

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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March 4, 2004

Opinion No. 04-033

Constitutionality of legislation prohibiting the issuance or renewal of license plates depicting the confederate flag.

QUESTION

Whether House Bill 3188/Senate Bill 3204 amending Title 55, Chapter 4 of the Tennessee Code Annotated, to prohibit the issuance or renewal of specialty license plates depicting or displaying any flag of the Confederate States of America or containing the emblem, logo, or design based upon any such flag is constitutional?

OPINION

Based upon extant case authority, House Bill 3188/Senate Bill 3204 is unconstitutional.

ANALYSIS

Two cases have addressed this issue and found such legislation unconstitutional. *See Sons of Confederate Veterans, Inc. v. Glendening*, 954 F. Supp. 1099 (D. Md. 1997); *Sons of Confederate Veterans, Inc. v. Commonwealth of Virginia Dept. of Motor Vehicles*, 288 F.2d 610 (4th Cir. 2002). Neither the United States Sixth Circuit Court of Appeals nor the Tennessee appellate courts have ruled on this issue. To the extent that the Sixth Circuit or the Tennessee courts would find these cases to be persuasive, it is the opinion of this office that such an amendment would be ruled unconstitutional.

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