

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

**June 13, 2018**

**Opinion No. 18-25**

**Text Messaging While Operating a Motor Vehicle in a School Parking Lot or Pick-up Line**

**Question**

Does Tenn. Code Ann. § 55-8-199(b)(1), which prohibits a person from using a “hand-held mobile telephone or a hand-held personal digital assistant to transmit or read a written message” while that person is “driving a motor vehicle on any public road or highway,” apply to a person driving a vehicle in a school parking lot or pick-up line?

**Opinion**

Tennessee Code Annotated § 55-8-199(b)(1) does not apply to a person driving a vehicle in a school parking lot because a parking lot is not a “public road or highway” within the meaning of the statute. Whether Tenn. Code Ann. § 55-8-199(b)(1) applies to a person driving a vehicle in a school pick-up line depends on the location of the pick-up line. If the pick-up line is located on a “public road or highway” rather than in a parking lot, then the statute would apply.

**ANALYSIS**

Tennessee Code Annotated § 55-8-199(b)(1) provides in relevant part that “[n]o person while driving a motor vehicle on any public road or highway shall use a hand-held mobile telephone or a hand-held personal digital assistant to transmit or read a written message.” This prohibition “only appl[ies] to a person driving a motor vehicle that is in motion at the time a written message . . . is transmitted or read.” *Id.* § 55-8-199(c).

Whether the prohibition in § 55-8-199(b)(1) applies to a person driving a vehicle in a school parking lot or pick-up line depends on whether a parking lot or pick-up line is a “public road or highway” within the meaning of the statute. The words of a statute must be given “their natural and ordinary meaning.” *State v. Henderson*, 531 S.W.3d 687, 692 (Tenn. 2017). Tennessee Code Annotated § 55-8-101 defines the term “highway” to mean “the entire width between the boundary lines of every way when any part thereto is open to the use of the public for purposes of vehicular travel.” *Id.* § 55-8-101(29). Section 101 does not define “road,” but dictionaries define that term to mean “a wide way leading from one place to another.” *New Oxford American Dictionary* 1509 (3d ed. 2010). The terms “road” and “highway” are therefore most naturally understood as referring to a way by which vehicles travel from one location to another.

So defined, the terms “road” and “highway” would not include a school parking lot. In contrast to a road or highway, which individuals use to travel by vehicle from one location to another, a parking lot is an area where individuals leave their vehicles once arriving at their

destination. The purpose of a parking lot is not to facilitate the movement of vehicles from one point to another, but to provide a place for vehicles to remain while their occupants are at a particular location.

A couple of additional considerations reinforce this conclusion. First, when the legislature has intended that rules of the road apply to vehicles in parking lots, it has specifically enumerated parking lots separately from roads and highways. For example, Tenn. Code Ann. § 55-8-193(a), which prohibits the operation of certain “sound amplification system[s],” applies to any “person operating or occupying a motor vehicle on any public street, highway, alley, parking lot, or driveway.” And the statute prohibiting driving under the influence, Tenn. Code Ann. § 55-10-401(a), applies to both “public roads and highways” and to “premises generally frequented by the public at large,” a phrase that has been interpreted to include parking lots. *State v. Dobbins*, 265 S.W.3d 419, 422-23 (Tenn. Crim. App. 2007). Because other laws governing the use of motor vehicles make clear that a parking lot is something different from a “road” or “highway,” the phrase “public road or highway” in § 55-8-199(b)(1) likewise should be construed to exclude a parking lot. *See In re Kaliyah S.*, 455 S.W.3d 533, 552 (Tenn. 2015) (“Statutes that relate to the same subject matter or have a common purpose must be read *in pari materia* so as to give the intended effect to both.”).<sup>1</sup>

Second, the prohibition in Tenn. Code Ann. § 55-8-199(b)(1) expressly applies only to individuals driving a motor vehicle on a “public road or highway,” without any mention of parking lots. The omission of any reference to parking lots is significant because, as a matter of statutory construction, “the expression of one thing implies the exclusion of all things not mentioned.” *Womack v. Corrections Corp. of Am.*, 448 S.W.3d 362, 374 (Tenn. 2014) (internal quotation marks omitted). Thus, by naming “roads and highways” but not “parking lots” in § 55-8-199(b)(1), the legislature has presumptively excluded parking lots.

Whether Tenn. Code Ann. § 55-8-199(b)(1) applies to a person driving a vehicle in a school pick-up line depends on whether the pick-up line at issue is located on a “public road or highway.” Because a school parking lot is not a “public road or highway,” the statute would not apply to persons driving in a pick-up line located in a school parking lot. But the statute would apply if the pick-up line were located on the road or highway itself, provided the vehicle “is in motion at the time a written message . . . is transmitted or read.” *Id.* § 55-8-199(c).

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<sup>1</sup> Another statute, Tenn. Code Ann. § 55-8-207(b)(1), specifically prohibits a person from “talk[ing] on a hand-held mobile telephone while the vehicle is in motion” in “any marked school zone in this state.” But that statute sheds no light on whether § 55-8-199(b)(1), which prohibits text messaging on any “public road or highway,” applies to the driver of a vehicle in a school parking lot or school pick-up line.

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