

OPINION NO. 74-106

Syllabus:

Pursuant to the recent amendment to R.C. 4511.75, a motorist who is approaching from either direction a school bus stopped on the highway is required to stop, whether or not the bus driver has actuated the red visual signals, unless the bus is stopped on the opposite roadway of a divided highway. This statute now applies to the territory within, as well as outside, municipal corporations.

To: Martin W. Essex, Supt. of Public Instruction, Dept. of Education, Columbus, Ohio

By: William J. Brown, Attorney General, December 31, 1974

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

"Amended Substitute House Bill 995, enacted by the 110th General Assembly, amended Section 4511.75 of the Revised Code to provide regulations concerning school buses. This Section in part reads as follows:

"Sec. 4511.75. (A) The driver of a vehicle, streetcar, or trackless trolley meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching the school bus and the driver shall not proceed until such school bus resumes motion, or he is signaled by the school bus driver to proceed.'

"Inquiries have been made concerning the severability of this statute. Paragraph (B) of Section 4511.75 O.R.C. states the following:

"(B) Every school bus shall be equipped with red visual signals meeting the requirements of Section 4511.771 of the Revised Code, which shall be actuated by

the driver of the bus whenever but only whenever the bus is stopped or stopping on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate the red visual signals:

1. In business districts and on urban arterial streets designated by the Department of Transportation or local authorities;
2. At intersections or other places where traffic is controlled by traffic control signals or law enforcement officers;
3. In designated school bus loading areas where the bus is entirely off the roadway.'

"Your opinion is respectfully requested regarding the following question:

"Does Section 4511.75 O.R.C. require that a motorist shall stop every time said motorist meets or prepares to overtake a stopped school bus even if the school bus driver has not actuated the red visual signals?"

"Due to differing interpretations there have been numerous inquiries concerning the statute which becomes effective on January 1, 1975. Your prompt attention would be helpful to school personnel and law enforcement officials."

Both subsections of R.C. 4511.75 may be construed on the basis of their plain terms. R.C. 4511.75(A) requires drivers "meeting or overtaking from either direction any school bus stopped on the highway" to stop before reaching the bus. There is no requirement that the school bus driver actuate the red visual signals in order to create the duty of other drivers to stop. He must merely stop the bus.

The reason for this rule is evident. Although a school bus driver is required to actuate the red signals whenever he stops on the highway to receive or discharge school children (R.C. 4511.75(B)), a bus driver may occasionally forget to do so. Nevertheless, for the safety of the children, motorists are required to stop.

I should note that R.C. 4511.75 (C), not quoted in your letter, provides that motorists need not stop when approaching a stopped school bus which is on the other side of a divided highway.

Prior to the recent amendment to R.C. 4511.75, subsection (A) required drivers to stop for any school bus stopped on the highway "for the purpose of receiving or discharging any school child." The quoted language was

deleted by the amendment. Thus, motorists are now required to stop whenever they approach a school bus stopped on the highway, whether or not it appears to be receiving or discharging passengers. The fact that the General Assembly deleted certain language may be taken as an indication that it intended to remove the effect of such language; it would be anomalous to imply a construction which was expressly required by the statute before the deletion. Cf. State ex rel. Fisher v. Brown, 32 Ohio St. 2d 23 (1972).

Somewhat inconsistently, R.C. 4511.75(C) refers to a school bus "which has stopped on the other roadway of such divided highway for the purpose of receiving or discharging any school child." (Emphasis added.) The General Assembly neglected to delete the emphasized language in this exception to the motorists' duty to stop for a stopped school bus. In any event, the possible inconsistency has little practical importance, because it may be assumed that any time a school bus stops along a roadway, it does so for the purpose of receiving or discharging children.

R.C. 4511.75(B) specifies three situations in which a school bus driver "shall not" actuate the red visual signals, although he is required to actuate them whenever the bus has stopped to receive or discharge children. I am informed that the first two of these situations are those in which bus drivers are not permitted to stop to receive or discharge children. The third involves the use of a loading area "where the bus is entirely off the roadway." In this situation, motorists are not required to stop for the bus because it is not "stopped on the highway."

To recapitulate, a school bus driver is required to actuate the red visual signals whenever "the bus is stopped or stopping on the highway for the purpose of receiving or discharging school children." Drivers must stop when approaching from either direction a school bus stopped on the highway, whether or not for the purpose of receiving or discharging children, and whether or not the bus driver has actuated the red visual signals.

I should add parenthetically that R.C. 4511.75, as effective January 1, 1975, will apply to territory within as well as outside municipal corporations, because of the deletion of a limiting phrase in subsection (A).

In specific answer to your questions, it is my opinion and you are so advised that, pursuant to the recent amendment to R.C. 4511.75, a motorist who is approaching from either direction a school bus stopped on the highway is required to stop, whether or not the bus driver has actuated the red visual signals, unless the bus is stopped on the opposite roadway of a divided highway. This statute now applies to the territory within, as well as outside, municipal corporations.