Traffic infraction hearing officers, license revocation

Number: INFORMAL

Date: October 21, 2005

Mr. Tegan Slaton
Traffic Magistrate
415 Eaton Street
Key West, Florida 33040

Dear Judge Slaton:

Thank you for contacting the Florida Attorney General's Office regarding the effect of recent legislative changes to section 318.32(1), Florida Statutes. Attorney General Crist has asked me to respond to your letter.

Section 318.32, Florida Statutes, provides the jurisdiction of traffic infraction hearing officers. This statute was amended during the 2005 legislative session and now provides:

"Hearing officers shall be empowered to accept pleas from and decide the guilt or innocence of any person, adult or juvenile, charged with any civil traffic infraction and shall be empowered to adjudicate or withhold adjudication of guilt in the same manner as a county court judge under the statutes, rules, and procedures presently existing or as subsequently amended, except that hearing officers shall not:
(a) Have the power to hold a defendant in contempt of court, but shall be permitted to file a motion for order of contempt with the appropriate state trial court judge;
(b) Hear a case involving a crash resulting in injury or death;
(c) Hear a criminal traffic offense case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense; or
(d) Have the power to suspend a defendant's driver's license pursuant to s. 316.655(2)." (e.s.)

The 2005 legislation added subparagraph (d) above.[1] You have asked whether this language precludes you from revoking a driver's license as well as suspending a driver's license.

Section 316.655(2), Florida Statutes, states that

"[d]rivers convicted of a violation of any offense prohibited by this chapter or any other law of this state regulating motor vehicles may have their driving privileges revoked or suspended by the court if the court finds such revocation or suspension warranted by the totality of the circumstances resulting in the conviction and the need to provide for the maximum safety for all persons who travel on or who are otherwise affected by the use of the highways of the state."

Section 316.655(2), Florida Statutes, clearly contemplates both the suspension and the revocation of driver’s licenses.

My review of the legislative history surrounding Chapter 2005-236, Laws of Florida, does not

provide any direction relating to the resolution of your question. It does not appear that the Florida Rules of Traffic Court have been amended to include any reference or direction relating to this issue.

I would note that it is a general rule of statutory construction that where a statute sets forth exceptions, no others may be implied to be intended.[2] As is reflected in the Rules of Traffic Courts, a traffic hearing officer has the "power to adjudicate civil traffic infractions *subject to certain exceptions*."[3]

The Legislature is presumed to know the existing law when it enacts a statute.[4] Further, it must be assumed that the Legislature knows the meaning of words and has expressed its intent by the use of the words found in a statute.[5] The term "suspension" is defined for purposes of Chapter 318 to mean that "a licensee's privilege to drive a motor vehicle is temporarily withdrawn."[6] The definition does not include the revocation of driving privileges.

In light of these considerations, I cannot say that the amendment of section 318.32(1)(d), Florida Statutes, to preclude a traffic hearing officer from *suspending* a defendant's driving licenses also includes a prohibition against a traffic hearing officer *revoking* a driver's license. You may wish to bring this matter to the attention of your local legislative delegation to allow them an opportunity to draft and consider any legislative changes for the upcoming legislative session.

This informal Attorney General's Opinion was prepared in an effort to be of assistance to you. The conclusions contained herein are those of the writer and do not constitute a formal Opinion of the Attorney General.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

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[1] *See* s. 51, Ch. 2005-236, Laws of Florida.

[2] *See Dobbs v. Sea Isle Hotel*, 56 So. 2d 341, 342 (Fla. 1952); *Biddle v. State Beverage Department*, 187 So. 2d 65, 67 (Fla. 4th DCA 1966); *Williams v. American Surety Company of New York*, 99 So. 2d 877, 880 (Fla. 2nd DCA 1958).

[3] Fla. R. Traf. Ct. 6.040(p) (2005).

[4] *Holmes County School Board v. Duffell*, 651 So. 2d 1176 (Fla. 1995)

[5] *Aetna Casualty & Surety Company v. Huntington National Bank,* 609 So. 2d 1315 (Fla. 1992).

[6] Section 318.13(2), Fla. Stat.