

OPINION NO. 77-070**Syllabus:**

The Registrar of Motor Vehicles is not authorized or required under the provisions of R.C. 4501.02 to enforce the laws of Ohio relative to registration of and certificates of title for motor vehicles, since the provisions of R.C. 5503.02 vest the duty and authority to enforce such laws in the State Highway Patrol.

To: Robert M. Chiamonte, Director, Dept. of Highway Safety, Columbus, Ohio
By: William J. Brown, Attorney General, November 10, 1977

I have before me your request for my opinion which reads as follows:

As you well know, the Registrar of the Bureau of Motor Vehicles is charged with the duty of administering the laws of the State of Ohio relative to the registration of motor vehicles.

On various occasions, employees of the Bureau have learned that certain interstate haulers have been picking up and dropping off cargo within the State of Ohio, and have in turn caused these truckers to obtain Ohio registrations which has been referred to, and known as, "Forced Registration".

Even though it is the duty of the Registrar to enforce and administer the laws of this state relative to vehicle registration, and to take such action as may be necessary to enforce the Ohio Registration Law, [Ohio law] does not give the Registrar any police power or arresting authority.

I respectfully request your opinion as to whether or not the Registrar and his employees should be engaged at all in the detection and enforcement relative to the above, or whether or not this duty should be performed by the Ohio State Highway Patrol and other law enforcement agencies.

The Ohio Supreme Court had occasion to discuss the duties imposed upon the Registrar in State, ex rel. Stubbs v. Wallace, 140 Ohio St. 166 (1942), which was an action in mandamus instituted to require the Registrar to collect a state license tax. In analyzing the statutory duties placed upon the Registrar at that time, the court held that it was the duty of the Registrar to enforce and administer the laws of the state relative to registration of motor vehicles. G.C. 6290-1, which was the predecessor to R.C. 4501.02, at that time provided, in pertinent part, as follows:

It shall be the duty of the registrar to enforce and administer the laws of the state relative to the registration of and certificates of title for motor vehicles and the licensing of motor vehicle dealers and salesmen. The registrar shall have power to adopt and promulgate such forms, rules and regulations as he may deem necessary to carry out the provisions of all laws he is required to administer.

In 1953, however, the General Assembly adopted Am. H.B. No. 243, effective October 2, 1953, which created the Department of Highway Safety and placed both the Bureau of Motor Vehicles and the State Highway Patrol within the new department. R.C. 4501.02 (previously G.C. 6290-1, set forth above) was amended by this bill to read, in pertinent part, as follows:

The registrar shall administer the laws of the state relative to the registration of and certificates of title for motor vehicles and the licensing of motor vehicle dealers and salesmen. He may, with the approval of the director of highway safety, adopt and promulgate such forms, rules, and regulations as are necessary to carry out all laws he is required to administer. (Emphasis added)

When it is remembered that the State Highway Patrol pursuant to R.C. 5503.02, had for a number of years prior to 1953 carried the duty of enforcing the laws of the State relating to the registration and licensing of motor vehicles, the deletion by Am. H.B. No. 243 of the Registrar's duty under R.C. 4501.02 to enforce such laws appears to be a clear legislative effort to avoid an overlap in the responsibility for such enforcement. While both R.C. 4501.02 and R.C. 5503.02 have in the years since 1953 been amended in a number of respects not relevant to your inquiry, R.C. 4501.02 continues to impose upon the Registrar of Motor Vehicles the duty of administering the laws of the State relative to the registration of and certificates of title for motor vehicles, while R.C. 5503.02 continues to impose upon the State Highway Patrol the duty of enforcing such laws.

Accordingly, it is my opinion, and you are so advised, that the Registrar of Motor Vehicles is not authorized or required under the provisions of R.C. 4501.02 to enforce the laws of Ohio relative to registration of and certificates of title for motor vehicles, since the provisions of R.C. 5503.02 vest the duty and authority to enforce such laws in the State Highway Patrol.