

OPINION NO. 76-005

Syllabus:

H.B. 472 and H.B. 995, as they amend R.C. 4513.11, are reconcilable. Animal drawn vehicles are required by R.C. 4513.11 to display slow moving vehicle emblems.

To: Robert P. Beck, Holmes County Pros. Atty., Millersburg, Ohio
By: William J. Brown, Attorney General, January 30, 1976

I have before me your request for my opinion on the following questions concerning H.B. 472 and H.B. 995, as they amend R.C. 4513.11:

"1. Are amended Substitute House Bills No. 472 and 995 reconcilable as they effect Ohio Revised Code Section 4513.11.

"2. If said bills are reconcilable, must slow moving vehicle signs appear on Amish buggies used strictly for human transportation?"

You state in your letter of request that the effect of the language in R.C.4513.11(F) in its unamended form was to give the Amish people, whose primary means of transportation is by horse drawn buggy or wagon, an alternative to the slow moving vehicle sign otherwise required by R.C. 4513.11(D). You state further that the intent was to permit the Amish people to devise reflecting systems and lights in lieu of slow moving vehicle signs which violate the religious principles of several of the Amish churches in your county and surrounding counties. Your concern is that the two bills passed by the 110th General Assembly and signed by the Governor seem to be irreconcilable in that H.B. 472 deletes certain language in R.C. 4513.11(F) while H.B. 995 includes it. Further confusion occurs because the bills have the same effective date.

As stated in your letter of request, H.B. 472 deleted Sub-section (F) which reads as follows, from R.C. 4513.11:

"(F) Animal-drawn vehicles which normally travel or are normally used at a speed of less than twenty miles an hour shall either comply with division (B) of this section when upon a street or highway or display on the rear thereof devices consisting of reflector materials and a lantern, or a red flashing light, either of which shall be visible from a distance of not less than five hundred feet to the rear during the time and under the circumstances specified in section 4513.03 of the Revised Code. The red flashing light, or reflector devices and lantern shall be approved by the director of highway safety."

In addition, H.B. 472 amended Subsection (A) of R.C. 4513.11 to read in pertinent part as follows:

"All vehicles, including animal-drawn vehicles and vehicles referred to in Division (G) of section 4513.02 of the Revised Code, not specifically required to be equipped with lamps or other lighting devices by sections 4513.03 to 4513.10 of the Revised Code, shall, at all times specified in section 4513.03 of the Revised Code, be equipped with at least one lamp displaying a white light visible from a distance of not less than one thousand feet to the front of the vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than one thousand feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than one thousand feet to the rear and two red reflectors visible from all distances of six hundred feet to one hundred feet to the rear when illuminated by the lawful lower beams of headlamps. Every animal-drawn vehicle shall at all times be equipped with a slow-moving vehicle emblem complying with Division (B) of this section.

(Emphasis added.)

H.B. 472 was passed by the General Assembly on June 5, 1974, signed by the Governor on June 24, 1974, and became effective on and after January 1, 1975.

H.B. 995, on the other hand, included Subsection (F), *supra*, and merely amended R.C. 4513.11(A) to include the language "other than bicycles." Subsection (A) of H.B. 995 states:

"(A) All vehicles other than bicycles, including those referred to in section 4513.02 of the Revised Code, not specifically required to be equipped with lights by sections 4513.03 to 4513.10 of the Revised Code, shall, at the time and under the circumstances specified in section 4513.03 of the Revised Code, display at least one lighted light or lantern exhibiting a white light visible from a distance of approximately five hundred feet to the front of such vehicle and a light or lantern exhibiting a red light visible from a distance of approximately five hundred feet to the rear."

(Emphasis added.)

H.B. 995 was passed by the General Assembly on June 12, 1974, signed by the Governor on July 3, 1974, and became effective on and after January 1, 1975.

While certain provisions of the law as reflected in the above quoted language appear to contradict each other, in point of fact, the two acts are reconcilable.

Article II, Section 15, of the Ohio Constitution, requires that when an act is amended, it must be stated in its entirety, and then must repeal the old act. That section provides in pertinent part:

"No law shall be revived, or amended unless the new act contains the entire act revived, or the Section or Sections Amended, and the Section or Sections so amended shall be repealed."

The problem that arises here is that H.B. 472 takes effect on January 1, 1975, as does H.B. 995, and as such it is unclear whether the version of R.C. 4513.11 which H.B. 995 repeals is the original one or the version as stated in H.B. 472.

Notice that the only language of H.B. 995 which is new to R.C. 4513.11 are the words "other than bicycles" in Section A. Everything else printed in Section 4513.11 of H.B. 995 is a restatement of the statute as it previously existed, as required by the Constitution. The question then arises as to why H.B. 995 did not reprint the statute as amended in H.B. 472, thereby reflecting the new language and eliminating confusion. The answer is that H.B. 995 was enacted on June 12, 1974, while H.B. 472 was not signed by the Governor until June 24, 1974. In other words, when H.B. 995 was passed, H.B. 472 was not yet law, and according to Article II, Section 16 the statute had to be reprinted as it then existed and it was then in the unamended form. The language of H.B. 995 which appears to conflict with the Amended version of R.C. 4513.11 as reflected in H.B. 472, is nothing but the language of the old statute and it is reprinted not to undo H.B. 472, but only because the Constitution requires that it be printed.

R.C. 1.52 of the Revised Code states in pertinent part:

"(B) If amendments to the same statute are enacted at the same or different sessions of the legislature, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation."

The last sentence of that provision provides the solution to this problem--"only when changes made . . . by each cannot be put into simultaneous operation." The only change made by H.B. 995 is the additions of the words "other than bicycles", which is certainly reconcilable with the changes made in H.B. 472. The important point to emphasize is that the failure to reflect H.B. 472 in H.B. 995 does not mean that the changes of 472 were elimi-

nated, but rather that H.B. 472 was not yet law, and thus could not properly be treated as such.

In answer to your second question, I refer you to the last sentence of the first paragraph of Section (A), as stated in H.B. 472.

"Every animal-drawn vehicle shall at all times be equipped with a slow-moving vehicle emblem, complying with Division B of this Section.

It thus seems clear that the legislature intended that animal drawn vehicles display slow moving vehicle emblems.

Accordingly, and in specific answer to your request, it is my opinion and you are so advised that H.B. 472 and H.B. 995, as they amend R.C. 4513.11, are reconcilable. Animal drawn vehicles are required by R.C. 4513.11 to display slow moving vehicle emblems.