

OPINION NO. 77-072**Syllabus:**

The provisions of that portion of R.C. 4511.01(E) relative to the operation of motor vehicles by members of a volunteer rescue service certified by the Department of Health apply to all members of such service and to all vehicles operated by such members while on duty pursuant to the rules of the rescue service, even though the vehicles operated by such members may qualify under that portion of R.C. 4511.01(E) applicable to fire department vehicles when used in the service of a fire department.

To: Robert M. Chiaramonte, Director, Dept. of Highway Safety, Columbus, Ohio
By: William J. Brown, Attorney General, November 21, 1977

I have before me your request for my opinion as to the definition of "public safety vehicle" set forth in R.C. 4511.01(E), as amended by Am. H.B. No. 235, effective October 1, 1977.

As you note in your letter, Am. H.B. No. 235 expanded the definition of public

safety vehicles set forth in R.C. 4511.01(E) for the purpose of permitting volunteer rescue service motor vehicles to display flashing red lights. Prior to the amendment, R.C. 4511.01(E) had limited the definition of public safety vehicles to ambulances, motor vehicles used by public law enforcement officers and the vehicles used by fire departments. As amended by Am. H.B. No. 235, effective October 1, 1977, R.C. 4511.01(E) now defines "public safety vehicle" as follows:

"Public safety vehicle" means any of the following: ambulances; motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the state; any motor vehicle when properly identified as required by the director of highway safety, when used in response to emergency calls or to transport ill or injured persons, and when operated by a person who is a member of a volunteer rescue service certified by the department of health and who is on duty pursuant to the rules or directives of that service; and the vehicles used by fire departments, including motor vehicles when used by volunteer firemen responding to emergency calls in the fire department service when identified as required by the director.

(Emphasis added to indicate additions by
Am. H.B. No. 235)

From information you have supplied, it is my understanding that your question arises in situations where a member of a certified volunteer rescue service is also a member of a volunteer fire unit. Your question is whether, when such a member is responding to an emergency call, as distinguished from a fire call, the member is governed by the regulations of the State Fire Marshal, or by the regulations of the Department of Highway Safety or its designee.

You have indicated that the State Fire Marshal, by journal entry, regulates the operation of volunteer fire departments. The Department of Health has a duty to certify volunteer rescue services. You have indicated that the Department of Health has required that volunteer rescue service members have their vehicles checked annually by the Highway Patrol in order to obtain a public safety vehicle designation. It is my understanding that the Fire Marshal has not required such an inspection. You have noted, therefore, that certain of the requirements imposed upon a volunteer rescue service member prior to obtaining a public safety vehicle designation are stricter than those required of a volunteer fireman.

As set forth above, R.C. 4511.01(E) now defines four classes of motor vehicles which are to be considered public safety vehicles. Your question thus turns upon an analysis of whether a vehicle which meets the criteria applicable to one of these four classes may be said to meet the criteria applicable to all or any of the three remaining classes.

The last clause of R.C. 4511.01(E) specifies that vehicles used by volunteer firemen are public safety vehicles, provided that the volunteer firemen operating such vehicles are responding to emergency calls in the fire department service and provided that such vehicles are identified as required by the Director of Highway Safety. While it is clear that fire department services are authorized to provide ambulance and emergency services unrelated to a fire emergency, 1967 Op. Atty Gen. No. 67-78, 1969 Op. Atty. Gen. No. 69-038, the last clause of R.C. 4511.01(E) limits that definition of public safety vehicle to a vehicle operated by a volunteer fireman responding to emergency calls in the service of the fire department, whether or not such calls be fire related. Thus, when a volunteer fireman operates a vehicle other than in the fire department service, his vehicle is not a public safety vehicle as defined by the last clause of R.C. 4511.01(E), even though that same vehicle is a public safety vehicle when used in the service of a fire department.

The third clause of R.C. 4511.01(E) sets forth the requirements necessary for a vehicle used by a member of a volunteer rescue service to be considered a public safety vehicle. This provision requires first that such a vehicle be identified as required by the Department of Highway Safety and, next, that such a vehicle be operated in response to emergency calls to transport the ill or injured and, finally, that such a vehicle be operated by a person who is both a member of a volunteer rescue service certified by the Department of Health and on duty pursuant to the rules and directives of that service. Consequently, when a member of a volunteer rescue service is on duty pursuant to the rules and directives of that service, it is necessary that any vehicle such member operates while on duty comply with all the applicable statutory criteria if the vehicle operated is to be considered a public safety vehicle. The fact that a particular vehicle may qualify as a public safety vehicle under the last clause of R.C. 4511.01(E) when used in the fire department service does not operate to qualify such a vehicle as a public safety vehicle when used in any other service. Moreover, the fact that an individual serves as both a volunteer fireman and a member of a volunteer rescue service certified by the Department of Health cannot be said to alter the statutory criteria necessary for a vehicle to be considered a public safety vehicle under any one of the four classes of public safety vehicles defined by R.C. 4511.01(E).

Accordingly, it is my opinion and you are so advised, that the provisions of that portion of R.C. 4511.01(E) relative to the operation of motor vehicles by members of a volunteer rescue service certified by the Department of Health apply to all members of such service and to all vehicles operated by such members while on duty pursuant to the rules of the rescue service, even though the vehicles operated by such members may qualify under that portion of R.C. 4511.01(E) applicable to fire department vehicles when used in the service of a fire department.