

OPINION NO. 75-018

Syllabus:

1. A three wheeled vehicle equipped with an engine and a bench seat is not a motorcycle within the definition of R.C. 4511.01(C), and its driver need not wear a protective helmet and safety glasses pursuant to R.C. 4511.53.

2. A three wheeled vehicle equipped with an engine and a bench seat is a motor vehicle, within the meaning of R.C. 4513.04, 4513.20(A), 4513.22, 4513.24 and 4513.261, and must comply with the safety provisions of those sections.

To: Curtis Andrews, Registrar, Bureau of Motor Vehicles, Columbus, Ohio
By: William J. Brown, Attorney General, March 21, 1975

I have before me your predecessor's request for my opinion which asks whether the operator or passenger of a three wheeled vehicle with a bench, rather than a saddle, seat is a "motorcycle" subject to the safety provisions of R.C. 4511.53, or is a "motor vehicle" subject to the safety provisions of R.C. 4513.04, 4513.20 (A), 4513.22, 4513.24 or 4513.261.

"Motor vehicle" is defined in R.C. 4511.01(B), as follows:

"'Motor vehicle' means every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, trailers used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour, or less, threshing machinery, hay-baling machinery, and agricultural tractors and machinery used in the production of horticultural, floricultural, agricultural, and vegetable products."

The term "motorcycle" is defined in R.C. 4511.01(C):

"'Motorcycle' means every motor vehicle, other than a bicycle with a motor as provided in division (G) of this section or a tractor, having a saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including, but not limited to, motor vehicles known as 'motor-driven cycle,' 'motor bicycle,' 'motor scooter,' 'bicycle with motor attached,' or 'motorcycle' without regard to weight or brake horsepower." (Emphasis added.)

Both definitions are applicable to R.C. Chapter 4511 and R.C. 4513.01 to 4513.37. See R.C. 4511.01 and 4513.01. The Revised Code Sections here under consideration come within these statutes covered by these definitions. See also R.C. 4501.01(B), which defines motor vehicles.

The information enclosed with your request letter indicates that the vehicle with which we are concerned is powered by an engine and thus is within the definition of motor vehicle in R.C. 4511.01(B). However, while it has three wheels, it is not equipped with a saddle seat but rather a bench seat. The vehicle, therefore, does not meet the statutory definition of motorcycle in R.C. 4511.01(C).

"'Motorcycle' means every motor vehicle, other than a bicycle with a motor as provided in division (G) of this section or a tractor, having a saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including, but not limited to, motor vehicles known as 'motor-driven cycle,' 'motor bicycle,' 'motor scooter,' 'bicycle with motor attached,' or

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R.C. 4511.53, which requires a protective helmet and safety glasses, *inter alia*, relates only to operator or passengers of snowmobiles, bicycles, or motorcycles. Since the vehicle here in question is not a motorcycle, it is not within the ambit of this Section.

R.C. 4513.20(A) (concerning brake equipment) and 4513.24 (concerning windshields and wipers) apply to motor vehicles. Thus these Sections are applicable to the vehicle in question here. Likewise, such vehicle is subject to R.C. 4513.04 (concerning head lights) since that Section applies to motor vehicles but exempts motorcycles from its provisions. R.C. 4513.22 (concerning mufflers and excessive smoke and gas) applies both to motor vehicles and to motorcycles with some slight variations. R.C. 4513.261 (requiring directional signals) relates to motor vehicles but exempts motorcycles.

I note that the materials sent with your predecessor's request letter indicate that this inquiry has arisen because the three wheeled vehicles with bench seats are registered as motorcycles under R.C. Chapter 4503. R.C. 4503.02 provides for the levy of an annual license tax on all motor vehicles. Motor vehicle, as used in this Chapter, is defined in R.C. 4501.01(B) and is identical to the definition applicable to R.C. Chapter 4511 and R.C. 4513.01 to 4513.37. R.C. 4503.04(A) provides that every motor vehicle of three wheels or less, except a motor bicycle, is to be taxed \$5. No mention is made of the term motorcycle in these Sections.

I understand that the Bureau of Motor Vehicles has designated vehicles licensed under R.C. 4503.04(A) as motorcycles. This administrative definition applies to the special category of motor vehicles described by that statutory provision. However, R.C. 4503.04 does not apply to Chapters 4511. and 4513. of the Revised Code, nor can any definition promulgated by the Bureau for purposes of R.C. 4503.04 have any broader application. The General Assembly has expressly defined motorcycle for purposes of the statutes here in question, and that definition must be applied to them.

In specific answer to your question, it is my opinion and you are so advised that:

1. A three wheeled vehicle equipped with an engine and a bench seat is not a motorcycle within the definition of R.C.

4511.01(C), and its driver need not wear a protective helmet and safety glasses pursuant to R.C. 4511.53.

2. A three wheeled vehicle equipped with an engine and a bench seat is a motor vehicle, within the meaning of R.C. 4513.04, 4513.20(A), 4513.22, 4513.24 and 4513.261, and must comply with the safety provisions of those sections.