

OPINION NO. 67-005**Syllabus:**

A farm wagon, or similar vehicle, which is designed for operation at a speed of twenty-five miles per hour or less, even though being towed behind a truck at normal highway speeds, must display the SMV emblem as prescribed by Section 4513.11 (B), Revised Code. Displaying the SMV emblem under these circumstances would not constitute a violation of Section 4513.11 (C), Revised Code.

To: Warren C. Nelson, Director, Ohio Department of Highway Safety, Columbus, Ohio

By: William B. Saxbe, Attorney General, January 9, 1967

Your recent request for my opinion concerning the display of the Slow Moving Vehicle (SMV) emblem on certain vehicles presents a question which can be stated as follows:

If a farm wagon, or similar vehicle which is designed for operation at a speed of twenty-five miles per hour or less, is being towed behind a truck at normal highway speeds, does Section 4513.11 (B), Revised Code, require that the (SMV) emblem be displayed or would the operation of the farm wagon, or similar vehicle, at normal highway speeds, while displaying the emblem, constitute a violation of Section 4513.11 (C), Revised Code?

Section 4513.11 (B) and (C), Revised Code, in pertinent part, reads as follows:

"(B) All farm machinery * * * which is designed for operation at a speed of twenty-five miles an hour or less shall display a triangular slow-moving vehicle emblem (SMV) during the time and under the circumstances specified in section 4513.03 of the Revised Code.

"(C) The use of this emblem shall be restricted to the slow-moving vehicles specified in divisions (B) and (F) of this section and its use on any other type of vehicle or stationary objects on the highway is prohibited."

There are two criteria set forth in Section 4513.11 (B), supra, which must be considered when deciding which vehicles must display the SMV emblem at the times prescribed by Section 4513.03, Revised Code. These are: 1. Is the vehicle in question an item of farm machinery; 2. Is the vehicle designed for operation at a speed of twenty-five miles an hour or less?

"Farm machinery" is defined by Section 4501.01 (O), Revised Code, as:

"* * * all machines and tools used in the production, harvesting, and care of farm products."

It is obvious that a farm wagon falls within this definition, and, thus, the first criterion is met.

Your letter of request states that the farm wagon is designed for speeds of less than twenty-five miles an hour, and for purposes of this opinion I will accept that statement as true. Both criteria are met, and the farm wagon is a vehicle which must display the SMV emblem.

Section 4513.11 (B), supra, makes no mention of the speed

at which the vehicle is actually operated, but prescribes the use of the SMV emblem solely on the basis of the speed for which the vehicle is designed. It is within the realm of common knowledge that almost any item of farm machinery is capable of being towed at speeds greater than twenty-five miles an hour; however, consideration of the actual operating speed has no application when determining the necessity of displaying the SMV emblem. The clear language of Section 4513.11 (B), supra, makes it mandatory that an SMV emblem be displayed on a farm wagon during the period of time set forth in Section 4513.03, supra, and the fact that the farm wagon is operated at a speed greater than twenty-five miles an hour has no effect on this prescription.

In direct answer to your question, therefore, it is my opinion, and you are hereby advised that:

A farm wagon, or similar vehicle, which is designed for operation at a speed of twenty-five miles per hour or less, even though being towed behind a truck at normal highway speeds, must display the SMV emblem as prescribed by Section 4513.11 (B), Revised Code. Displaying the SMV emblem under these circumstances would not constitute a violation of Section 4513.11 (C), Revised Code.