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Opinion No. 05-107

Traffic Enforcement on Interstate Highways

QUESTION

Under Tenn. Code Ann. § 55-10-308, municipalities are given primary responsibility for enforcing various traffic laws within their limits. But the statute provides that any municipality with a population of ten thousand or less, according to the 2000 federal census or any subsequent federal census, must exercise this authority in compliance with rules promulgated by the Tennessee Commissioner of Safety on interstate highways within the municipal limits. Is this distinction constitutional?

OPINION

Yes, this distinction is supported by a rational basis and, therefore, is constitutional.

ANALYSIS

This request concerns the constitutionality of Tenn. Code Ann. § 55-10-308, as amended by 2004 Tenn. Pub. Acts Ch. 914. The statute provides:

> Where §§ 55-8-101 — 55-8-180 and 55-10-101— 55-10-310 apply to territory within the limits of a municipality, the primary responsibility for enforcing such sections shall be on the municipality which shall be further authorized to enforce such additional ordinances for the regulation of the operation of vehicles as it deems proper; *provided, however, that any municipality having a population of ten thousand (10,000) or less, according to the 2000 federal census or any subsequent federal census, must exercise the authority conferred by this section in full compliance with rules promulgated by the commissioner of safety to regulate enforcement of §§ 55-8-101 — 55-8-180 and 55-10-101— 55-10-310, on the portions of any highway designated and known as part of the national system of interstate and defense highways lying within the territorial limits of such municipalities.*

(Emphasis added). Tenn. Code Ann. §§ 55-8-101 — 55-8-180 and Tenn. Code Ann. §§ 55-10-101 — 55-10-310 contain traffic regulations, including penalties. Under the statute as amended in 2004, therefore, cities generally are primarily responsible for enforcing traffic regulations within their municipal boundaries. With regard to interstate and national defense highways within their boundaries, however, cities with a population of 10,000 or less must enforce these laws in compliance with rules promulgated by the Tennessee Commissioner of Safety. The statute, therefore, provides different authority to cities with a population of 10,000 or less. The question is whether this distinction is constitutional.

The only constitutional provision this distinction implicates is Article XI, Section 8, of the Tennessee Constitution. Under that provision:

> The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunitie, [immunities] or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provisions of such law.

The equal protection provisions of the Tennessee Constitution provide the same protection as the Equal Protection Clause of the United States Constitution; therefore, the rational basis review is the same. *State v. Price*, 124 S.W.3d 135, 137-138 (Tenn. Crim. App. 2003), *p.t.a. denied* (2003). All classifications that do not affect a fundamental right or discriminate as to a suspect class are generally subject to the rational basis test. *State v. Tester,* 879 S.W.2d 823, 828 (Tenn. 1994). Under this test, the classification will be upheld "if any state of facts may *reasonably be conceived* to justify it." *Tester*, 879 S.W.2d at 828 (emphasis added) (citing *Tennessee Small School Systems v. McWherter,* 851 S.W.2d 139, 153 (Tenn. 1993)); *Harrison v. Schrader*, 569 S.W.2d 822, 825 (Tenn. 1978). The question is "whether the classifications have a reasonable relationship to a legitimate state interest." *Doe v. Norris*, 751 S.W.2d 834, 841 (Tenn. 1988) (citing *Plyler v. Doe,* 457 U.S. 202, 102 S.Ct. 2382, 72 L.Ed.2d 786 (1982), *rehearing denied* (1982)). In such an instance, there is a presumption of validity. The legislative body may make distinctions and treat various groups differently so long as the classification is not arbitrary. *Harrison*, 569 S.W.2d at 825. A classification having some reasonable basis does not offend equal protection merely because the classification is not made with mathematical nicety, or because in practice it results in some inequality. *Wyatt v. A-Best Products Company, Inc.*, 924 S.W.2d 98, 105 (Tenn. Ct. App. 1995), *as modified on rehearing, p.t.a. denied* (Tenn. 1996).

In this case, there is a conceivable rational basis for requiring cities with a population of 10,000 or less to comply with state regulations when regulating traffic on interstate and national defense highways within their city limits, while exempting cities with larger populations from the same requirement. In smaller cities, less local traffic is likely to use the interstate highway system. These cities, therefore, have less local interest in this regulation. Further, smaller cities are likely to have fewer resources to develop an enforcement system applicable to interstate highways. Finally, the stretch of highway within any one such municipality is likely to be small. Because of

the number of smaller cities in Tennessee, there is a legitimate state interest in ensuring that these larger numbers of smaller portions of interstate highways are regulated in a uniform manner. For these reasons, this classification is constitutional.

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