

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
PO BOX 20207  
NASHVILLE, TENNESSEE 37202

July 20, 2007

Opinion No. 07-111

Application of Tenn. Code Ann. § 55-16-112 to illegally parked vehicles

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**QUESTION**

Does Tenn. Code Ann. § 55-16-112 apply to illegally parked vehicles?

**OPINION**

Section 55-16-112 of the Tennessee Code applies to illegally parked vehicles.

**ANALYSIS**

Section 55-16-112 of the Tennessee Code addresses the written authorization required for towing and storing motor vehicles. This statute, as amended effective June 21, 2007, by 2007 Tenn. Pub. Acts Ch. 479, provides as follows:

(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, or the authorized agent of 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.

Tenn. Code Ann. § 55-16-112.

In determining whether Tenn. Code Ann. § 55-16-112 applies to illegally parked vehicles, we are guided by the rules and conventions of statutory construction. The guiding principle of statutory construction is to ascertain and give effect to the intention or purpose of the Legislature as expressed in the statute. *Westinghouse Electric Corporation v. King*, 678 S.W.2d 19, 23 (Tenn. 1984), *appeal dismissed*, 105 S.Ct. 1830 (1984). The courts determine the meaning of a statute by

viewing the statute as a whole and in light of its general purpose. *City of Lenoir City v. State ex rel. City of Loudon*, 571 S.W.2d 297, 299 (Tenn. 1978).

Applying these principles, we note that Tenn. Code Ann. § 55-16-112 is part of Chapter 16 of Title 55, “Unclaimed or Abandoned Vehicles.” Among other things, this chapter addresses the reporting of unclaimed vehicles, taking possession of abandoned motor vehicles, the towing and storage of motor vehicles, and the auction of abandoned, immobile, and unattended vehicles. Importantly, certain provisions of Chapter 16 specifically refer to illegally parked vehicles. For instance, Tenn. Code Ann. § 55-16-101 addresses reports of unclaimed vehicles and vehicles on residential property:

(a) Whenever a motor vehicle has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for a period of more than thirty (30) consecutive days, the owner of such garage, trailer park or lot shall report in writing the make, motor number, vehicle identification number, and serial number of such motor vehicle to the department of safety.

(b) Nothing in this chapter shall apply where the owner of the motor vehicle so parked or stored is personally known to the owner or operator of the garage, trailer park, storage or parking lot and where such motor vehicle owner has made arrangements for the parking or storing of such motor vehicle for a longer period of time than thirty (30) days.

(c) Nothing in this chapter applies to unclaimed, abandoned or *illegally parked vehicles* located on or about the premises of real property that has been leased or rented for residential purposes.

(Emphasis added).

Similarly, Tenn. Code Ann. § 55-16-111 addresses the time for towing:

Notwithstanding any provision of law to the contrary, a vehicle may not be towed without authorization by the owner of the vehicle until twelve (12) hours have elapsed since it was first observed to be immobile or unattended unless such vehicle is creating a hazard, such vehicle is blocking access to public or private property, *or such vehicle is parked illegally.*

(Emphasis added).

Furthermore, Chapter 16 defines “abandoned motor vehicle” to include vehicles that are illegally parked. Tenn. Code Ann. § 55-16-103(1) provides:

"Abandoned motor vehicle" means a motor vehicle that:

(A) Is over four (4) years old and is left unattended on public property for more than ten (10) days;

(B) Is in an obvious state of disrepair and is left unattended on public property for more than three (3) days;

(C) *Has remained illegally on public property for a period of more than forty-eight (48) hours;*

(D) *Has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours; or*

(E) Has been stored, parked or left in a garage, trailer park, or any type of storage or parking lot for more than thirty (30) consecutive days.

(Emphasis added).

These statutory provisions, on their face, show that the Legislature specifically considered illegally parked vehicles when enacting Chapter 16 of Title 55. Moreover, Tenn. Code Ann. § 55-16-104 shows that the Legislature clearly contemplated the towing and storage of illegally parked vehicles when it enacted Chapter 16.<sup>1</sup> This statute provides:

A police department may take into custody any motor vehicle found *abandoned*, immobile, or unattended on public or private property. In such connection, a police department may employ its own personnel, equipment and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving and storing *abandoned*, immobile, or unattended motor vehicles.

Tenn. Code Ann. § 55-16-104 (emphasis added).<sup>2</sup>

Returning now to Tenn. Code Ann. § 55-16-112, we note that it does not address any certain category of vehicles. This statute simply states, in pertinent part:

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<sup>1</sup> Tenn. Code Ann. § 55-16-111, previously referenced, also shows that the Legislature contemplated the towing of illegally parked vehicles.

<sup>2</sup> Tenn. Code Ann. § 55-16-103 provides that the definitions contained in that section apply to §§ 55-16-104—55-16-109. Thus, illegally parked vehicles are included in Tenn. Code Ann. § 55-16-104 since such vehicles are included in the definition of “abandoned motor vehicle.”

[I]n 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, or the authorized agent of the owner, of the private property from which *the vehicle* is to be towed.

Tenn. Code Ann. § 55-16-112(a) (emphasis added).

The Legislature has made some provisions of Chapter 16 applicable to only certain categories of vehicles, but Tenn. Code Ann. § 55-16-112 does not refer to any particular category of vehicles. This provision of Chapter 16 refers to vehicles without any modification. If the Legislature had wanted to limit this provision to only a certain category of vehicles, it could have done so, as it has in other provisions of Chapter 16. This leads to the conclusion that the Legislature intended Tenn. Code Ann. § 55-16-112 to apply to illegally parked vehicles. Moreover, there appears to be no reason to except illegally parked vehicles from Tenn. Code Ann. § 55-16-112. Whether a car is immobile, unattended, illegally parked, or in any other state, the reason for requiring authorization before a garagekeeper or a towing firm is allowed to tow and store someone's vehicle would seem to be the same: The garagekeeper or towing firm is taking possession of a vehicle that it does not own. Accordingly, it is our opinion that the General Assembly intends Tenn. Code Ann. § 55-16-112 to apply to illegally parked vehicles.

With that said, there does appear to be one part of Tenn. Code Ann. § 55-16-112 that does not apply to illegally parked vehicles. As mentioned above, Tenn. Code Ann. § 55-16-111 addresses the time of towing. This provision states that a vehicle cannot be towed without the owner's consent until twelve hours have elapsed; however, it dispenses with this requirement if the vehicle is illegally parked. Thus, it appears that a garagekeeper or towing firm would not be required to obtain authorization from the owner of an illegally parked vehicle before it tows or stores such a vehicle. Nevertheless, it would appear that Tenn. Code Ann. § 55-16-112 still requires the garagekeeper or towing firm to have the authorization of a law enforcement officer or the owner of the private property from which the vehicle is to be towed, before towing or storing an illegally parked vehicle, because Tenn. Code Ann. § 55-16-111 only dispenses with the authorization requirement as it pertains to the owner of the vehicle.

ROBERT E. COOPER, Jr.  
Attorney General & Reporter

MICHAEL E. MOORE  
Solicitor General

LAURA T. KIDWELL  
Assistant Attorney General

Requested by:

Honorable Paul R. Stanley  
State Senator  
302 War Memorial Building  
Nashville, TN 37243