

OPINION NO. 82-059**Syllabus:**

R.C. 4513.24 does not prohibit the operation of motor vehicles that have reflecting or darkly tinted windows.

To: Lee C. Falke, Montgomery County Prosecuting Attorney, Dayton, Ohio
By: William J. Brown, Attorney General, September 23, 1982

I have before me your request for my opinion regarding the applicability of R.C. 4513.24 to the operation of motor vehicles with reflecting or darkly tinted windows. R.C. 4513.24 states in pertinent part:

No person shall drive any motor vehicle, other than a bus, with any sign, poster, or other nontransparent material upon the front windshield, sidewings, side, or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower right hand corner of the windshield a sign or poster not to exceed four inches in height by six inches in width. (Emphasis added.)

Violation of R.C. 4513.24 is a criminal offense. R.C. 4513.99(C) states:

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Whoever violates [R.C. 4513.24] . . . is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, such person is guilty of a misdemeanor of the third degree.

The issue you present is whether the term "other nontransparent material" as used in R.C. 4513.24 applies to reflective or darkly tinted glass. You suggest that the term "other nontransparent material" is ambiguous, since it is unclear whether that term was intended to require the ability to see into the motor vehicle from the exterior as well as to see from the interior to the exterior. I believe any ambiguity arising from the use of this term can be resolved by applying the rule of statutory construction of eiusdem generis.

The court in Glidden Co. v. Glander, 151 Ohio St. 344, 350, 86 N.E.2d 1, 4 (1949), citing Ohio Jurisprudence, defined this rule of statutory construction in the following manner.

"In accordance with what is commonly known as the rule of eiusdem generis, where, in a statute, general words follow a designation of particular subjects or classes of persons, the meaning of the general words will ordinarily be construed as restricted by the particular designation and as including only things or persons of the same kind, class, or nature as those specifically enumerated, unless there is a clear manifestation of a contrary purpose. An explanation which has been given for the principle is that if the legislature had meant the general words to be applied without restriction it would have used only one compendious term. In accordance with the rule of eiusdem generis, such terms as 'other,' 'other thing,' 'others,' or 'any other,' when preceded by a specific enumeration, are commonly given a restricted meaning, and limited to articles of the same nature as those previously described."

Applying the rule of eiusdem generis in the instant case, one must read the term "other nontransparent material" as being limited to materials similar in nature to a "sign [or] poster." In other words, "nontransparent material" seems to encompass only physical objects affixed to motor vehicle windows. Although your letter of request is silent with regard to the process employed in rendering motor vehicle glass reflective or darkly tinted, it seems that the process materially alters the glass, as opposed to attaching some object upon it similar in nature to a sign or poster. Thus, it appears that the term "nontransparent material" was not intended to apply to the process of rendering glass reflective or tinted, and I, therefore, conclude that R.C. 4513.24 has no application to the operation of motor vehicles with reflective or darkly tinted glass.

This conclusion is further supported by the longstanding rule of law in Ohio that statutes of a penal nature are to be strictly construed, with all doubt resolved against the state. R.C. 2901.04; State ex rel. Moore Oil Co. v. Dauben, 99 Ohio St. 406, 124 N.E. 232 (1919); Shultz v. Cambridge, 38 Ohio St. 659 (1883). As violation of R.C. 4513.24 constitutes a criminal offense, the uncertainty with regards to its applicability to the operation of motor vehicles with reflective or darkly tinted glass must be resolved against the state.

Based on the foregoing analysis, it is my opinion, and you are advised, that R.C. 4513.24 does not prohibit the operation of motor vehicles that have reflecting or darkly tinted windows.