



Operation of Motor Vehicles

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Operation of Motor Vehicles

Reference Number: MTAS-595

Following Fire Apparatus

Drivers other than those on official business are prohibited from following within 500 feet of any fire apparatus answering a call and may not park in the same block as the fire equipment. No driver may cross an unprotected fire hose without permission from the fire department official in command. T.C.A. §§ 55-8-168–169.

Transporting Children in Pickup Trucks

It is a Class C misdemeanor under state law to transport upon any street or highway of any city a child under age 12 in the bed of a pickup truck of less than three-quarters of a ton. A city may, by ordinance, make it a local violation to transport upon any city street or highway a child between 6 and 12 years old in the bed of a pickup truck of less than three-quarters of a ton. However, people transporting children in parades or for agricultural purposes are exempt from this provision. T.C.A. § 55-8-189.

Vehicle Weight

Maximum weight, height, and length limits for trucks and trailer trucks are established by state law. It is the duty of municipal officers to prohibit any vehicle from exceeding such limits on a public highway unless a special permit has been issued by the state commissioner of transportation. T.C.A. §§ 55-7-101, *et seq.*

Accident Report

Any automobile accident that involves bodily injury, death, or damage to a person's property of more than \$400 must be reported. Reports must include information on insurance policies of the drivers, including the name of the insurer, and a copy of the certificate of compliance with the financial responsibility law. An investigating officer must send a copy of the report to the state Department of Safety within seven days of completing the investigation (a copy is to be kept in the district Highway Patrol office). Standard report forms are supplied to any city police department by the Department of Safety. This report is a public record. T.C.A. § 55-10-107, T.C.A. § 55-10-108(b), T.C.A. § 55-10-111, T.C.A. § 55-12-104.

Accident Response Fees Prohibited

A municipality may not impose an accident response service fee on a driver or owner of a motor vehicle or an insurance company but may bill them for ambulance services provided in response to a motor vehicle accident. T.C.A. § 55-10-108.

Funeral Processions

T.C.A. § 55-8-183 governs the identification, escort, operation, and conduct of traffic with respect to funeral processions. Any municipality may adopt the provisions of this law by a two-thirds vote of its legislative body. The presiding officer must certify its adoption to the secretary of state.

This law provides that where a funeral procession is properly identified, it is an offense punishable by a fine of up to \$50 for the operator of a motor vehicle to:

- knowingly fail to yield the right-of-way to the procession across an intersection;
- pass or attempt to pass the procession from behind on a two-lane street, road or highway; or
- drive or attempt to drive between the vehicles in the procession.

For the purposes of this law, a "properly identified" funeral procession must be "indicated by a flashing amber light, an auditory signaling device mounted on the lead vehicle, or by other properly identified escort, and a flag or other appropriate marking device on each vehicle in the procession indicating that such vehicle is part of the funeral procession."

Many municipalities provide police escorts to funeral processions. They may be held liable under the Tennessee Governmental Tort Liability Act for negligent escort. *Anderson v. City of Chattanooga*, 978 S.W.2d 105 (Tenn. App. 1998). Generally, T.C.A. § 55-8-153 does not appear to affect the liability of municipalities that provide funeral escorts. Whether or not a municipality provides funeral escorts, it probably has the right to impose reasonable time, place, and manner restrictions on funeral processions.

Oncoming traffic meeting a funeral procession is no longer prohibited from pulling over and stopping. Motorcycle escorts of funeral processions may have a green strobe light or a type approved by the county sheriff that is used only when escorting a funeral. Motorcycle escorts also may have a bell or siren approved by the sheriff that is used only when escorting a funeral procession. Motorcycle escorts may operate between lanes or rows of vehicles. T.C.A. § 55-8-183.

T.C.A. § 39-17-317 makes it a Class C misdemeanor to make any utterance, gesture, or display that is offensive to the sensibilities of an ordinary person within 500 feet of a funeral, funeral procession, burial or viewing of a dead person.

Disposal of Abandoned, Immobile or Unattended Motor Vehicles

A police department may take into custody any motor vehicle found abandoned, immobile, unattended, or used in curbstoning on public or private property; provided, that any motor vehicle used in curbstoning on residential property may not be taken into custody unless the police department provides notice on the motor vehicle at least forty-eight (48) hours prior to the seizure. Other detailed provisions may be found in T.C.A. §§ 55-16-104, *et seq.*

Emergency Vehicles and Yielding

Reference Number: MTAS-831

T.C.A. § 55-8-108 allows the driver of an authorized emergency vehicle responding to an emergency call, pursuing a suspected law violator, or responding to a fire alarm when the vehicle is making use of an audible and visual signal to:

- disregard parking and standing regulations;
- proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- exceed speed limits as long as life or property is not thereby endangered; and
- disregard movement and turning regulations.

While parked or standing, an authorized emergency vehicle must use only visual signals.

The same statute provides that these provisions "shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's own reckless disregard for the safety of others."

This statute also limits the liability of law enforcement officers and their employing governments for injuries to both suspected law violators and to innocent third parties arising from their pursuit of fleeing suspected law violators, in the following language:

Notwithstanding the requirement of this section that drivers of authorized emergency vehicles exercise due regard for the safety of all persons, no municipality or county ... nor their officers or employees shall be liable for any injury proximately or indirectly caused to an actual or suspected violator of a law or ordinance who is fleeing pursuit by law enforcement personnel. The fact that law enforcement personnel pursue an actual or suspected violator of a law or ordinance who flees from such pursuit shall not render the law enforcement personnel or his or their employers liable for injuries to a third party proximately caused by the fleeing party unless the law enforcement personnel were negligent in his or their conduct, and such negligence was a proximate cause of the injuries to the third party.

However, under *Haynes v. Hamilton County*, 883 S.W.2d 606 (Tenn. 1994), the above limitation on the liability of law enforcement officers and their employing governments in third-party injury cases is quite narrow. There, the Tennessee Supreme Court pointed out that while the above limitations on liability provided absolute immunity to local governments for the injury or death of a fleeing suspect, they did not necessarily have the same effect with respect to innocent third parties injured in police pursuits. The court said that in those cases, negligent "conduct" within the meaning of that statute could include the police officer's decision to initiate or to continue the pursuit. The determination of whether such a decision is reasonable must weigh the risk of injury to the third party against the interest in apprehending suspects. "Factors relevant to that determination include the speed and area of the pursuit, weather and road conditions, the presence or absence of pedestrians and other traffic, alternative methods of apprehension, applicable police regulations, and the danger posed to the public by the suspect being pursued." Those factors are not exclusive, continued the court, and "overall, a

police officer's conduct should be viewed in light of how a reasonable, prudent police officer would respond under the circumstances and not judged with the perfect vision afforded by hindsight."

Municipal hot-pursuit policies should be drafted, and police officers should initiate and continue hot pursuits with *Haynes* in mind.

Failure to Yield to Emergency Vehicles

Failure to yield to an approaching emergency vehicle or failure to move over or slow down for a stopped emergency vehicle is a Class B misdemeanor (T.C.A. § 55-8-132). Therefore, municipal ordinances regulating these offenses are invalid and unenforceable. See T.C.A. § 16-18-302.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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