S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 00-144

Authorization by private property owners to tow or store vehicles

QUESTIONS

1. Does Tenn. Code Ann. § 55-16-112 allow the "owner of private property" to give a "blanket authorization" to tow or to store vehicles, or does the statute require an "individualized authorization" for each vehicle to be towed or stored, i.e., "an express written authorization for towing and storage of each vehicle"?

2. May a property manager (or similarly situated person) or lessee confer the requisite authorization to tow or to store a vehicle pursuant to Tenn. Code Ann. § 55-16-112?

OPINIONS

1. The statute does not allow a blanket authorization; it requires an express written authorization for each vehicle.

2. No.

ANALYSIS

This opinion addresses the interpretation of Tenn. Code Ann. § 55-16-112, which is part of a statutory scheme for the disposition of unclaimed or abandoned vehicles. The statute provides:

> (a) Notwithstanding any other provision of this part or of title 66, chapter 19, part 1, in order for a garagekeeper or a towing firm to tow or to store a vehicle the garagekeeper or towing firm shall obtain an express written authorization for towing and storage of each vehicle from a law enforcement officer with appropriate jurisdiction, or from the owner of the vehicle, or from the owner of the private property from which the vehicle is to be towed. Such authorization shall include all of the information required by § 66-19-103(d). In addition to any other penalty provided by this part or by title 66, chapter 19, part 1, a violation of the provisions of this section is a Class C misdemeanor.

> (b) The provisions of this section and § 66-19-103(a) do not apply to new or used motor vehicle dealers licensed under chapter 17 of this title.

1. The first question is whether a property owner may give a "blanket authorization" to a garagekeeper or towing firm to tow or store vehicles, or whether the statute requires an "individualized authorization" for each vehicle concerned. We think the statute contemplates the latter. As we understand a "blanket authorization," it would allow a private property owner to give a one-time authorization to tow or to store *all* vehicles. Had the legislature intended to allow a one-time authorization for *all* vehicles, it could have used such language. Instead, every time the statute mentions the word "vehicle," it is preceded either by the specific, definite adjective or article "each," "a," or "the," all of which indicate the importance of having individual authorizations for each vehicle. This conclusion is buttressed by the statute's requirement that "[s]uch authorization shall include all of the information required by § 66-19-103(d)." This provision states:

> (d) (1) Any authorization made by a police department to tow a vehicle shall be made in writing. Such authorization shall include:
> (A) The name of the officer giving authorization;
> (B) The year, make and model, and color of the vehicle to be towed;
> (C) The reason for the tow;
> (D) The license plate number, if any; and
> (E) The vehicle identification number, if it is ascertainable.
> (2) A copy of such authorization shall be posted with the vehicle by the officer giving authorization, and shall remain with the vehicle until the vehicle is claimed by the owner.

If a garagekeeper or towing firm obtains a written authorization from a property owner — as opposed to a police officer — the portions of the written authorization that pertain to a police department would be inapplicable, but a blanket authorization would not contain other information that the statute indicates should be reflected on a written authorization to tow or store a vehicle, such as the VIN and license plate numbers, if ascertainable. Accordingly, it is our opinion that Tenn. Code Ann. § 55-16-112 requires a garagekeeper or towing firm to obtain an express written authorization for each vehicle towed or stored, and that a "blanket authorization" from a private property owner would not be sufficient under the terms of the statute.

2. The second question is whether a property manager, similarly situated person, or lessee may confer the requisite authorization to tow or to store a vehicle pursuant to Tenn. Code Ann. § 55-16-112. We think the answer is "no." A rule of statutory construction provides that mention of one subject in a statute indicates an intent to exclude other subjects that are not mentioned. *State v. Harkins,* 811 S.W.2d 79, 82 (Tenn. 1991). Part of the definition of an "abandoned motor vehicle" is that it "[h]as remained on private property without the consent of the owner *or person in control of the property* for more than forty-eight (48) hours . . .." Tenn. Code Ann. § 55-16-103(1)(D) (emphasis added). But in listing the

persons who may authorize a garagekeeper or towing firm to tow or store a vehicle, the legislature used the series of terms "law enforcement officer," "owner of the vehicle," or "owner of the private property from which the vehicle is to be towed." Because the series does not include "person in control of the property," we think the legislature did not intend for a garagekeeper or towing firm to obtain authorization to tow or store a vehicle from a property manager, similarly situated person, or lessee. In our opinion, therefore, Tenn. Code Ann. § 55-16-112 requires a garagekeeper or towing firm to obtain authorization to tow or store a vehicle from the owner of the private property from which the vehicle is to be towed, as opposed to a property manager, similarly situated person, or lessee of the property.

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