

**STATE OF TENNESSEE**  
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July 28, 2009

Opinion No. 09-135

Scanning Motor Vehicle License Plates to Determine Financial Responsibility Compliance

**QUESTIONS**

1. Under current law, do law enforcement agencies have the authority to install on their vehicles electronic devices that are capable of scanning motor vehicle license plates for purposes of determining whether the registered owner is in compliance with the requirements of the Tennessee Financial Responsibility Law of 1977, Tenn. Code Ann. §§ 55-12-101 through 55-12-140?

2. If the answer to question #1 is “yes”, would law enforcement officers have the authority to make a traffic stop based on information obtained using such a device and issue citations for failing to provide evidence of financial responsibility as required under Tenn. Code Ann. 55-12-139 (c)?

3. Under current law, do law enforcement agencies have the authority to install along the highway an electronic device that is capable of scanning motor vehicle license plates to determine whether the registered owner is in compliance with the requirements of the Tennessee Financial Responsibility Law of 1977, Tenn. Code Ann. §§ 55-12-101 through 55-12-140?

4. If the answer to questions #3 is “yes”, would law enforcement agencies have the authority to use evidence of noncompliance that is obtained through the use of such scanners as the basis for issuing citations by mail for failure to provide evidence of financial responsibility as required under Tenn. Code Ann. 55-12-139 (c)?

**OPINIONS**

1. No. Under current law, law enforcement agencies do not have the authority to electronically scan motor vehicle license plates to determine whether the owner is in compliance with the requirements of the Tennessee Financial Responsibility Law, Tenn. Code Ann. §§ 55-12-101 through 55-12-140. Law enforcement agencies have the authority to demand proof of compliance with the financial responsibility law at the time of moving violations and accidents only.

2. No. Law enforcement officers do not have the authority to make a traffic stop based on information obtained using an electronic scanning device. Since law enforcement agencies have the authority to demand proof of compliance with the financial responsibility law only at the time of moving violations and accidents, they do not have the authority to stop a motorist solely on the basis of suspected noncompliance with the Tennessee Financial Responsibility Law.

3. No. Law enforcement agencies do not have the authority to install along the highway an electronic device that is capable of scanning motor vehicle license plates to determine whether the registered owner is in compliance with the requirements of the Tennessee Financial Responsibility Law of 1977.

4. No. Law enforcement agencies do not have the authority to use evidence of noncompliance that is obtained through the use of such scanners as the basis for issuing citations by mail for failure to provide evidence of financial responsibility.

### ANALYSIS

1. The Tennessee Financial Responsibility Law of 1977 (FRL) is set forth in Tenn. Code Ann. § 55-12-101 through § 55-12-140. Its purpose is to protect members of the public by providing a source of compensation for persons who are injured by the negligence of motorists operating cars without insurance or adequate insurance. *See Erwin v. State Farm Mut. Auto. Ins. Co.* 232 F. Supp. 530 (E.D. Tenn. 1964). Under FRL, a Tennessee motorist may comply with its requirements in various ways, including the purchase of a minimum level of insurance coverage.<sup>1</sup>

Tenn. Code Ann. § 55-12-139(b) authorizes law enforcement officers to request proof of financial responsibility under certain circumstances. It states:

(b) At the time the driver of a motor vehicle is charged with any moving violation under chapters 8 and 10, parts 1-5, and chapter 50 of this title; any other local ordinance regulating traffic; or at the time of an accident for which notice is required under § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under § 55-10-106, the officer shall request evidence of

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<sup>1</sup> Tenn. Code Ann. § 55-12-102(12)(D)(i) defines proof of financial responsibility after December 31, 2008. It states that proof of financial responsibility means: (a) A written proof of liability insurance coverage provided by a single limit policy with a limit of not less than \$60,000 applicable to one (1) accident; (b) A split-limit policy with a limit of not less than \$25,000 for bodily injury to or death of one (1) person, not less than \$50,000 for bodily injury to or death of two (2) or more persons in any one (1) accident, and not less than \$15,000 for damage to property in any one (1) accident; (c) A deposit of cash with the Commissioner of Safety in the amount of \$60,000 or the execution and filing of a bond with the Commissioner of Safety in the amount of \$60,000. Other definitions in Tenn. Code Ann. § 55-12-102(12) cover earlier time periods, and the primary change has been to increase the minimum limits.

financial responsibility from all drivers involved in the accident, without regard to apparent or actual fault.<sup>2</sup>

Departments, agencies, and commissions of government have no inherent or common-law power to act on their own. They are purely creatures of statute. Accordingly, government agencies have only those powers expressly granted by statute and those powers required by necessary implication to enable them to fulfill their statutory mandate. *See State v. Medicine Bird Black Bear White Eagle*, 63 S.W.3d 734, 768-69 (Tenn. Ct. App. 2001).

The primary objective of statutory construction is to ascertain and give effect to the intention of the legislature. *Auto Credit of Nashville v. Wimmer*, 231 S.W.3d 896 (Tenn. 2007). If a statute is clear and unambiguous, courts will find the intent in the plain and ordinary meaning of its language. *Brown v. Erachem Comilog, Inc.*, 231 S.W.3d 918 (Tenn. 2007). Under rules of statutory construction, the express mention of one subject in a statute means the exclusion of subjects that are not mentioned. *State v. Edmondson*, 231 S.W.3d 925 (Tenn. 2007).

By its plain terms, Tenn. Code Ann. § 55-12-139 authorizes law enforcement officers to request evidence of financial responsibility at the time of moving violations and accidents only. The converse of this proposition is that drivers of motor vehicles are required to provide proof of financial responsibility to law enforcement officers only in those two situations. The fact that the statute does not authorize law enforcement officers, or any other government official, to request proof of financial responsibility on any other occasion indicates that the legislature intended to limit the times when such proof could be requested to those expressly mentioned in the statute. Since scanning devices would enable officers to obtain proof at times other than when expressly authorized by the statute, officers do not have the authority to use such devices, except at those times that are authorized under the statute.<sup>3</sup>

2. Based on the analysis set forth in part 1 above, law enforcement officers have the authority to request proof of financial responsibility only when a motorist has been involved in certain types of accidents or in connection with a traffic stop for a moving violation. *See* Tenn. Code Ann. § 55-12-139(b). Since law enforcement officers may not request such proof at any other time, they have no authority to issue citations for failure to comply with FRL at any other time.

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<sup>2</sup> Tenn. Code Ann. § 55-10-106 requires the driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of \$50.00 or more to immediately, by the quickest means of communication, give notice of the accident to the nearest local, county, or state law enforcement agency. The notice requirements apply to accidents occurring upon highways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises that are generally frequented by the public at large.

<sup>3</sup> In addition, the use of electronic scanning devices would not be effective since proof of financial responsibility is not required when tags or licenses are renewed. Verification of financial responsibility is not required as part of the motor vehicle registration and registration renewal process in Tennessee as it is in other states. Since Tennessee does not track financial responsibility by license plate number, an electronic scanning device would provide no useful information to law enforcement at this time.

3. As set forth above, motorists are required to provide proof of financial responsibility only if they are involved in certain types of automobile accidents or if they have been stopped for moving violations. Since current law does not require such proof at any other time, government agencies do not have the authority to place remote electronic scanning devices along the highways to determine whether motorists are in compliance with FRL.

4. Since law enforcement agencies do not have the authority to use electronic scanners that are placed along the highway to obtain proof of financial responsibility, such agencies do not have the authority to issue citations by mail based on evidence of noncompliance obtained through the use of remote electronic scanners.

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