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Opinion No. 02-104

DUI Defendant's Rights to Designate Towing Company

QUESTION

Does a person arrested for driving under the influence of an intoxicant have the right to request that a specific towing company tow his vehicle?

OPINION

No, Tenn. Code Ann. § 55-15-104 gives the police department the right to take the vehicle into custody and employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for purposes of removing and storing the vehicle.

ANALYSIS

Tenn. Code Ann. § 55-16-104 authorizes the police to take into custody any motor vehicle found unattended on public or private property. The statute goes on to expressly allow the police department to employ its own personnel or hire others for the purpose of removing and storing the vehicle. Tenn. Code Ann. § 55-16-104. Tenn. Code Ann. § 55-16-103 defines an "unattended motor vehicle" as including "a motor vehicle that is unattended by reason of the arrest of the driver of such motor vehicle."

This statute gives a police department sole discretion over towing and storing vehicles left unattended by reason of the arrest of the driver. Loudon County, therefore, may choose to employ whichever towing company it prefers for this purpose. The person arrested, in contrast, is given no authority under this statute over the disposition of his vehicle.

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