

**OPINION NO. 83-083****Syllabus:**

1. "Automobile" as used in R.C. 2113.532 means a "passenger car," except when the decedent did not own a passenger car, in which case "automobile" includes a truck, if the truck was used as a method of conveyance by the deceased spouse or his family when the deceased spouse was alive.
2. Pursuant to R.C. 2113.532, where both an automobile i.e., a passenger car, and a truck are left by a decedent, the surviving spouse is entitled to the automobile, but may not select the truck.
3. Pursuant to R.C. 2113.532, where the decedent left an automobile, a truck, and a motor home or any other type of motor vehicle, the surviving spouse is entitled to the automobile, but may not select from among the motor vehicles.

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**To: Kenneth R. Cox, Director, Department of Highway Safety, Columbus, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, December 2, 1983**

I have before me your letter in which you request my opinion on three questions involving an interpretation of R.C. 2113.532. Specifically you ask:

1. As used in [R.C. 2113.532] does automobile mean a passenger car?
2. If there is both an automobile and a truck left by the [decedent], must the surviving spouse choose the passenger car or may the surviving spouse select between the passenger car and the truck?
3. In the event that the [decedent] left an automobile, a truck and a motor home, or any other type of motorized vehicle, could the surviving spouse [select from among them]?

Before turning to R.C. 2113.532, I note that words used in a statute are to be construed according to their ordinary meaning. R.C. 1.42. An automobile, in its ordinary meaning, refers to a self-propelled, four-wheeled vehicle designed for passenger transportation. See Webster's New World Dictionary 95 (2d college ed. 1978) (defining "automobile" as, "a passenger car, usually four-wheeled, propelled by an engine or motor. . ."). Certainly in both ordinary linguistic usage and the motor vehicle industry, "automobile" is not the same item as "truck" or "motor home." See Webster's New World Dictionary, 930, 1526 (2d college ed. 1978) (defining "motor home" as "an automotive vehicle with a truck chassis, outfitted as a traveling home with self-contained electrical and plumbing facilities" and "truck" as "an automotive vehicle for hauling loads along highways, streets, etc. . ."). Accordingly, it is my conclusion that "automobile" ordinarily refers to a passenger car.

R.C. 2113.532(A) provides:

A surviving spouse is entitled to receive one automobile from the estate of a deceased spouse if the automobile was owned by the deceased spouse at the time of death and is not otherwise specifically disposed of by testamentary disposition. The automobile shall not be considered an estate asset, but shall be included and stated in the estate inventory. If the deceased spouse owned more than one automobile, not otherwise specifically disposed of by a testamentary disposition, the surviving spouse shall make a selection. Transfer of title to the automobile shall be effected pursuant to section 4505.10 of the Revised Code.

When R.C. 2113.532 was amended by Sub. H.B. 620, 114th Gen. A. (1982) (eff. Sept. 9, 1982), the General Assembly added division (D), which provides as follows: "As used in division (A) of this section, 'automobile' includes a truck, if the deceased spouse did not own an automobile and if the truck was used as a method of conveyance by the deceased spouse or his family when the deceased spouse was alive."

Thus, the legislature defined automobile as including a truck only if the deceased spouse did not own an automobile and the truck had been used as a method of conveyance by the decedent or his family when the decedent was alive. One may presume that in all other cases automobile must be construed to mean a passenger car. Therefore, it is my opinion that "automobile" as used in R.C. 2113.532(A) refers to a passenger car, except for the limited circumstance wherein it would include a truck if no passenger car had been owned by the decedent and if the truck had been used for conveyance by the decedent or his family.

Division (D) of R.C. 2113.532 states clearly that a truck will be included in the term "automobile" as used in R.C. 2113.532(A), only if the decedent did not own an automobile, i.e., a passenger car. It is my opinion that where the decedent owned an automobile, i.e., passenger car, and a truck, the surviving spouse does not have a right to select the truck. A surviving spouse may select a truck under R.C. 2113.532 only when the decedent possessed no interest in a passenger car.

Further, as "automobile" is being construed to mean a passenger car there would be no right to select among other types of motor vehicles such as a motor home. Had the General Assembly intended to allow a selection from among diverse vehicles it would have used the more general, all-encompassing term "motor vehicle," not the more narrow term, "automobile."

This conclusion is supported by an examination of R.C. 4505.10, which deals with the transfer of ownership of a motor vehicle by operation of law, including the transfer of an automobile to a surviving spouse. As part of the same scheme, R.C. 4505.10 must be read in *pari materia* with R.C. 2113.532. See Humphrys v. Winous Co., 165 Ohio St. 45, 133 N.E.2d 780 (1956). R.C. 4505.10 reads in relevant part:

The clerk [of the court of common pleas] shall transfer a decedent's interest in one automobile to the surviving spouse of the decedent upon receipt of the title executed by the surviving spouse and an affidavit by the spouse that states the date of death of the decedent, that the automobile is not disposed of by testamentary disposition, and the approximate value and description of the automobile. The transfer does not affect any liens upon the automobile.

See 1975-1976 Ohio Laws, Part I, 991 (Am. Sub. S.B. 466, eff. May 26, 1976). Elsewhere in R.C. 4505.10, the legislature uses the more general term "motor vehicle." See R.C. 4505.01 ("[a]s used in sections 4505.01 to 4505.19, of the Revised Code, 'motor vehicle' includes house trailers and recreational vehicles, and trailers and semitrailers whose weight exceeds four thousand pounds"). It must be assumed that the General Assembly meant something different by choosing the more specific term "automobile" where elsewhere in the same statute it chose the more

encompassing term "motor vehicle," which is broadly defined in R.C. 4505.01. See generally Robert V. Clapp Co. v. Fox, 124 Ohio St. 331, 178 N.E. 586 (1931) (different words used in a statute have different and distinct meanings).

It would appear that the intent of R.C. 4505.10 and R.C. 2113.532 is to provide a surviving spouse with a means of transportation by having the certificate of title of the decedent's automobile transferred to the surviving spouse. Inclusion of a truck where the decedent did not own an automobile is undoubtedly because of the practice of some individuals to own a light-weight, non-commercial truck as their family vehicle. Note that the statute also requires that the truck "was used as a method of conveyance by the deceased spouse or his family. . . ." Selection among motor homes or trucks where an automobile was owned by the decedent is neither relevant to the purpose of the legislature nor provided for by statute.

Accordingly, it is my opinion, and you are advised, that:

1. "Automobile" as used in R.C. 2113.532 means a "passenger car," except when the decedent did not own a passenger car, in which case "automobile" includes a truck, if the truck was used as a method of conveyance by the deceased spouse or his family when the deceased spouse was alive.
2. Pursuant to R.C. 2113.532, where both an automobile, i.e., a passenger car, and a truck are left by a decedent, the surviving spouse is entitled to the automobile, but may not select the truck.
3. Pursuant to R.C. 2113.532, where the decedent left an automobile, a truck, and a motor home or any other type of motor vehicle, the surviving spouse is entitled to the automobile, but may not select from among the motor vehicles.