(A) Notwithstanding this subsection (b), if a licensee claims an inability to pay taxes, fines, or costs imposed for a disposition of any offense under the criminal laws of this state due to indigency, the court shall offer the person the opportunity to submit proof of the person's financial inability to pay, which may include a signed affidavit of indigency. For purposes of this subdivision (b)(6), the standard for a claim of indigency is the same as for an indigent person, as defined in § 40-14-201.

(B) Upon proof of a person's financial inability to pay, the court shall suspend the person's taxes, fines, and costs. No additional fines or costs accrue against the original taxes, fines, and costs as a result of or during the suspension of the person's taxes, fines, and costs. The court may order the person to reappear before the court for a reevaluation of the person's financial ability or inability to pay the taxes, fines, or costs. If, after the reevaluation, the person:

(i) Is no longer financially unable to pay or secure any portion of the taxes, fines, or costs in accordance with subdivision (b)(6)(A), the court shall reinstate the taxes, fines, and costs and apply subdivisions (b)(2)-(5); or

(ii) Remains financially unable to pay any portion of the taxes, fines, or costs, the court shall extend the suspension of the person's taxes, fines, and costs and may order the person to reappear before the court for a reevaluation of the person's financial ability or inability to pay the fine or cost in accordance with this subdivision (b)(6)(B). The process described by this subdivision (b)(6)(B) applies until the person fully pays the moneys owed the court or any outstanding taxes, fines, or costs are waived by the court.

(7) Notwithstanding this subsection (b), a person will be issued a restricted license or have the person's license reinstated only if the person is otherwise eligible for a driver license.

(8) The process described by this subsection (b) applies until the person fully pays the moneys owed the court or any outstanding taxes, fines, or costs are waived by the court.

(9) If otherwise eligible for a driver license, any person whose driver license was revoked under this section, prior to July 1, 2019, for nonpayment of litigation taxes, court costs, and fines assessed may apply to the court having original jurisdiction over the offense for an order reinstating the person's license upon entering into an installment payment plan under this subsection (b) or the submittal of proof described in subdivision (b)(6). The person may present a certified copy of the court's order to the department of safety, which shall reissue a driver license at no cost to the person if the person is otherwise eligible for a driver license.

(c) The district attorney general or the county or municipal attorney, as applicable, may, in that person's discretion, and shall, upon order of the court, institute proceedings to collect the fine, costs and litigation taxes as a civil judgment.

(d)(1) Any fine, costs, or litigation taxes remaining in default after the entry of the order assessing the fine, costs, or litigation taxes may be collected by the district attorney general or the criminal or general sessions court clerk in the manner authorized by this section and otherwise by the trial court by contempt upon a finding by the court that the defendant has the present ability to pay the fine and willfully refuses to pay. After a fine, costs, or litigation taxes have been in default for at least six (6) months, the district attorney general or criminal or general sessions court clerk may retain an agent to collect, or institute proceedings to collect, or establish an in-house collection procedure to collect, fines, costs and litigation taxes. If an agent is used, the district attorney general or the criminal or general sessions court clerk shall request the county purchasing agent to

utilize normal competitive bidding procedures applicable to the county to select and retain the agent. If the district attorney general and the criminal or general sessions court clerk cannot agree upon who collects the fines, costs and litigation taxes, the presiding judge of the judicial district or a general sessions judge shall make the decision. The district attorney general or criminal or general sessions court clerk may retain up to fifty percent (50%) of the fines, costs and litigation taxes collected pursuant to this subsection (d) in accordance with any in-house collection procedure or, if an agent is used, for the collection agent. The proceeds from any in-house collection shall be treated as other fees of the office. When moneys are paid into court, the allocation formula outlined in subsection (a) shall be followed, except up to fifty percent (50%) may be withheld for in-house collection or, if an agent is used, for the collection agent, with the remainder being allocated according to the formula.

(2) On or after January 1, 2015, if an agent is used, the agent's collection fee shall be added to the total amount owed. The agent's collection fee shall not exceed forty percent (40%) of any amounts actually collected. When moneys are paid into court, the allocation formula outlined in subsection (a) shall be followed, except up to forty percent (40%) may be withheld for the collection agent, with the remainder being allocated according to the formula.

(e)(1) The governing body of any municipality may by ordinance authorize the employment of a collection agency to collect fines and costs assessed by the municipal court where the fines and costs have not been collected within sixty (60) days after they were due. The authorizing ordinance shall include the requirement that the contract between the municipality and the collection agency be in writing.

(2) The collection agency may be paid an amount not exceeding forty percent (40%) of the sums collected as consideration for collecting the fines and costs.

(3) The written contract between the collection agency and the municipality shall include a provision specifying whether the agency may institute an action to collect fines and costs in a judicial proceeding.

(4) Nothing in this subsection (e) shall be interpreted to permit a municipality to employ a collection agency for the collection of unpaid parking tickets in violation of § 6-54-513.

(f) If any fine, costs or litigation taxes assessed against the defendant in a criminal case remain in default when the defendant is released from the sentence imposed, the sentence expires or the criminal court otherwise loses jurisdiction over the defendant, the sentencing judge, clerk or district attorney general may have the amount remaining in default converted to a civil judgment pursuant to the Tennessee Rules of Civil Procedure. The judgment may be enforced as is provided in this section or in any other manner authorized by law for a civil judgment.

(g) After a fine, costs, or litigation taxes have been in default for at least five (5) years, the criminal or general sessions court clerk may, subject to approval by a court of competent jurisdiction, accept a lump-sum partial payment in full settlement of the outstanding balance due on a case. The court shall not approve a settlement unless the amount accepted is equal to or greater than fifty percent (50%) of the combined outstanding balance of all fines, costs, and litigation taxes due on the case. When moneys are paid into court pursuant to this subsection (g), the allocation formula outlined in subsection (a) shall be followed, except the percentage that may be retained by the clerk pursuant to subsection (d) may be withheld, with the remainder being allocated according to the formula.

(h) Deleted by 2019 Pub.Acts, c. 438, § 6, eff. July 1, 2019.

(i) As used in this section, “costs” shall include any jail fees or other incarceration costs imposed.

Credits

1972 Pub.Acts, c. 729, § 3; 1991 Pub.Acts, c. 467, § 1; 1992 Pub.Acts, c. 956, § 1; 1996 Pub.Acts, c. 826, § 1, eff. April 29, 1996; 1996 Pub.Acts, c. 920, § 1, eff. May 8, 1996; 1997 Pub.Acts, c. 325, §§ 1, 2, eff. May 30, 1997; 2007 Pub.Acts, c. 167, §§ 1, 2, eff. May 15, 2007; 2009 Pub.Acts, c. 570, §§ 1, 2, eff. July 1, 2009; 2009 Pub.Acts, c. 577, § 2, eff. July 1, 2009; 2011 Pub.Acts, c. 504, §§ 1 to 3, eff. July 1, 2011; 2014 Pub.Acts, c. 737, §§ 1, 2, eff. April 21, 2014; 2015 Pub.Acts, c. 257, § 1, eff. July 1, 2015; 2017 Pub.Acts, c. 149, § 1, eff. April 17, 2017; 2017 Pub.Acts, c. 412, §§ 1 to 4, eff. Jan. 1, 2018; 2018 Pub.Acts, c. 538, § 1, eff. March 7, 2018; 2018 Pub.Acts, c. 579, § 1, eff. March 16, 2018; 2019 Pub.Acts, c. 438, §§ 5, 6, eff. July 1, 2019; 2021 Pub.Acts, c. 410, §§ 6 to 8, eff. July 1, 2021; 2021 Pub.Acts, c. 413, § 1, eff. Jan. 1, 2022.

Editors' Notes

VALIDITY

<Portions of this section have been held unconstitutional in the case of Thomas v. Haslam, 2018, 2018 WL 3301648.>

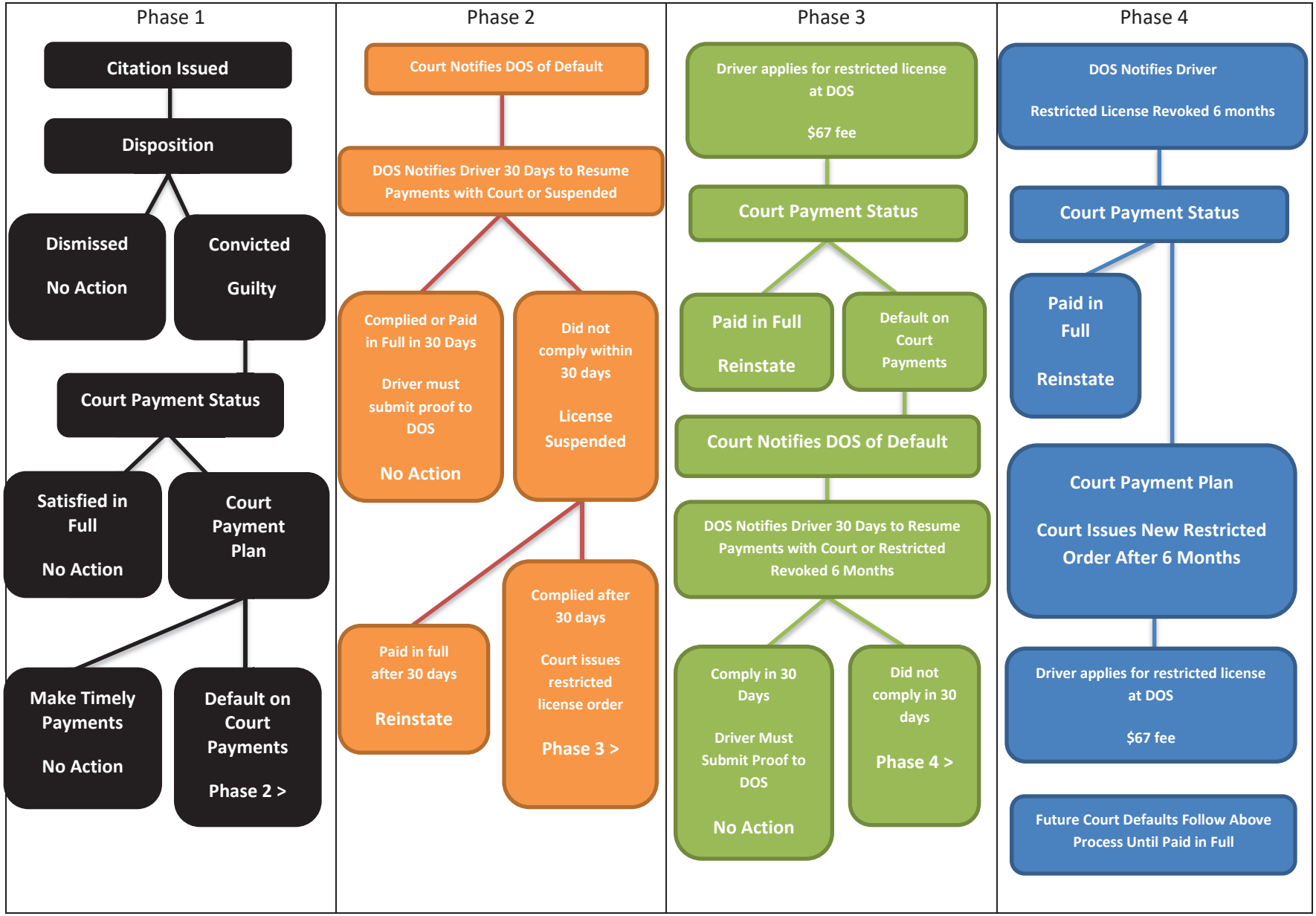
Notes of Decisions (40)

T. C. A. § 40-24-105, TN ST § 40-24-105

Current with laws from the 2021 First Regular Sess. of the 112th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

End of Document

Timeline of Nonpayments under TCA 55-50-502



IN THE MUNICIPAL COURT OF (CITY), TENNESSEE

CITY OF_____ *Plaintiff* v. _____ *Defendant*	Municipal Court Case No: _____ Date Entered: _____

APPLICATION FOR PAYMENT PLAN REGARDING FINES, COURT COSTS AND LITIGATION TAXES

The Defendant has been assessed the amount of $_____ in fines, court costs and litigation taxes in the above-named case. In accordance with TCA 55-50-502(j); (See Back) the Defendant is petitioning the _____ City Court for an order granting a payment plan for the assessed fines, court costs and litigation taxes in the case. The Court may revoke this order if the defendant fails to comply with the payment plan without a good cause.

This payment plan allows the Defendant pay installment payments over an extension of time. The Defendant shall have _____(days) from the order of this Court to pay this citation in full. The Defendant is ordered to pay the entire citation by _____(month) _____(day), 20_____.

For the Court to ensure complete payment of this citation, the Defendant is ordered to appear in court to satisfy the citation pursuant to TCA 55-50-502(a)(1)(I). This court appearance date will be _____(month) _____(day), 20____.

If the Defendant pays the citation in full prior to this scheduled court date, the case will be removed from the docket and the Defendant does not have to appear and the case will be considered resolved and closed. If the Defendant does not pay the citation in full prior to this court date, the Defendant is required to appear before Court to show good cause for the failure to comply with the payment plan. Failure to appear before Court on this hearing date may result in the suspension of the Defendant's driver's license pursuant to TCA 55-50-502(a)(1)(I).

_____ _____

Defendant *Date*

_____ _____

Clerk / Judge/ Official *Date*

ORDER GRANTING PAYMENT PLAN REGARDING FINES, COURT COSTS AND LITIGATION TAXES

Pursuant to TCA § 55-50-502(j), the Court/Court Clerk and the defendant have agreed to a payment plan in the amount stated for the assessed fines, court costs and litigation taxes in the above-named case until all such fines, court costs and litigation taxes are paid. You are, hereby, notified:

Failure to timely make payments, as ordered by the court, results in the suspension of your license and the issuance of a restricted license; and

Any default on the payment plan, while you are issued a restricted license, results in the revocation of the restricted license and your driving privileges.

TCA § 55-50-502(j)(1): The court shall require every licensee who is convicted of a driving offense and who does not pay the assessed fines and costs in full on the date of disposition to make payments pursuant to an installment payment plan.

TCA § 55-50-502(j)(3): A person may request and the court clerk shall grant modifications to a payment plan upon a change in the person's financial circumstances or upon good cause shown. If the request is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modification of the payment plan based upon a change in the person's financial circumstances or upon good cause shown.

TCA § 55-50-502(j)(8): The process described in this subsection (j) applies until the person fully pays the money owed the court or any outstanding fines or costs are waived by the court.

TCA 55-50-502(a)(1)(I) The department is authorized to suspend the license of an operator or chauffeur upon a showing by its records or other sufficient evidence that the licensee:
(I) Has failed to appear in any court to answer or to satisfy any traffic citation issued for violating any statute regulating traffic. No license shall be suspended pursuant to this subdivision (a)(1)(I) for failure to appear in court on or failure to pay a parking ticket or citation or for a violation of § 55-9-603.

IN THE MUNICIPAL COURT OF (City), TENNESSEE

CITY OF **(Name of City)**, *Plaintiff* Vs _____, *Defendant*	Municipal Case Case No.: _____ Date Entered: _____

APPLICATION FOR PAYMENT PLAN REGARDING FINES, COURT COSTS AND LITIGATION TAXES

The Defendant has been assessed the amount of $_____ in fines, court costs and litigation taxes in the above-named case. In accordance with TCA 55-50-502(j) (See Back), the defendant shall make installment payments to the **(Name of City)** City Court for the assessed fines, court costs and litigation taxes in the case.

This payment plan's first due date is on _____, 20_____ with payments of $_____ and ending date is on _____, 20_____ with a final payment due of $_____.

_____ _____

Defendant *Date*

_____ _____

Clerk / Judge / Official *Date*

IN THE MUNICIPAL COURT OF (City), TENNESSEE

CITY OF **(Name of City)**, *Plaintiff* Vs _____, *Defendant*	Municipal Case Case No.: _____ Date Entered: _____

APPLICATION FOR PAYMENT PLAN REGARDING FINES, COURT COSTS AND LITIGATION TAXES

The Defendant has been assessed the amount of $_____ in fines, court costs and litigation taxes in the above-named case. In accordance with TCA 55-50-502(j) (See Back), the defendant shall make installment payments to the **(Name of City)** City Court for the assessed fines, court costs and litigation taxes in the case.

This payment plan's first due date is on _____, 20_____ with payments of $_____ and ending date is on _____, 20_____ with a final payment due of $_____.

_____ _____

Defendant *Date*

_____ _____

Clerk / Judge / Official *Date*

Pursuant to **TCA §55-50-502(j)**, the Court/Court Clerk and the defendant have agreed to a payment plan in the amount stated for the assessed fines, court costs and litigation taxes in the above-named case until all such fines, court costs and litigation taxes are paid. You are, hereby, notified:

Failure to timely make payments, as ordered by the court, results in the suspension of your license and the issuance of a restricted license; and

Any default on the payment plan, while you are issued a restricted license, results in the revocation of the restricted license and your driving privileges.

TCA §55-50-502(j)(1): The court shall require every licensee who is convicted of a driving offense and who does not pay the assessed fines and costs in full on the date of disposition to make payments pursuant to an installment payment plan.

TCA §55-50-502(j)(3): A person may request and the court clerk shall grant modifications to a payment plan upon a change in the person's financial circumstances or upon good cause shown. If the request is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modification of the payment plan based upon a change in the person's financial circumstances or upon good cause shown.

TCA §55-50-502(j)(8): The process described in this subsection (j) applies until the person fully pays the money owed the court or any outstanding fines or costs are waived by the court.

Pursuant to **TCA §55-50-502(j)**, the Court/Court Clerk and the defendant have agreed to a payment plan in the amount stated for the assessed fines, court costs and litigation taxes in the above-named case until all such fines, court costs and litigation taxes are paid. You are, hereby, notified:

Failure to timely make payments, as ordered by the court, results in the suspension of your license and the issuance of a restricted license; and

Any default on the payment plan, while you are issued a restricted license, results in the revocation of the restricted license and your driving privileges.

TCA §55-50-502(j)(1): The court shall require every licensee who is convicted of a driving offense and who does not pay the assessed fines and costs in full on the date of disposition to make payments pursuant to an installment payment plan.

TCA §55-50-502(j)(3): A person may request and the court clerk shall grant modifications to a payment plan upon a change in the person's financial circumstances or upon good cause shown. If the request is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modification of the payment plan based upon a change in the person's financial circumstances or upon good cause shown.

TCA §55-50-502(j)(8): The process described in this subsection (j) applies until the person fully pays the money owed the court or any outstanding fines or costs are waived by the court.

Sample Letter: Notice/Payment Plans

[Date]

Dear Sir/Madam:

You were issued a citation in the City of ____, TN for speeding. You were scheduled to appear in court or pay the citation on or before **[Date]**, 2019. Since you failed to appear or failed to pay the citation, a default judgment has been entered against you for $_____.

You are now required to make payments pursuant to an installment payment plan. You should contact the Court Clerk at **(applicable phone number)** or **(street address)** and discuss your payment plan. Additionally, this letter serves as notice of the following:

> **Failure to timely make payments as ordered by the court results in the suspension of your license and the issuance of a restricted license; and**
>
> **Any default on the payment plan, while you are issued a restricted license, results in the revocation of the restricted license and your driving privileges.**

If you fail to pay this judgment or take action as noted in this letter, you will be reported to the Department of Safety and your license may be suspended. Further, a collections agent may be used to pursue this obligation, and the agent may notify the credit bureau or credit agency which could affect your credit rating.

Respectfully,

Jane Doe
City Court Clerk

MEMO

Department of Safety & Homeland Security

To: Michelle Consiglio-Young
From: Elizabeth Stroecker
Date: August 2, 2021
Subject: Implementation of Public Chapter 438 for Payment Plans for Traffic Fines and Costs

In October of 2018, there was a federal court order that suspended the authority of the Department to process suspensions of driver licenses for failure to pay traffic citation court fines and costs. On July 1, 2019, Public Chapter 438 went into effect that set-up a process for individuals to be put on a payment plan for traffic citation courts fines and costs prior to the request for suspension of a driver license for failure to pay.

Due to ongoing litigation, the Department was not able to implement Public Chapter 438 at the time of passage. As a result, courts were sending in suspensions for failure to pay traffic citation court fines and costs in compliance with the federal court order issued in October of 2018. Due to pending litigation, the Department has not been able to process these suspensions that have come in from October 2018 until July 1, 2021.

As of July 1, 2021, the Department began processing requests for suspension of a driver license as a result of default on a court payment plan for a traffic citation. The request for suspension must be compliant with the requirements set out in Public Chapter 438 from 2019. **If a court is currently submitting paper requests for suspensions in compliance with the 2018 federal court order, please cease doing so now and use the provided instructions and documents.** The requirements set out in Public Chapter 438 and T.C.A. §55-50-502(j), must be followed if a court wants to submit a suspension for a driver license for an individual who has defaulted on a payment plan for traffic citation court fines and costs.

If a suspension request for default on a traffic citation payment plan was submitted prior to July 1, 2021, it will need to be resubmitted in order to be processed in accordance with the new payment plans laws set out in T.C.A. §55-50-502(j). Additionally, the Department implemented the sections of Public Chapter 438 relative to default on payment plans for criminal court fines and costs in September of 2020. All requirements set out in that Public Chapter and in T.C.A. §40-24-105(b) shall be required for request for suspension of a driver license for default on a payment plan for criminal court fines and costs.

Attached you will find Public Chapter 438 from 2019, instructions for how to submit defaults on payment plans for court fines and costs, the restricted order that shall be used for drivers who have defaulted on a payment plan for criminal court costs and fines, and the restricted order that shall be used for the drivers who have defaulted on a payment plan for traffic citation court fines and costs.

You will need to follow the enclosed instructions to begin submitting suspension requests for default on payment plans.

Sincerely,

Elizabeth Stroecker
Director of Legislation & Assistant General Counsel

Legal Office • 312 Rosa L. Parks Avenue • 25th Floor • Nashville, TN 37243
Tel: 615-251-5199 • Email: Elizabeth.Stroecker@.tn.gov

Public Chapter 438

T.C.A. 55-50-502(j)

Effective 07/01/2019, Implemented 07/01/2021

What's changed

- Failure to Pay
  - Pursuant to T.C.A. 55-50-502(j), *the court shall require every licensee who is convicted of a driving offense and who does not pay the assessed fines and costs in full on the date of disposition to make payments pursuant to an installment payment plan.*
  - Notices of Failure to Pay must specify that the driver defaulted on a payment plan compliant with T.C.A. 55-50-502(j). Notices that do not specify default on a payment plan will not be processed.
  - Courts may report default on a payment plan electronically with their regular files. Previously, all notices of default on a payment plan were required to be submitted on paper.
  - TDOSHS will notify drivers of proposed suspension allowing 30 days to re-establish the payment plan or satisfy the court in full.
- Payment Plan Compliance
  - Compliance must specify whether the citation has been satisfied in full or is on a payment plan
  - Courts may report compliance on a payment plan electronically with their regular files. Previously, all notices that a citation is on a payment plan were required to be submitted on paper.
- Restricted License
  - Drivers who comply with department notice of proposed suspension within 30 days by either re-establishing the payment plan or satisfying the court in full and submit compliance to the department will not be suspended.
  - Drivers who do not comply with the department notice of proposed suspension within 30 days will be suspended.
    - Drivers who have satisfied the court in full after suspension may reinstate from the suspension by paying any applicable reinstatement and issuance fees if otherwise eligible.
    - Drivers who have re-established a court payment plan after suspension are also required to obtain a court order for a restricted license and must apply for a restricted license at a driver service center. The restricted license will be required until the court is satisfied in full.
      - Drivers must be otherwise eligible for a restricted license for the restricted license to be granted.
- Default after Restricted License is issued
  - Drivers who comply with a department notice of proposed suspension within 30 days by re-establishing the payment plan will maintain a valid restricted license.
  - Drivers who comply with the department notice of proposed suspension within 30 days by satisfying the court in full may reinstate and be issued a regular driver license if otherwise eligible.
  - Drivers who do not comply with the department notice of proposed suspension within 30 days will have the restricted license revoked for a period of 6 months.
    - Drivers who have satisfied the court in full may reinstate from the 6-month revocation at any time by paying any applicable reinstatement and issuance fees.
    - Drivers who have re-established a court payment plan after the 6-month revocation are eligible to re-apply for the restricted license until the court is satisfied in full.

What's not changed

- Failure to appear
  - There is no change to the processes to submit Failure to Appear for a traffic citation
- Other dispositions and violations
  - There are no changes to submitting any other type of dispositions and violations in conjunction with this change
- Mandatory Offense Compliance
  - Mandatory offenses such as DUI, Vehicular Homicide, etc. are still required to be satisfied in full to be reinstated.

Methods to report

- File created by computer vendor per specifications designed by TDOSHS (preferred)
  - NOTE: Courts who use TNCIS do not need to take any action as these changes have already been initiated in TNCIS.
  - **All other courts should contact Tiffanie Morgan** tiffanie.morgan@tn.gov **to obtain the updated information regarding file layout and to schedule testing.**
  - Updated specifications and codes are available from TDOSHS and all courts reporting via this method are **required to submit test files for verification prior to submitting activities to the production environment.**
  - Notices of default, compliance on a payment plan, and satisfied in full may be submitted via this method.
  - Files indicating Failure to Pay (not defaulted) will not be processed.
  - Files indicating Failure to Appear will continue to be processed. No changes to this process.
- Manual Paper Documents (Court Action Reports) mailed to TDOSHS
  - Requests for suspension must specify default on payment plan
  - Requests for suspension that do not indicate default on a payment plan will not be processed.
  - Compliance documents must specify either satisfied in full or on a payment plan
  - Requests for suspension for Failure to Appear may continue to be submitted on paper. No changes to this process.
  - Fax to: 615-401-6786
  - Mail to: Dispositions, PO Box 945, Nashville, TN 37202-0945
- CDR Website System operated by TDOSHS
  - N**otices of default on a payment plan cannot be submitted on the CDR website.** Courts which use the CDR website must report default on a payment plan and failure to appear using the manual paper document process above.
  - **Failure to Pay, Failure to Appear should no longer be reported via the CDR website.** Notices of Failure to Pay and Failure to Appear submitted through the CDR website will not be processed.
  - **Notices that a driver has established a payment plan cannot be submitted on the CDR website.** Courts which use the CDR website must report payment plan compliance using the manual paper document process above.
  - Notices that a driver has satisfied the court in full may continue to be reported on the CDR website. **Courts should contact** DOSHS_Court.Reporting@tn.gov **with any questions regarding the CDR website.**

STATE OF TENNESSEE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY

ORDER FOR RESTRICTED DRIVER LICENSE FOR FAILURE TO COMPLY WITH COURT PAYMENT PLAN
(MUST BE COMPLETED BY COURT OF JURISDICTION ENTERING APPLICANT IN PAYMENT PLAN)
MUST APPLY FOR LICENSE WITHIN TEN (10) DAYS FROM THE DATE OF THIS ORDER AS SET FORTH UNDER T.C.A. 55-50-502(j)

STATE OF TENNESSEE

VS

_____
(FULL NAME)

DATE OF BIRTH_____ DRIVER LICENSE NUMBER_____

COURT ID NO_____ COURT _____

DATE LAST PAYMENT DUE _____
(must be furnished to determine expiration of restricted driver license)
CITATION NUMBERS ON PAYMENT PLAN _____

ORDER

Upon application of the defendant for a restricted driver license, it appears to the Court that defendant's driver license has been suspended for default on payment of a cost or fine imposed for traffic citations pursuant to T.C.A. 55-50-502(j) and has entered into a new payment plan with the court. The violation resulting in the defendant's present conviction was not for driving under the influence of an intoxicant, or for refusal to submit to a blood or breath test, and the defendant does not have a prior conviction of vehicular homicide as the proximate result of intoxication, aggravated vehicular homicide, vehicular assault, or aggravated vehicular assault; **The defendant has been informed that failure to satisfy any requirements as ordered by this Court shall result in the revocation of the restricted license for a period of six (6) months pursuant to T.C.A 55-50-502(j).** The restricted license you received at the time of the Court hearing is temporary and subject to revocation if the department determines you are not eligible pursuant to the above statutory law. This is only valid until the department has had an opportunity to make a final determination of eligibility for the restricted license. Should the restricted license be approved by the department, it will only be valid for the length of the payment plan or 8 years, whichever is shorter.

Home Address: _____

Employer (Name & Address): _____
School (Name & Address): _____
Religious Worship (Name & Address):_____
Recovery Court (Name & Address):_____
Doctor (Name & Address):_____

Permissive Driving Times: DAYS _____ HOURS _____

It is, therefore, ORDERED that the defendant be issued a restricted driver license for the purpose set forth above, subject to the rules and regulations of the Department of Safety and Homeland Security of the State of Tennessee.

DATE	JUDGE'S SIGNATURE	COURT NAME & SEAL/STAMP

THIS COURT ORDER IS NOT A DRIVER LICENSE AND WILL NOT BE HONORED AS A DRIVER LICENSE TO DRIVE OUTSIDE OF TENNESSEE. YOU SHOULD OBTAIN WRITTEN PERMISSION FROM THE APPROPRIATE AUTHORITY IN THAT JURISDICTION.

INSTRUCTIONS FOR ISSUANCE OF RESTRICTED DRIVER LICENSE IF SUSPENDED FOR FAILURE TO COMPLY WTH COURT ORDERED PAYMENT PLAN

T.C.A. 55-50-502(j)(5) provides a restricted driver license can be issued for driving only to and from work, school, religious worship, participation in recovery court, or for the serious illness of yourself or immediate family member. Your privilege to drive, other than this restriction, is SUSPENDED and driving PROHIBITED per state statute.

TO BE ELIGIBLE FOR THIS RESTRICTED DRIVER LICENSE:

- Your privilege to drive cannot be under revocation/suspension/cancellation for any other reason in Tennessee or any other state.
- The violation resulting in your present conviction was not for Driving under the Influence or for refusal to submit to blood or breath test.
- You must not have a prior conviction for vehicular homicide as the proximate result of intoxication, aggravated vehicular homicide, vehicular assault, or aggravated vehicular assault.

In order to obtain an original license, the following criteria must be met: go to the Driver License Examining Station of your choice within ten (10) days of the date of the Court Order and present this original Order to the Driver License Examiner. Upon paying the required license and examination fees (the license fee is $65.00 and the application fee is $2.00), a temporary license will be issued. Under certain circumstances, you may be required to complete any or all examinations (vision, written, and/or road test). This Court Order will be returned to you and should be attached to the temporary driving permit. Once the department has had an opportunity to make a final determination of your eligibility for a restricted license and it has been approved, an original license will be mailed to you.

THIS ORDER MUST ACCOMPANY YOUR LICENSE AT ALL TIMES FOR YOUR RESTRICTED LICENSE TO BE VALID FOR DRIVING.

REMINDER – Failure to timely make the payments as ordered by the court ***shall*** result in the revocation of the restricted license.

STATE OF TENNESSEE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY

ORDER FOR RESTRICTED DRIVER LICENSE
FOR DEFAULT ON PAYMENT TAXES/COSTS/FINES ON CRIMINAL OFFENSE
MUST APPLY FOR LICENSE WITHIN TEN (10) DAYS FROM THE DATE OF THIS ORDER AS SET FORTH UNDER T.C.A. 40-24-105

STATE OF TENNESSEE

VS

_____
(FULL NAME)

DATE OF BIRTH_____ DRIVER LICENSE NUMBER_____

COURT ID NO_____ COURT _____

DATE LAST PAYMENT DUE _____
(must be furnished to determine expiration of restricted driver license)
DOCKET/CASE NUMBERS ON PAYMENT PLAN _____

ORDER

Upon application of the defendant for a restricted driver license, it appears to the Court that defendant's driver license has been suspended for default on payment of a tax, cost, or fine imposed for criminal offense(s) pursuant to T.C.A. 40-24-105 and has entered into a new payment plan with the court. The violation resulting in the defendant's present conviction was not for driving under the influence of an intoxicant, or for refusal to submit to a blood or breath test, and the defendant does not have a prior conviction of vehicular homicide as the proximate result of intoxication, aggravated vehicular homicide, vehicular assault, or aggravated vehicular assault; **The defendant has been informed that failure to satisfy any requirements as ordered by this Court shall result in the revocation of the restricted license for a period of six (6) months pursuant to T.C.A 40-24-105.** The restricted license you received at the time of the Court hearing is temporary and subject to revocation if the department determines you are not eligible pursuant to the above statutory law. This is only valid until the department has had an opportunity to make a final determination of eligibility for the restricted license. Should the restricted license be approved by the department, it will only be valid for the length of the payment plan or 8 years, whichever is shorter.

Home Address: _____

Employer (Name & Address): _____
School (Name & Address): _____
Religious Worship (Name & Address):_____
Recovery Court (Name & Address):_____
Doctor (Name & Address):_____

Permissive Driving Times: DAYS _____ HOURS _____

Driving privileges authorized by the Court as set forth under T.C.A. 40-24-105(h) are **VALID ONLY** for the above locations, days, and hours. It is, therefore, ORDERED that the defendant be issued a restricted driver license for the purpose set forth above, subject to the rules and regulations of the Department of Safety and Homeland Security of the State of Tennessee.

DATE	JUDGE'S SIGNATURE	COURT NAME & SEAL/STAMP

THIS COURT ORDER SERVES AS A VALID LICENSE FOR TEN (10) DAYS FROM THE DATE IT IS ORDERED. IT WILL NOT BE HONORED AS A DRIVER LICENSE AFTER THAT TIME. TO DRIVE OUTSIDE OF TENNESSEE, YOU SHOULD OBTAIN WRITTEN PERMISSION FROM THE APPROPRIATE AUTHORITY IN THAT JURISDICTION.

INSTRUCTIONS FOR ISSUANCE OF RESTRICTED DRIVER LICENSE IF SUSPENDED FOR DEFAULT ON PAYMENT PLAN FOR TAXES/COSTS/FINES ON CRIMINAL OFFENSE

T.C.A. 40-24-105 provides a restricted driver license can be issued for driving only to and from work, school, religious worship, participation in recovery court, or for the serious illness of yourself or immediate family member. Your privilege to drive, other than this restriction, is SUSPENDED and driving PROHIBITED per state statute.

TO BE ELIGIBLE FOR THIS RESTRICTED DRIVER LICENSE:

- Your privilege to drive cannot be under revocation/suspension/cancellation for any other reason in Tennessee or any other state.
- The violation resulting in your present conviction was not for Driving under the Influence or for refusal to submit to blood or breath test.
- You must not have a prior conviction for vehicular homicide as the proximate result of intoxication, aggravated vehicular homicide, vehicular assault, or aggravated vehicular assault.

In order to obtain an original license, the following criteria must be met: go to the Driver License Examining Station of your choice within ten (10) days of the date of the Court Order and present this original Order to the Driver License Examiner. Under certain circumstances, you may be required to complete any or all examinations (vision, written, and/or road test). This Court Order will be returned to you and should be attached to the temporary driving permit. Once the department has had an opportunity to make a final determination of your eligibility for a restricted license and it has been approved, an original license will be mailed to you.

THIS ORDER MUST ACCOMPANY YOUR LICENSE AT ALL TIMES FOR YOUR RESTRICTED LICENSE TO BE VALID FOR DRIVING.

_____ Court _____ County _____ Tennessee	**UNIFORM CIVIL AFFIDAVIT OF INDIGENCY** page 1 of 2	**Case Number**
_____ vs. _____		

I, _____, having been duly sworn according to law, make oath that because of my poverty, I am unable to bear the expenses of this case and that I am justly entitled to the relief sought to the best of my belief. The following facts support my poverty.

1. Full Name: _____
2. Address: _____
3. Telephone Number: _____
4. Date of Birth: _____
5. Names and Ages of All Dependents:

_____	Relationship: _____
_____	Relationship: _____
_____	Relationship: _____
_____	Relationship: _____

6. I am employed by: _____
   My employer's address is: _____
   My employer's phone number is: _____
7. My Present income, after federal income and social security taxes, are deducted, is: $ _____
8. I receive or expect to receive money from the following sources:

AFDC	$ _____	per month	beginning _____
SSI	$ _____	per month	beginning _____
Retirement	$ _____	per month	beginning _____
Disability	$ _____	per month	beginning _____
Unemployment	$ _____	per month	beginning _____
Worker's Compensation	$ _____	per month	beginning _____
Other	$ _____	per month	beginning _____

9. My expenses are:

Rent/House Payment	$ _____	per month	Medical/Dental	$ _____	per month
Groceries	$ _____	per month	Telephone	$ _____	per month
Electricity	$ _____	per month	School Supplies	$ _____	per month
Water	$ _____	per month	Clothing	$ _____	per month
Gas	$ _____	per month	Child Care or	$ _____	per month
Transportation	$ _____	per month	Court Ordered Child Support		
			Other	$ _____	per month

10. Assets:

Automobile	$ _____ (FMV)	_____
Checking/Savings Account	$ _____	
House	$ _____ (FMV)	_____
Other	$ _____	

11. My debts are:

Amount Owed	To Whom
_____	_____
_____	_____
_____	_____

I hereby declare under the penalty of perjury that the foregoing answers are true, correct, and complete and that I am financially unable to pay the costs of this action.

_____
PLAINTIFF

ORDER ALLOWING FILING ON PAUPER'S OATH

It appears based upon the Affidavit of Indigency filed in this cause and after due inquiry made that the Plaintiff is an indigent person and is qualified to file case upon a pauper's oath.

_____ Court _____ County _____ Tennessee	**UNIFORM CIVIL AFFIDAVIT OF INDIGENCY** page 2 of 2	**Case Number**

_____ vs. _____

It is so ordered this the _____day of _____, 20____

_____
JUDGE

DETERMINATION OF NONINDIGENCY

It appearing based upon the Affidavit of Indigency filed in this cause and after due inquiry made that the Plaintiff is not an indigent person because _____.

IT IS ORDERED AND AJUDGED that the Plaintiff does not qualify for filing this case on a pauper's oath.
This the ____ day of _____ , 20 _____ .

_____
JUDGE

NOTICE: If the judge determines that based upon your affidavit you are not eligible to proceed under a pauper's oath, you have the right to a hearing before the judge or, in those cases that can be appealed to Circuit Court, a hearing before the Circuit Court judge.