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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Wiggam and Kick

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SUMMARY

- Alters current slow-moving vehicle (SMV) emblem and reflective tape requirements to require an animal-drawn vehicle operator, when on a street or highway, to equip and display, at all times, **at least** one of the following on the rear of the vehicle:
 - An SMV emblem;
 - Micro-prism reflective tape (in red, amber, white, or silver); or
 - Both an SMV emblem and micro-prism tape.
- Requires an animal-drawn vehicle operator, when on a street or highway, to also equip and display, at all times, one flashing lamp displaying yellow light.
- Specifies that the yellow flashing light must be mounted on the top-most portion of the rear of the animal-drawn vehicle and must be visible from all sides of the vehicle.
- Retains the requirement that an animal-drawn vehicle operator equip and display the following from sunset to sunrise and during periods of low visibility:
 - At least one white lamp to the front; and
 - Two red lamps to the rear or, as an alternative, one red lamp and two red reflectors.
- Reorganizes and recodifies the law governing all slow-moving vehicles.

DETAILED ANALYSIS

Animal-drawn vehicles

The bill revises the lighting, slow-moving vehicle (SMV) emblem, and reflective tape requirements that apply to animal-drawn vehicles when operated on a street or highway. The

table below illustrates what must be displayed on an animal-drawn vehicle and when the requirements apply, both under current law and under the bill.¹

Time when required	Current law	The bill
Sunset to sunrise (and periods of low visibility)	Both of the following: <ul style="list-style-type: none"> ▪ At least one white lamp to the front; and ▪ Two red lamps to the rear (or, as an alternative, one red lamp and two red reflectors). 	Same.
At all times (day or night)	At least one of the following to the rear: <ul style="list-style-type: none"> ▪ SMV emblem; or ▪ Alternative reflective material (minimally in black, grey, or silver); or ▪ Both. 	One yellow flashing lamp displaying yellow light mounted on the top most portion of the rear of the animal-drawn vehicle, visible from all sides, and at least one of the following: <ul style="list-style-type: none"> ▪ An SMV emblem to the rear; and ▪ Micro-prism reflective tape to the rear (must be red, amber, white, or silver); or ▪ Both an SMV emblem and the micro-prism tape to the rear.

Visibility requirements

Under current law and the bill, red and white lamps must be visible from 1,000 feet and an SMV emblem must be visible from 500 feet. Under current law, alternative reflective material must be visible from 500 feet when illuminated by headlights. Likewise, under the bill, micro-prism reflective tape must be visible from 500 feet when illuminated by headlights. Any red reflectors used on the rear of an animal-drawn vehicle under current law must be visible from 600 to 100 feet when illuminated by headlights.²

¹ R.C. 4513.114.

² R.C. 4513.114(A).

SMV emblem and reflective material

The pictures below illustrate the various configurations of SMV emblem and alternate reflective material that may be used on the rear of an animal-drawn vehicle under current law.



Animal-drawn vehicle displaying SMV emblem only, Photo credit: Pennsylvania Department of Transportation



Animal-drawn vehicle displaying gray alternate reflective material only, Photo credit: Kevin Whitlock, IndeOnline.com



Animal-drawn vehicle displaying both SMV emblem and gray alternate reflective material, Photo credit: Mike Schenk, The-Daily-Record.com

As indicated in the table above, the bill revises the three options illustrated above by specifying that if the animal drawn vehicle operator chooses to use reflective tape, it must be micro-prism tape that is red, amber, white, or silver in color (rather than alternate reflective material in black, grey, or silver). The Director of Public Safety must adopt rules establishing standards and specifications for the position and mounting of the micro-prism reflective tape.³

Penalty

The bill retains the current penalty (minor misdemeanor) that applies when a person operating an animal-drawn vehicle violates any lighting, SMV emblem, or reflective material requirements.⁴

Slow-moving vehicles

The bill clarifies, reorganizes, and recodifies the law governing slow-moving vehicles by separating statutory provisions into shorter individual sections.⁵ In so doing, the bill repeals an expired tax credit (for the cost of equipping multi-wheel agricultural tractors with lights and reflectors) and any references to it.⁶ The bill clarifies that any violation of SMV requirements or animal-drawn vehicle requirements is a strict liability offense.⁷

COMMENT

The First Amendment to the United States Constitution prohibits governments from enacting laws that prohibit the free exercise of religion. The Ohio Constitution further states:

All men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; ***nor shall any interference with the rights of conscience be permitted.***⁸

A person with a sincerely held religious belief may be able to challenge a law that infringes upon their free exercise of that belief. For example, in *State v. Hershberger*, 462 N.W.2d 393 (1990), Amish citizens in Minnesota were cited for failing to use the SMV emblem required by Minnesota law. They successfully challenged that law. The Minnesota Supreme Court, in interpreting a provision of Minnesota's Constitution, which is similar to

³ R.C. 4513.114(A)(5) and (B).

⁴ R.C. 4513.114(C).

⁵ R.C. 4511.216, 4513.11, 4513.111, 4513.112, 4513.113, and 4513.114.

⁶ R.C. 5733.98, repealed by the bill and R.C. 5733.98(A)(8).

⁷ R.C. 4513.115.

⁸ Ohio Constitution, Article I, Section 7 (*emph. added*).

Ohio's, considered the state's compelling interest in public safety and whether a less restrictive alternative existed. The Court found that use of reflective tape and a lantern was a sufficient alternative to the use of the SMV emblem. Thus, the Amish citizens could not be charged with a violation of the statute and the charges were dismissed.

The bill requires an animal-drawn vehicle to at all times be equipped with an SMV emblem, micro-prism reflective material, or both. Current law retained by the bill requires the animal-drawn vehicle to also be equipped (from sunset to sunrise and periods of low visibility) with at least one white lamp to the front; and two red lamps to the rear (or, as an alternative, one red lamp and two red reflectors).

By affording alternatives to the SMV emblem and rear lighting requirements, the bill (and current law) may withstand a First Amendment challenge regarding these required devices. However, the bill establishes an additional requirement that an animal-drawn vehicle operator **must** display a yellow flashing light at all times with no alternative. It is unclear how a court may rule if an animal-drawn vehicle operator objects to the yellow light requirement and demonstrates a sincerely held religious belief. As in *Hershberger*, it would be for a court to determine whether public safety cannot be achieved by the operator's proposed alternative means.

HISTORY

Action	Date
Introduced	02-03-21
