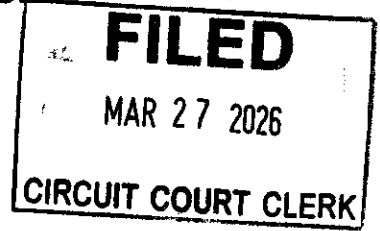


IN THE CIRCUIT COURT FOR BLOUNT COUNTY, TENNESSEE

STATE OF TENNESSEE)
v.)
EDWARD SOLOE)
Defendant)

Case Number: C-29867



MEMORANDUM OF LAW REGARDING THE ADOPTION OF FEDERAL MOTOR CARRIER SAFETY RULES AND THEIR LIMITATION TO COMMERCIAL ACTIVITY

COMES NOW, the Defendant, Edward Soloe, Pro Se, and submits this Memorandum of Law to clarify the statutory relationship between Tennessee Code Annotated Title 55 and the Federal Motor Carrier Safety Regulations (FMCSR).

I. THE LEGISLATIVE SOURCE OF AUTHORITY

The Tennessee Legislature has explicitly adopted the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 300-399) into state law through T.C.A. § 65-15-113 and T.C.A. § 55-50-103. The Tennessee Department of Safety (DOS) formalized this adoption in Administrative Rule 1340-01-13-.02, stating the purpose is to ensure "uniformity" with Federal commercial standards.

II. THE "COMMERCE" LIMITATION OF 49 C.F.R. § 390.5

The Federal rules adopted by Tennessee define their own scope. Under 49 C.F.R. § 390.5, a "Driver" is defined as a person who operates a "commercial motor vehicle" involved in "commerce."

Commerce Defined: Federal law defines "Commerce" as trade, traffic, or transportation involved in a commercial venture.

The Resulting Constraint: Because Tennessee adopted these definitions to comply with Federal mandates and funding requirements, the State is bound by the limited scope of those definitions. These rules were never intended to apply to a traveler moving their own family for "nonbusiness purposes."

III. THE "NONBUSINESS" EXCLUSION IN T.C.A. § 55-50-102(13)(B)(v)

Tennessee codified a specific "Safety Valve" to protect the Common Right of travel. T.C.A. § 55-50-102(13)(B)(v) explicitly excludes from the definition of a Commercial Motor Vehicle:

"The operation of a vehicle that is used to transport personal possessions or family members for nonbusiness purposes."

This exclusion mirrors the Federal exclusion for private travel. Under the Prior-Construction Canon, the Legislature's decision to adopt Federal definitions implies an intent to adopt the Federal Commercial Limitations as well.

IV. THE PURPOSE OF HIGHWAYS AND FREE CIRCULATION

Per T.C.A. § 55-8-103, the statutory intent of the rules of the road is to provide for the "free circulation of traffic." When the State enforces commercial "Driver" regulations against a private "Traveler," it impedes this circulation without the required showing of a "Business Calling" or "Privilege" as required by *Schlier v. State*, 85 Tenn. 281 (1887).

V. THE REQUIREMENT OF AN EXPLICIT LEGISLATIVE DECLARATION

Under Tennessee law, the Legislature has the power to declare what is a "privilege," but it must do so **explicitly**.

1. **The *Trentham* Rule:** The Tennessee Supreme Court held in *Trentham v. Moore* (111 Tenn. 346) that "a privilege is whatever business, pursuit, or avocation... the Legislature may choose to **declare** to be a privilege."
2. **Right vs. Privilege:** If the State cannot produce a legislative enactment that explicitly declares the *private* use of an automobile (distinguished from the *commercial* use) to be a privilege, then the State is enforcing a "pretended" regulation.
3. **County Wheel Tax Limitations:** While T.C.A. § 5-8-102 allows counties to levy a "motor vehicle privilege tax," this is a tax on the *ownership* or *privilege of operation* granted by the State. If the underlying State "grant" of the privilege is not supported by an explicit legislative declaration of "non-commercial use as a privilege," the tax—and the resulting suspension for non-payment—is constitutionally void.

VI. CONCLUSION

The State cannot apply the "rules of the road" intended for professional carriers to a private traveler without proving a commercial nexus. To do so treats a Fundamental Right as a Taxable Privilege, a practice forbidden by the Tennessee Supreme Court in *Jack Cole Co. v. MacFarland*.

Respectfully submitted this 27 day of MARCH, 2026.

Edward Soloe, Defendant Pro Se

I, Edward Soloe, hereby certify that a true and correct copy of the foregoing Memorandum of Law has been served upon the Office of the District Attorney General for the Fifth Judicial District, addressed to:

Thomas L. Small
Assistant District Attorney General
942 E. Lamar Alexander Pkwy
Maryville, TN 37804

By the following method (Check one):

HAND DELIVERY U.S. MAIL CERTIFIED MAIL (No: _____)

On this ____ day of _____, 2026.

Edward Soloe, Defendant Pro Se

TABLE OF AUTHORITIES

I. TENNESSEE SUPREME COURT PRECEDENTS

- *Jack Cole Co. v. MacFarland*, 337 S.W.2d 453 (Tenn. 1960).

Holding: The Legislature cannot tax a common right; a privilege must be a business, calling, or occupation.

- *Schlier v. State*, 85 Tenn. 281 (1887).

Defining "privilege" strictly within the context of a "business, calling, or occupation."

- *Trentham v. Moore*, 111 Tenn. 346, 76 S.W. 904 (1903).

Establishing that a privilege is only that which the Legislature has explicitly declared to be a privilege.

- *Sullins v. Butler*, 135 S.W.2d 930 (Tenn. 1940).

Regarding the state's power to regulate the use of highways for purposes of gain (commerce).

II. TENNESSEE APPELLATE COURT PRECEDENTS

- *State v. Booher*, 978 S.W.2d 953 (Tenn. Crim. App. 1997).

Holding: The constitutional protection of travel depends upon the intent which motivates the movement.

- *Richards v. Parks*, 19 Tenn. App. 615, 93 S.W.2d 639 (1935).

Defining a "passenger" as one traveling via contract for fare (distinguishing private guests).

III. TENNESSEE CODE ANNOTATED (T.C.A.)

- **§ 5-8-102** — *Motor vehicle privilege tax; limited to occupations or businesses declared to be privileges.*
- **§ 9-4-204** — *Budgetary procedures for the transfer of funds between state accounts (General Fund to Highway Fund).*
- **§ 55-6-107** — *Allocation of motor vehicle fees and taxes to the State Highway Fund.*
- **§ 55-8-103** — *The Purpose Clause: Rules of the road are to provide for the "free circulation of traffic."*

- **§ 55-12-129** — *The "Restoration Fee" mandate (Challenged as an unconstitutional excise tax).*
- **§ 55-12-139** — *Financial responsibility requirements (Challenged for lack of substantive verification).*
- **§ 55-50-102(13)(B)(v)** — *Exclusion for transport of personal possessions or family for "nonbusiness purposes."*
- **§ 55-50-337** — *Expiration and fixed duration of licenses (Termination of administrative consent).*
- **§ 65-15-113** — *Tennessee's adoption of the Federal Motor Carrier Safety Regulations (FMCSR).*

IV. FEDERAL STATUTES AND REGULATIONS

- **49 C.F.R. § 390.5** — *Federal definition of "Driver" and "Commercial Motor Vehicle."*
- **49 U.S.C. § 13102(16)** — *Federal definition of "Motor Carrier" and "Commerce."*

V. PROCEDURAL RULES AND CONSTITUTIONAL PROVISIONS

- **Tenn. R. Evid. 201** — *Judicial Notice of Law and Adjudicative Facts.*
- **Tenn. R. Evid. 902** — *Self-authentication of records (Challenged via Objection).*
- **Tenn. R. Civ. P. 11** — *Sanctions for bad faith or improper revenue-driven purpose.*
- **Tenn. R. Civ. P. 34** — *Discovery and production of financial and administrative records.*
- **Tenn. Const. Art. II, § 28** — *Constitutional limitations on the taxing power of the Legislature*