S T A T E O F T E N N E S S E E
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ATTORNEY GENERAL
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Opinion No. 02-098

Tennessee Equitable Restrooms Act

QUESTIONS

1. Does the Tennessee Equitable Restrooms Act, Tenn. Code Ann. §§ 68-120-501, *et seq*., apply to organized camps, as defined and set forth in Tenn. Code Ann. §§ 68-110-101, *et seq*. and Tenn. Comp. R. & Reg. 1200-1-5-.01, *et seq*.?

2. If the answer is yes, to what extent does the Tennessee Equitable Restrooms Act apply to organized camps?

OPINIONS

1. No. It is the opinion of this office that the Tennessee Equitable Restrooms Act does not apply to organized camps, as defined and set forth in Tenn. Code Ann. §§ 68-110-101, *et seq.* and Tenn. Comp. R. & Reg. 1200-1-5-.01, *et seq.*

2. In light of the answer to the first question, we do not address the second.

ANALYSIS

The Tennessee Equitable Restrooms Act, Tenn. Code Ann. §§ 68-120-501, *et seq*., applies to publicly and privately owned "facilities where the public congregates" which are constructed, structurally altered or renovated after May 9, 1994. Tenn. Code Ann. §§ 68-120-503(a), 68-120-504. The term "facilities where the public congregates" means, unless the context requires otherwise, "sports and entertainment arenas, musical amphitheatres, stadiums, community and convention halls, specialty event centers, amusement facilities, fairgrounds, zoos, institutions of higher education, and specialty event centers in public parks." Tenn. Code Ann. § 68-120-502(1). In turn, "specialty event center" means "an open arena used for rallies, concerts, exhibits, etc., with no permanent structure for purposes of assembly." Tenn. Code Ann. § 68-120-502(7). The Act further specifically exempts hotels, food establishments, state or local parks or higher education facilities with a seating capacity for less than two hundred fifty (250) persons, and automobile race tracks where portable facilities can be located and which were in existence prior to July 1, 1985. Tenn. Code Ann. § 68-120-505. Under certain circumstances, the Act also permits the state architect to allow variances. Tenn. Code Ann. § 68-120-503. The Act further exempts certain football stadiums. Tenn. Code Ann. § 68-120-508.

An "organized camp," on the other hand, means

> any area, place, parcel, or tract of land on which facilities are established or maintained to provide an outdoor group-living experience for children or adults, or where one (1) or more permanent or semipermanent structures are established or maintained as living or sleeping quarters for children or adults, and operated for educational, social, recreational, religious instruction or activity, physical education or health, or vacation purposes either gratuitously or for compensation.

Tenn. Code Ann. § 68-110-101(3)(A). The term "organized camp" also specifically excludes a "hunting, fishing or other camp privately owned and used exclusively for the personal pleasure of the owner and the owner's guests," as well as

> a camp site on property owned by a church and used exclusively for the personal pleasure of the members of the church and such member's guests, if:
> (i) No permanent or semipermanent structures or buildings are established or maintained on the camp site as living or sleeping quarters, restrooms, or for a cafeteria or kitchen, to provide an outdoor group-living experience for children or adults;
> (ii) The camp site is used for occasional weekend or overnight camping experiences for such persons; and
> (iii) The camp site contains no electrical, sewage or water hook-ups or pads to accommodate travel trailers, truck coaches or campers, tent campers and other similar camping vehicles.

Tenn. Code Ann. § 68-110-101(3)(B) and (C).

We do not think that an organized camp falls within the ambit of any of the specific meanings assigned to "facilities where the public congregates" under the Act. The only such meaning which conceivably might apply to an organized camp is the term "amusement facility" as used in the Act. However, the Act does not define the term "amusement facility," nor does the definition of "organized camp" in Tenn. Code Ann. § 68-110-101(3)(A) include the term "amusement facility."[1]

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[1]We note, in passing, a case which is admittedly dissimilar to the question posed in that it construed whether membership fees for a campground were subject to sales taxes under the Amusement Tax Act. In *Carson Creek Vacation Resort, Inc. v. State*, 766 S.W.2d 783, 784 (Tenn. 1989), the State argued that the plaintiff's sale of memberships to its campground facilities constituted either "dues or fees to membership sports or recreation clubs" or "fees or other charges made for admission... to places of amusement... or other recreational events or activities...." under Tenn. Code Ann. § 67-6-212(a). The plaintiff, on the other hand, contended that the primary purpose of the campground in question was to provide lodging, and that the purpose was neither amusement nor recreational, unlike the class of activities subject to the tax. The court disagreed, describing the primary purpose of the campground in question to be "the recreational activity of camping," and found the campground in question to be subject to the tax. The court stated that "[i]n its natural and ordinary meaning, "camping" is considered a recreational activity." We mention *Carson Creek*

Therefore, taking into account the silence on the subject in both relevant statutes, neither statute appears ambiguous regarding whether an organized camp is considered an "amusement facility." However, even if the definition in the Act, "facilities where the public congregates" were ambiguous regarding its applicability to organized camps, it still does not appear to have been the intent of the Legislature to include organized camps within the meaning of such term. Our review of all available audiotapes of legislative discussions of the Tennessee Equitable Restrooms Act reveals no mention of organized camps. Certainly, the most basic rule of statutory construction is to ascertain and give effect to the intention and purpose of the Legislature. *Worrall v. Kroger Co.*, 545 S.W.2d 736 (Tenn. 1977). Moreover, legislative intent or purpose is to be ascertained primarily from the natural and ordinary meaning of the language used, without forced or subtle construction that would limit or extend the meaning of the language. *National Gas Distributors, Inc. v. State*, 804 S.W.2d 66 (Tenn. 1991). Had the Legislature intended to include organized camps within the definition of "facilities where the public congregates" as used in the Act, certainly it could have done so, but it did not. Therefore, it is the opinion of this office that the Tennessee Equitable Restrooms Act does not apply to organized camps, as defined in Tenn. Code Ann. §§ 68-110-101, *et seq.* and Tenn. Comp. R. & Reg. 1200-1-5-.01, *et seq.*

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because, even though the context of the ruling was completely dissimilar to the statutes here under consideration, nevertheless the court in *Carson Creek* did not find the campground in question to be a "place of amusement."