

**STATE OF TENNESSEE**  
OFFICE OF THE  
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Opinion No. 07-32

Ability of airport authority to charge parking fees to handicapped drivers

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**QUESTION**

May an airport authority charge parking fees under state law to handicapped drivers in light of the prohibition against such fees in Tenn. Code Ann. § 55-21-105(a)?

**OPINION**

Yes.

**ANALYSIS**

According to the opinion request, the Memphis-Shelby County Airport Authority (“Authority”) charges a fee to members of the general public for using a parking lot near the airport’s main terminal. The Authority does not charge handicapped drivers, however, under the following statutory provision:

*No state agency, county, city, town or other municipality or any agency thereof shall exact any fee for parking on any street or highway or in any metered parking space or in parking lots municipally owned or leased, or both municipally owned and leased, or a parking place owned or leased, or both owned and leased, by a municipal parking utility or authority. No state postsecondary education institution or any agent thereof shall exact any fee from any visitor to such institution, or from any visitor attending programs of the institution not for credit, for parking on any parking lot owned or leased by a state postsecondary education institution, or both owned and leased by a state postsecondary education institution. The parking privileges granted by this section are limited to any disabled driver or disabled passenger to whom the distinctive license plates or placards were issued and to qualified operators acting under the express direction of a disabled driver or disabled passenger. Any disabled veteran who qualifies for and receives a disabled veteran's license plate shall also be afforded the same privileges as granted to a disabled person who qualifies for and receives a disabled license plate or placard as provided for in § 55-21-103.*

Tenn. Code Ann. § 55-21-105(a) (emphasis added). This statute applies to the Authority under Tenn. Code Ann. § 42-4-102(a), which provides that airport authorities are “public and

governmental bodies acting as agencies and instrumentalities of the creating and participating municipalities[.]”

Your question is whether other statutes contained in the Metropolitan Airport Authority Act, Tenn. Code Ann. §§ 42-4-101, *et seq.*, allow the Authority to charge parking fees to handicapped drivers despite the provisions of § 55-21-105(a).

The General Assembly has given airport authorities the powers set forth in Tenn. Code Ann. § 42-4-107. Among these, an airport authority has the power to:

*[h]ave control of its airport with the right and duty to establish and charge fees, rentals, rates and other charges, and collect revenues therefrom, not inconsistent with the rights of the holders of its bonds, and to enter into agreements with carriers for the payment of landing fees, rental rates and other charges[.]*

Tenn. Code Ann. § 42-4-107(10) (emphasis added).

Under this statutory provision, an airport authority may clearly charge members of the public a fee for parking on its property. The question becomes, then, whether this power may be exercised contrary to the provisions of Tenn. Code Ann. § 55-21-105(a), which prohibits such a fee for handicapped drivers. Important to answering this question is Tenn. Code Ann. § 42-4-114:

(a) The powers conferred by this chapter are in addition and supplemental to the powers conferred by any other law, and are not in substitution for such powers, and the limitations imposed by this chapter shall not affect such powers.

(b) *The powers herein granted may be exercised without regard to requirements, restrictions or procedural provisions contained in any other law or charter, except as herein expressly provided.*

Tenn. Code Ann. § 42-4-114(a) and (b).

Nothing in the Airport Authority Act expressly prohibits an authority from charging a parking fee to a handicapped driver. Thus, under Tenn. Code Ann. § 42-4-114(b), an airport authority may exercise its power given by Tenn. Code Ann. § 42-4-107(10) to charge a parking fee — even to handicapped drivers — without regard to Tenn. Code Ann. § 55-21-105(a). We have examined Title 55, Chapter 21, of the Tennessee Code Annotated, and it contains no provision that would allow Title 55, Chapter 21, to control over the Airport Authority Act. Accordingly, state law authorizes an airport authority to charge parking fees to handicapped drivers along with other members of the general public.

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