

4551

MOTOR VEHICLES — BOARD OF EDUCATION — HAS AUTHORITY TO ESTABLISH GRADED COURSE OF INSTRUCTION IN OPERATION OF MOTOR VEHICLES—MAY LAWFULLY EXPEND PUBLIC FUNDS FOR SUCH PURPOSE—SECTION 3313.60 RC.

SYLLABUS:

A board of education has authority, under the provisions of Section 3313.60, Revised Code, to establish a graded course of instruction in the operation of motor vehicles, and may lawfully expend public funds for such purpose.

Columbus, Ohio, November 22, 1954

Hon. William A. Ambrose, Prosecuting Attorney
Mahoning County, Youngstown, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“May a board of education legally make an expenditure of its funds for a course in drivers education (automobile), given in a high school, wherein the teacher of the course is certified by the State Department of Education, and credit given as in other courses, such instruction taking place during the regular school day and on a regular schedule.”

The question here presented was given incidental consideration in my Opinion No. 1214, Opinions of the Attorney General for 1952, page 187,

in a situation where the primary question under study was the authority of a board of education to purchase casualty insurance on automotive equipment used in a course of instruction in schools operated by such board. My conclusion therein, so far as it is pertinent here, is stated in the fourth paragraph of the syllabus, as follows:

“4. Where a board of education has prescribed a course of instruction in motor vehicle driving, it may properly provide motor vehicle equipment for use in such instruction either by purchase or rental * * *.”

The legality of establishing a course in automobile driver education was not discussed as such in Opinion No. 1214, it having been assumed that the board might properly prescribe such a course under the authority provided in Section 4837, General Code, now Section 3313.60, Revised Code. This section reads:

“Boards of education of county, exempted village, and city school districts shall prescribe a graded course of study for all schools under their control subject to the approval of the superintendent of public instruction. In such graded courses of study there may be included the study of the following subjects:

“(A) Health and physical education, including instruction in the harmful effects of narcotics and alcoholic beverages;

“(B) First aid, safety, and fire prevention;

“(C) The history of the United States and of Ohio, including a study of the constitutions of the United States and of Ohio;

“(D) The language arts, including reading, spelling, oral and written English, and literature.

“(E) Mathematics;

“(F) Natural science, including instruction in the conservation of natural resources;

“(G) The fine arts, including music, both vocal and instrumental. Every high school shall include in the requirements for graduation from any curriculum one unit of American history and government.”

It is commonly known that modern motor vehicle traffic on the public highways presents very grave hazards to individual drivers and passengers in motor vehicles, and that personal injuries and property damage resulting from motor vehicle accidents are matters of great public concern. Indeed, so great is the public concern in this field that the 100th General Assembly in 1953 established a separate department of the state to deal

with the problem of highway safety, the Department of Highway Safety. See Amended House Bill No. 243, 125 Ohio Laws, 127.

In this situation, where a board of education is expressly authorized by statute to establish graded courses of study in "first aid, safety and fire prevention," it would seem that a course in "safety" could scarcely be regarded as adequate if it did not include instruction in the operation of motor vehicles with emphasis on the prevention of motor vehicle accidents.

Your attention is invited also to the following provision in Section 4507.10, Revised Code:

"* * * (D) The registrar may waive the examination of any person applying for such license who presents a certificate that he has satisfactorily completed a course of instruction in 'Driver Training,' provided that the department of education has approved the course of study as meeting its minimum requirements and allowed credit for the completion of the course."

This provision was enacted as a part of Section 6296-11, General Code, effective May 25, 1943, i.e., in the same year in which former Section 4837, General Code, was amended to authorize graded courses of study in "safety." In any event, since that year the state department of education has established minimum standards of instruction in motor vehicle driving courses and has, under authority of Section 3313.60, Revised Code, approved such courses established by local school authorities as were sufficient to meet such standards. Such administrative interpretation of the statute is, of course, to be given some weight and should not be disturbed unless judicial construction makes it imperative to do so. *Industrial Commission v. Brown*, 92 Ohio St., 309, 311.

In the instant case I perceive nothing which would require a rejection of such administrative interpretation, but on the contrary I regard it as fully justified by the statutory provisions noted above both in Sections 3313.60 and 4507.10, Revised Code.

Accordingly, in specific answer to your inquiry, it is my opinion that a board of education has authority, under the provisions of Section 3313.60, Revised Code, to establish a graded course of instruction in the operation of motor vehicles, and may lawfully expend public funds for such purpose.

Respectfully,

C. WILLIAM O'NEILL
Attorney General