

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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Opinion No. 04-172

Penalty for Parking Unregistered Car on Property

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**QUESTION**

An individual parks an unregistered automobile on the individual's own property within a municipality. The vehicle is not operated on public roads and is not parked on a public street. Under the law of nuisance, Tenn. Code Ann. §§ 55-4-101, *et seq.*, or any other provision of law, may a local government cite and subject to a fine or other penalty the owner of such an automobile?

**OPINION**

No state statute expressly addresses this issue. Depending on the facts and circumstances, parking an unregistered car on private property could constitute a nuisance subject to abatement under state law. In addition, the practice could violate local land use, environmental or zoning ordinances.

**ANALYSIS**

This opinion concerns the following situation. An individual parks an unregistered automobile on the individual's own property within a municipality. The vehicle is not operated on public roads and is not parked on a public street. The request asks whether, under the law of nuisance, or Tenn. Code Ann. §§ 55-4-101, *et seq.*, which addresses motor vehicle registration, or any other provision of law, a local government may cite and subject to a fine or other penalty the owner of such an automobile. We assume your question refers to a situation in your district, which is located in the Metropolitan Government of Nashville and Davidson County.

As a general matter, state law requires motor vehicles to be registered “[a]s a condition precedent to the operation . . . upon the streets or highways of this state.” Tenn. Code Ann. § 55-4-101(a)(1). We assume that the car in question is not an “off-highway motor vehicle” within the meaning of Tenn. Code Ann. § 55-3-101(c)(1). Under Tenn. Code Ann. § 55-3-102(a)(2), it is a Class C misdemeanor for any person to drive or move an unregistered vehicle on a highway. But the registration laws do not expressly prohibit an individual from parking an unregistered car on his or her own property, so long as the car is not operated on the streets. No other state statute expressly declares this conduct to be a nuisance subject to abatement or to any other penalty. Under Tenn. Code Ann. § 29-3-102, a city attorney or ten or more private landowners, among others, may petition a trial court to abate public nuisances. The statute defines “nuisance” to include “that which is declared to be such by other statutes.” Tenn. Code Ann. § 29-3-101(a)(2). But Tennessee courts

recognize that a public official may also sue to abate a common law nuisance, which may exist wholly independent of any state statute. *State ex rel. Swann v. Pack*, 527 S.W.2d 99 (Tenn. 1975), *cert. denied*, 424 U.S. 954, 96 S.Ct. 1429, 47 L.Ed.2d 360 (1976). In that case, a district attorney sought to enjoin a religious group from handling snakes as a part of its religious service. The Court found that handling snakes as part of a religious ritual constituted a common law nuisance. The Court cited the following definitions of “public nuisance”:

It is a condition of things which is prejudicial to the health, comfort, safety, property, sense of decency or morals of the citizens at large, resulting either from an act not warranted by law, or from neglect of a duty imposed by law.

527 S.W.2d at 113 (citing 58 Am.Jur.2d, *Nuisances*, §7); and

[N]uisance, in legal parlance, extends to everything that endangers life or health, gives offense to the senses, violates the laws of decency, or obstructs the reasonable or comfortable use of property.

*Id.*, citing *Yarbrough v. Louisville and Nashville Railroad Co.*, 11 Tenn. App. 456, 466 (1930).

More recently, the Tennessee Court of Appeals for the Middle Section defined a public nuisance as “anything which annoys or disturbs the free use of one’s property, or which renders its ordinary use or physical occupation uncomfortable. It extends to everything that endangers health or life, offends the senses, or obstructs the reasonable and comfortable use of property.” *Oakley v. Simmons*, 799 S.W.2d 669 , 671 (Tenn.Ct.App. 1990), *p.t.a. denied* (1990)(citing *Caldwell v. Knox Concrete Products, Inc.*, 54 Tenn. App. 393, 402, 391 S.W.2d 5, (1964) and *Pate v. City of Martin*, 614 S.W.2d 46, 47 (Tenn. 1981)). Under state law, therefore, conduct may be a nuisance even if it is not so designated by a state statute. Depending on the facts and circumstances, parking an unregistered car on private property could constitute a nuisance under these definitions. In addition, the practice could violate local land use, environmental, or zoning ordinances. *See* The Code of the Metropolitan Government of Nashville and Davidson County, § 16.24.330.K.

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