S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

October 10, 2008

Opinion No. 08-163

Exceptions to Required Use of Ignition Interlock Devices for Specified DUI Offenders

QUESTION

Does Tenn. Code Ann. ' 55-10-412(*l)* (requiring use of an ignition interlock device by persons convicted of a DUI within five previous years) allow a subject person to operate a rental vehicle without such a device when traveling out of state as an employee on employment-related business?

OPINION

Yes. Tennessee Code Annotated ' 55-10-412(*l*)(2) provides the requirements necessary to allow a subject person to drive a motor vehicle not equipped with an ignition interlock device for employment-related purposes, but Tennessee has no authority to require that its laws be enforced outside its boundaries.

ANALYSIS

The opinion requested concerns a subject person convicted of DUI under Tenn. Code Ann. ' 55-10-401 who has a prior DUI conviction within the past five years and who is thus ordered to operate a motor vehicle equipped with an ignition interlock device under Tenn. Code Ann. ' 55-10-412(*l*). Specifically, may the subject person operate a rental vehicle not equipped with an interlock device while traveling out of state on company business as an employee? Tennessee Code Annotated ' 55-10-412(*l*) provides:

> (1) If a person convicted of a violation of ' 55-10-401, has a prior conviction for a violation of ' 55-10-401 within the past five (5) years, the court shall order such person to operate only a motor vehicle or motorcycle, after the license revocation period, which is equipped with a functioning interlock device. The court shall also order such device to be installed on all vehicles owned or leased by the person at such person's own expense for a period of six (6) months.
>
> (2) Any person subject to the provisions of subdivision (1) may, solely in the course of employment, operate a motor vehicle or motorcycle, which is owned or provided by such person's employer, without installation of an ignition interlock device, if:

(A) The court expressly permits such operation;

(B) The employer has been notified of such driving privilege restriction; and

(C) Proof of that notification is within the vehicle.

This subdivision (l)(2) shall not apply if such employer is an entity wholly or partially owned or controlled by the person subject to the provisions of this subsection (l).

Thus, if each of the three requirements set forth in Tenn. Code Ann. ' 55-10-412(*l*)(2)(A) through (C) is satisfied, a person subject to Tenn. Code Ann. ' 55-10-412(*l*)(1) may operate a motor vehicle that is not equipped with an ignition interlock device.

However, the question posed by the requestor specifically asks whether these requirements may be enforced against a person while operating a motor vehicle out of state. Tennessee cannot require that another state enforce Tenn. Code Ann. ' 55-10-412. AThe sovereignty and jurisdiction of the state is coextensive with the boundaries of the state...@ Tenn. Code Ann. '4-1-101. Tennessee has no authority to require that its laws be enforced outside of its boundaries. *See Bonaparte v. Tax Court,* 104 U.S. 592, 594 (1881) (ANo State can legislate except with reference to its own jurisdiction....Each State is independent of all others in this particular@); *Huntington v. Attrill,* 146 U.S. 657, 669 (1892) (ALaws have no force of themselves beyond the jurisdiction of the state which enacts them, and can have extraterritorial effect only by the comity of other states@).

Accordingly, it is the opinion of this Office that Tenn. Code Ann. ' 55-10-412(*l*) does allow a subject person to operate a rental vehicle not equipped with an ignition interlock device while traveling out of state as an employee on company business, if the requirements of (*l*)(2) are met. Nevertheless, Tennessee=s laws do not apply outside its boundaries, and those requirements may not be enforced against a person while operating a motor vehicle out of state.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

MATTHEW BRYANT HASKELL
Assistant Attorney General

The Honorable Charles M. Sargent, Jr.
State Representative, 61st Legislative District
206 War Memorial Building
Nashville, TN 37243-0194