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#77

Failure to Provide Proof of Automobile Insurance a Municipal Ordinance Violation

by Sid Hemsley
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Tennessee Code Annotated, (*T.C.A.*) § 55-12-139 requires drivers of vehicles charged with various state and local traffic violations, or involved in traffic accidents, to produce proof of automobile insurance. Can a city make the violation of that statute a municipal ordinance violation? The answer is yes.

Public Acts 2001, Chapter 292, did two things:

1. Created *T.C.A.* § 55-12-139, which makes mandatory that a driver show evidence of compliance with the state's financial responsibility law:

At the time the driver of a motor vehicle is charged with a moving violation under *T.C.A.* Title 55, Chapters 8 and 10, parts 1-5, Chapter 50; any other local ordinance regulating traffic; or at the time of an accident for which notice is required under § 55-10-106....

2. Amended *T.C.A.* § 55-10-307 (which authorizes municipalities to adopt by reference certain motor vehicle statutes), by adding to it *T.C.A.* § 55-12-139.

Public Acts 2001, Chapter 292 also set the fine for a violation of *T.C.A.* 55-12-139 at \$100. However, that fine would apply only to a person charged in state court with a violation of that statute. City of Chattanooga v. Davis, 54 S.W.3d 248 (Tenn. 2001) held that the \$50 limitation on fines under Article VI, § 14 of the Tennessee Constitution, applies to *punitive* municipal ordinances. For that reason, a city making *T.C.A.* § 55-12-139 a municipal ordinance violation should limit the fine for such violations to no more than \$50.

A sample ordinance for making a violation of *T.C.A.* § 55-12-139 a municipal ordinance violation is attached.

ORDINANCE NO. _____

AN ORDINANCE TO MAKE A VIOLATION OF TENNESSEE CODE ANNOTATED, § 55-12-139 A MUNICIPAL ORDINANCE VIOLATION

WHEREAS, under the authority of T.C.A. § 55-10-307, municipalities are authorized to make violations of T.C.A., § 55-12-139 municipal ordinance violations,

NOW THEREFORE, BE IT ENACTED BY THE GOVERNING BODY OF THE CITY OF _____, THAT:

[Use whatever introductory language is required by the city's charter and by custom]

Section 1. Compliance with financial responsibility law required.

- (1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.
- (2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under T.C.A § 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 T.C.A. § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.
- (3) For the purposes of this section, "financial responsibility" means:
 - (a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;
 - (b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or
 - (c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

Section 2. Civil Offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this ordinance. Any violation of this ordinance is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed by this ordinance shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances. .

Section 3. Evidence of Compliance after Violation. On or before the court date, the person charged with a violation of this ordinance may submit evidence of compliance with this ordinance in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed.

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