

OPINION NO. 72-114

Syllabus:

The general provisions of Section 4511.09, Revised Code, are limited by the specific provisions of Section 4511.13, Revised Code, and the use of yellow arrows in traffic control signals may not be adopted by the Director of Highways, even though such use would conform to the provisions of the National Manual of Uniform Traffic Control Devices.

To: J. Phillip Richley, Director, Dept. of Transportation, Columbus, Ohio
By: William J. Brown, Attorney General, December 1, 1972

You have requested my opinion as to whether your Department may direct the use of traffic signals, other than those prescribed by Section 4511.13, Revised Code. Your letter reads as follows:

"The Ohio Revised Code, in the sections referred to as the Traffic Laws, defines and specifies certain requirements relating to those traffic laws. Section 4511.09 requires the department of highways to adopt a manual for a uniform system of traffic control devices and that system shall correlate with system approved by the American Association of State Highway officials. Section 4511.13 requires that whenever traffic is controlled by traffic control signals exhibiting different illuminated color lights or controlled with illuminated arrows the following colors only shall be used and the terms and lights shall indicate and apply as follows (A) Circular Green (B) Circular Yellow (C) Circular Red (D) Green Arrow with Red (E) Green Arrow alone.

"The Ohio Manual of Uniform Traffic Control Devices is being revised to conform to provisions of the National Manual of Uniform Traffic Control Devices. One of the provisions of the National Manual is the use of yellow and red arrows in traffic control signals. We want to adopt the use of yellow arrows by 1) Journal Entry by the Director of Highways and 2) inclusion in the Ohio Manual of Uniform Traffic Control Devices.

"Your opinion is requested whether the Director of

Highways may adopt the use of yellow arrows in traffic control signals by 1) Journal Entry and 2) inclusion in the Ohio Manual? The request for the opinion is based on the question whether the listing of the signal terms and colors in Section 4511.13 limits the department of highways in prescribing other colored arrows."

As you point out, Section 4511.09, Revised Code, requires the Department of Highways to adopt, as far as possible, the uniform system approved by the American Association of State Highway Officials, and the changes you desire to adopt conform to provisions in the National Manual. The answer to your question requires an examination of Sections 4511.09 and 4511.13, Revised Code.

Section 4511.09, Revised Code, provides as follows:

"The department of highways shall adopt a manual and specifications for a uniform system of traffic control devices, including signs denoting names of streets and highways, for use upon highways within this state. Such uniform system shall correlate with, and so far as possible conform to, the system approved by the American Association of State Highway Officials."
(Emphasis added.)

And Section 4511.13, Revised Code, reads in part as follows:

"When traffic is controlled by traffic control signals exhibiting different illuminated colored lights, or controlled with illuminated arrows, the following colors only shall be used and the terms and lights shall indicate and apply to operators of vehicles, streetcars and trackless trolleys, and pedestrians as follows:

"(A) Circular green alone or 'go' signal:

" * * * * *"

"(B) Circular yellow alone or 'caution' when shown following the green or 'go' signal:

" * * * * *"

"(C) Circular red alone or 'stop' signal:

" * * * * *"

"(D) Green arrow signal or a traffic control device authorizing turn with red or 'stop' signal:

" * * * * *"

"(E) Green arrow signal alone:

" * * * * *"

(Emphasis added.)

These two statutes were enacted together as parts of the Uniform Traffic Act which became effective on September 6, 1941. 119 Ohio Laws, 766, 772-773; Sections 6307-9 and 6307-13, General Code. The first, now Section 4511.09, remains as originally enacted; the second, now Section 4511.13, has been amended several times. See e.g., 124 Ohio

Laws, 514, 518-519. The two Sections would at first glance appear to be in conflict, since the National Manual, which, under Section 4511.09, the Department is required to follow where possible, prescribes the use of red and yellow arrows which are not permitted in Ohio under Section 4511.13.

A careful reading, however, dispels the apparent conflict. Section 4511.09 provides that the Ohio Manual shall "correlate with, and so far as possible conform to," the National Manual. "To correlate with" means to put two things into relation with each other, while "to conform to" means to make two things identical. Webster's Third New International Dictionary (1963 ed.). There is an obvious distinction, and two things can readily be in correlation without being in conformity. Here, the General Assembly, in enacting Section 4511.09, required that the two Manuals be correlated, but that they be conformed only "so far as possible." At the same time the General Assembly put a limit on the possible conformity by specifying with particularity in Section 4511.13, exactly what type of traffic signals must be used. This must have been what the legislature had in mind when it provided that the Ohio Manual conform to the National Manual only "so far as possible." I conclude that the Department's power to prescribe the colors of traffic arrows is limited by the specific provisions of Section 4511.13.

This conclusion is supported by Humphrys v. Winous Co., 165 Ohio St. 45, 49 (1956), in which the Supreme Court said:

"The primary duty of a court in construing a statute is to give effect to the intention of the Legislature enacting it. In determining that intention, a court should consider the language used and the apparent purpose to be accomplished, and then such a construction should be adopted which permits the statute and its various parts to be construed as a whole and gives effect to the paramount object to be attained. Cochrel, a Minor, v. Robinson, 113 Ohio St. 526, 149 N.E., 871."

The conclusion is further supported by the well-settled principle that the provisions of a general statute are not controlling when in conflict with the specific provisions of a later enactment. State, ex rel. Price v. Huwe, 103 Ohio St. 546, 555 (1921); see also Humphrys v. Winous Co., supra. Although both Sections with which we are concerned were enacted together in 1941 as parts of the Uniform Traffic Act, the specific provisions of Section 4511.13, following the general provision of Section 4511.09, must have been intended to have a limiting effect. Furthermore, the general statute remains today as originally enacted, while the specific provisions of Section 4511.13 have been amended several times in subsequent sessions of the General Assembly.

In specific answer to your question it is my opinion, and you are so advised, that the general provisions of Section 4511.09, Revised Code, are limited by the specific provisions of Section 4511.13, Revised Code, and that the use of yellow arrows in traffic control signals may not be adopted by the Director of Highways, even though such use would conform to the provisions of the National Manual of Uniform Traffic Control Devices.