

2873

PRIVATE AUTOMOBILES OF COUNTY OR MUNICIPAL CIVIL DEFENSE ORGANIZATION PEOPLE ARE NOT EMERGENCY VEHICLES AND ARE NOT ALLOWED TO HAVE FLASHING RED LIGHTS—§§4513.17, 4511.01 R.C., OPN. NO. 1284, O.A.G. 1960.

SYLLABUS:

The private automobiles of persons belonging to a county or municipal civil defense organization created pursuant to Section 5915.06, Revised Code, are not emergency vehicles within the definition of division (D) of Section 4511.01, Revised Code; and under Section 4513.17, Revised Code, flashing red lights which are not used as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing, are prohibited on such vehicles.

Columbus, Ohio, March 16, 1962

Hon. Bernard W. Freeman, Prosecuting Attorney
Huron County, Norwalk, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"I am writing you to obtain your opinion as to the following questions:

- "1. May members of the Civil Defense install red flashing lights on their private automobiles?
- "2. Are members of Civil Defense allowed to use said flashing lights, in the event you rule they are permitted to place them on their private automobiles, when there has been no declaration of a state of emergency?

"I am familiar with Section 4511.01 of the Revised Code defining emergency vehicles and I find nowhere in the statutes any authority for installing these lights or for using them on Civil Defense Vehicles."

As to red lights and flashing lights on motor vehicles, Section 4513.17, Revised Code, reads in pertinent part:

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"(C) No person shall drive or move any vehicle or equipment upon any highway with any light or device thereon displaying a red

light mounted on the front thereof. This division does not apply to emergency vehicles, school buses, traffic line strippers, snow plows, rural mail delivery vehicles, state highway survey vehicles, funeral escort vehicles, and similar equipment operated by the department of highways or local authorities.

“(D) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, disabled vehicles, school buses, traffic line strippers, snow plows, rural mail delivery vehicles, state highway survey vehicles, funeral escort vehicles, and similar equipment operated by the department or local authorities, nor to vehicles or machinery required by section 4513.11 of the Revised Code to have a flashing red light.”

In view of the above provisions, the vehicles here in question would have to come within the types of vehicles specifically exempted in order that flashing red lights could be used; and only the term “emergency vehicles” appears to be at all related.

The definition of “emergency vehicle” as used in Section 4513.17, *supra*, is found in division (D) of Section 4511.01, Revised Code, and reads:

* * * * *

“(D) ‘Emergency vehicle’ means fire department, police, and state highway patrol vehicles, ambulances, vehicles of salvage corporations organized under sections 1709.01 to 1709.07, inclusive, of the Revised Code, emergency vehicles of municipal or county departments or public utility corporations when identified as such as required by law, the director of highways, or local authorities, motor vehicles when commandeered by a police officer, and motor vehicles when used by volunteer firemen responding to emergency calls in the fire department service when identified as required by the director.

* * * * *

(See Section 4513.01, Revised Code)

Accordingly, emergency vehicles of municipal and county departments, when identified as such as required by law, may be equipped with flashing red lights.

Chapter 5915., Revised Code, deals with civil defense. Under Section 5915.02, Revised Code, a civil defense section is created in the adjutant general’s department. Section 5915.06, Revised Code, provides that each county and municipality may establish a local organization for civil defense.

Thus, I believe that a county or a municipality having a civil defense organization may designate certain of the vehicles *of the organization* as emergency vehicles, and that such vehicles would then be emergency vehicles within the purview of Section 4513.17, *supra*, and could be equipped with flashing red lights.

As to what vehicles could properly be designated as emergency vehicles, I held in my Opinion No. 1284, Opinions of the Attorney General for 1960, issued on April 2, 1960:

"2. Only such vehicles of municipal or county departments or public utility corporations which are utilized in situations requiring immediate action for the protection of the public health, welfare or safety, and which are identified as emergency vehicles by law, by the director of highways or by local authorities may be considered "emergency vehicles" within the meaning of division (D) of Section 4511.01, Revised Code."

In said Opinion No. 1284, in referring to the definition of "emergency vehicle" as used in division (D) of Section 4511.01, *supra*, I stated:

"The above cited section of the Revised Code sets forth two requirements before a vehicle of a municipal or county department or public utility corporation may be considered as an "emergency vehicle." The vehicle must be an "emergency vehicle" *of the municipal or county department* or public utility corporation *and it must be identified as such as required by law by the director of highways, or by local authorities.* A fire department, police or state highway patrol vehicle, an ambulance or a vehicle of a salvage corporation organized under Sections 1709.01 to 1709.09, Revised Code, is automatically, by definition, an "emergency vehicle." In order to properly determine when a vehicle of a county or municipal department or public utility corporation is an "emergency vehicle" we must carefully consider the type of vehicles which are automatically designated as, "emergency vehicles" by this statute. It is a basic rule of statutory construction that ambiguous language may be resolved by considering the subject matter of the statute. 37 Ohio Jurisprudence 560, Statutes, Section 299. The vehicles which are designated as, "emergency vehicles" by this statute are obviously engaged in the protection of public health, welfare and safety. Therefore, it is obvious when we consider the vehicles owned by municipal or county departments or public utility corporations that only those which are involved with public health, welfare or safety may be considered as "emergency vehicles." Webster's International Dictionary, 2nd Edition, defines an "emergency" as, "An unforeseen combination of circumstances which calls for immediate action." Therefore, a vehicle of a municipal or county department or public utility corporation must be utilized not only for the

purposes of health, welfare or safety but in situations which call for immediate action. Therefore, it is quite obvious that the municipality, county or public utility corporation may not designate all of *their vehicles*, "emergency vehicles" since only those which are utilized for the purposes of servicing unforeseen action requiring the protection of the public health, welfare or safety may be considered "emergency vehicles" and then only when marked, as required by law, or by the director of highways or local authorities." (Emphasis added)

I do not believe that the private automobiles of persons belonging to a civil defense organization may be considered to be vehicles of the county or municipality involved, nor do I believe that local authorities could identify private automobiles as emergency vehicles. And it will be noted that the definition provision specifically designates what *private* vehicles may be considered as emergency vehicles, such being commandeered vehicles and properly identified vehicles of volunteer firemen responding to emergency calls.

In answer to your specific question, therefore, it is my opinion and you are advised that the private automobiles of persons belonging to a county or municipal civil defense organization created pursuant to Section 5915.06, Revised Code, are not emergency vehicles within the definition of division (D) of Section 4511.01, Revised Code; and under Section 4513.17, Revised Code, flashing red lights which are not used as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing, are prohibited on such vehicles.

Respectfully,

MARK MCELROY

Attorney General