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

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Opinion No. 09-119

Regulation of Municipal Traffic Schools

QUESTIONS

1. Is the city court bound by state law regarding the setting up and administration of traffic schools?

2. If so, is the city court clerk also bound by the same statute?

3. If so, is there a required minimum fee of $50.00 and a maximum fee of $175.00?

OPINIONS

1. Yes, if the school is set up pursuant to Tenn. Code Ann. § 55-10-307.

2. Yes, for the same reason.

3. No. The statute provides a range of possible payments, but it also provides that no one be excluded for inability to pay.

ANALYSIS

1. Tennessee Code Annotated § 55-10-301(b) gives county, municipal, and other local government entities the discretion to order a traffic law violator to attend a driver education course approved by the Department of Safety. Section 55-10-301(b) also sets forth particular requirements for such traffic schools. In 1995, this office opined that, pursuant to Tenn. Code Ann. § 55-10-307, which permits municipalities to adopt various state traffic laws and provisions, municipalities may operate a traffic school. Op. Tenn. Att'y Gen. 95-059 (May 25, 1995). However, we also opined that a municipal traffic school is subject to the requirements of Tenn. Code Ann. § 55-10-301(b) when the school is established pursuant to the provisions of Tenn. Code Ann. § 55-10-307. There have been no material changes in either statute that call into question the continuing viability of these conclusions.

Unless the General Assembly completely preempts a field of regulation, municipal regulation of the scheme that does not adversely affect the State scheme is generally valid. *City of Knoxville v. Garuin Leotto Currier*, No. 03A01-9801-CV-00038, 1998 WL 338195 (Tenn.Ct.App. June 26, 1998) (citing *Capital News Co., Inc. v. Metropolitan Government of Nashville and Davidson County*, 562 S.W.2d 430 (Tenn.1978)). However, municipal ordinances in conflict with and repugnant to a state law of statewide application are universally held to be invalid. *Id. See also Southern Railway Co. v. The City of Knoxville*, 223 Tenn. 90, 442 S.W.2d 619 (Tenn. 1968) (holding same). There is no language in Tenn. Code Ann. § 55-10-301(b) indicating that the general assembly desired to preempt the entire field of legislation regarding traffic schools. However, as stated, traffic schools established pursuant to Tenn. Code Ann. § 55-10-307 must comply with the requirements of Tenn. Code Ann. § 55-10-301(b).

2. For the same reasons stated above, it is the opinion of this office that city court clerks are likewise bound by the requirements of Tenn. Code Ann. § 55-10-301(b).

3. Tennessee Code Annotated § 55-10-301(b)(2) provides that a reasonable fee between $50.00 and $175.00 may be assessed for traffic school. However, the statute also provides that no one may be excluded for inability to pay. Therefore, it is the opinion of this office that while the fee cannot exceed $175.00, there is no mandatory minimum fee.

ROBERT E. COOPER., JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

DAVID H. FINDLEY
Senior Counsel

Requested by:

Honorable Tim Burchett
State Senator
Suite 306, War Memorial Building
Nashville, TN 37243-0207