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Opinion No. 03-126

Constitutionality of Tenn. Code Ann. Section 55-50-321(c)(1)(B)

QUESTIONS

1. Does Tenn. Code Ann. § 55-50-321(c)(1)(B), which authorizes the issuance of drivers licenses to individuals who have never obtained or received social security numbers, violate the prohibition against the enactment of legislation for the benefit of specific individuals or classes of individuals set forth in Article XI, § 8 of the Tennessee Constitution?

2. Do county and municipal governments have the authority to enact laws and/or ordinances refusing to recognize the validity of any drivers licenses that the Department of Safety has issued pursuant to the provisions of Tenn. Code Ann. § 55-50-321(c)(1)(B)?

OPINIONS

1. No. Tenn. Code Ann. S 55-50-321(c)(1)(B), which authorizes the Department of safety to issue drivers licenses to persons who have never obtained or received social security numbers, does not violate the prohibition against legislation enacted for the benefit of specific individuals or classes of individuals set forth in Article XI, § 8 of the Tennessee Constitution.

2. No. County and municipal governments do not have the authority to enact laws and/or ordinances refusing to recognize the validity of any drivers licenses that the Department of safety has issued pursuant to the provisions of Tenn. Code Ann. § 55-50-321(c)(1)(B).

ANALYSIS

1. Article XI, § 8 of the Tennessee Constitution states, in part:

> The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, imunitie [immunities] or exemptions other than such as may be, by the same law extended to any member of the community, who may be

able to bring himself within the provisions of such law.

Article XI, § 8 does not prohibit all legislation that might affect particular individuals or classes of people. It only prohibits the passage of laws that fail to provide equal treatment to all persons who are similarly situated. *Profill Development, Inc. v. Dills,* 960 S.W.2d 17 (Tenn. App. 1997).[1]

Tenn. Code Ann. § 55-50-321(c)(1)(B) provides that:

> Any applicant who does not have, or who states that the applicant has never been issued, a social security number required by subdivision (c)(1)(A) shall complete an affidavit, under penalty of perjury, affirming that the applicant has never been issued a social security number.

If the language of a statute is plain and unambiguous, it is to be construed according to the natural and ordinary meaning of its language. *Jones v. Garrett,* 92 S.W.3d 835 (Tenn. 2002). The language of Tenn. Code Ann. § 55-50-321(c)(1)(B) is plain and unambiguous. Its application is not limited to illegal aliens or any other specific group. Any person, regardless of class or group meeting the qualifications set forth in the statute may use that provision to obtain a drivers license.[2] Since any person may take advantage of the statute if he or she meets its requirements, Tenn. Code Ann. § 55-50-321(c)(1)(B) does not violate Art. XI, § 8 of the Tennessee Constitution.

2. Counties only have such authority as they are given under the Tennessee Constitution or by statute. *State ex. rel. Whitcher v. Bilbrey,* 878 S.W.2d 567 (Tenn. App. 1994). Statutes conferring power on counties are strictly construed. *Mosier v. Thompson,* 216 Tenn. 655, 393 S.W.2d 734 (1965). No statutes authorizing counties to adopt ordinances or laws that would refuse to honor an otherwise valid[3] drivers license issued by the Department of Safety have been found. In the absence of such a statute, counties do not have the authority to enact ordinances or other laws refusing to recognize the validity of any drivers license that is issued to illegal aliens or any other class of persons that a county may find to be objectionable.

Municipal governments may only exercise those powers as are conferred by statute or under

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[1]As *Profill* and other cases illustrate, Art. XI, § 8 prohibits the state from denying any of its citizens the equal protection of the laws. See also *City of Tullahoma v. Bedford County,* 938 S.W. 2d 408 (Tenn. 1997); *Jones v. Haynes,* 221 Tenn. 50, 424 S.W.2d 197 (1967).

[2]While illegal aliens might be able to use this provision to obtain drivers licenses, other people may also use it. For example, any citizen who, for whatever reason, has never applied for or received a social security number may apply for a drivers license under Tenn. Code Ann. § 55-50-321(c)(1)(B). The same would be true for persons who have obtained an exemption under 26 U.S.C. § 1402(g). That statute authorizes certain religious objectors to apply for certificates of exemption from the Social Security system.

[3]A valid license means one that is current and has not been revoked or suspended by the Commissioner of Safety.

municipal charters. *City of Lebanon v. Baird*, 756 S.W.2d 236 (Tenn. 1988). While municipalities might be granted some latitude in the exercise of delegated powers, they may not exercise them in such a way as to nullify state law on the same subject. Municipalities are prohibited from enacting ordinances or other laws that would deny rights that are granted under state law or that would grant rights that are prohibited under state law. *421 Club v. Metropolitan Government of Nashville and Davidson County*, 36 S.W.3d 469 (Tenn. App. 2001).

Tenn. Code Ann § 55-50-321(c)(1)(B) authorizes the Department of Safety to issue drivers licenses to any person who has not been issued social security numbers. The statute does not restrict in any way the classes of persons who have not been issued such numbers. Any attempt by a municipality to enact an ordinance or other law that refuses to honor a drivers license to any class of persons who have received a license pursuant to Tenn. Code Ann. § 55-50-321(b)(1)(B) would constitute an attempt to deny rights conferred under state law and thus would constitute an impermissible exercise of municipal power.

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