

Law enforcement officers often face pressing issues due to a lack of laws pertaining to non-motor vehicles on the roadways /Abbie Darst, Program Coordinator

Most people are familiar with the laws that govern what can and cannot be done on the roadway when driving the average car, truck or van. They understand when to pass, who has the right of way and when to turn on their headlights, even if this knowledge is not always used with proper discretion. But, for those vehicles on the road that do not fit the mold of a motor vehicle, the black and white letter of the law becomes gray and blurred – leaving law enforcement officers with the difficult task of appropriately addressing traffic issues confronting many of Kentucky’s communities.

Kentucky Revised Statutes define motor vehicles as all [modes] used to transport persons or property on public highways except road rollers, road graders, farm tractors, vehicles on which power shovels are

mounted, construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, vehicles that travel exclusively upon rails, vehicles propelled by electric power obtained from overhead wires and vehicles propelled by muscular power. These exceptions are what complicate enforcement issues.

For several years, the Richmond Police Department has faced a big obstacle to motorist safety, known throughout Richmond as “Big World”. The middle-aged Big World drives his flair-laden lawnmower through town, parking himself at various intersections waving at cars as they pass. Big World creates an issue for the Richmond police on two levels. Not only does he ride his lawn

mower on the Richmond bypass, one of the busiest streets in the city, but also when he is not driving, he is a major visual distraction to other motorists.

“He’s a big problem,” said RPD Sgt. Roy Johnson. “The kids get a big kick out of him, but he causes people to not pay attention to driving. He is a danger. We’ve dealt with him and we’ve gotten out with him on several occasions ... >>>”



TO Drive OR
Not TO Drive



▲ Big World rides down the Eastern Bypass in Richmond on his flair-laden bicycle – an alternative to the lawnmower on which Richmond residents see him traverse through town throughout the summer. Regardless of his chosen mode of transportation, Richmond officers say Big World serves as a huge traffic distraction when he parks himself at intersections, waving at passing vehicles.

/Photos by Elizabeth Thomas



but he's a fixture here in Richmond."

Big World's ability to understand the impact of his actions poses challenges as well.

"It goes back to the humanitarian portion ... does he have the mental capacity to understand what he is doing," Murphy asked. "Do you cite someone who doesn't have the capacity to understand their actions?"

But for law enforcement, addressing safety issues with Big World is only the beginning. The lack of laws that specifically detail what types of vehicles can be on the highway make it complicated to define a charge or issue a citation. And that problem does not stop with Big World's lawnmower.

"The biggest nuisance for me is mopeds," said RPD Officer Garry Murphy.

Per state law, a vehicle is considered a motor vehicle if it has a cylinder capacity of 50 cubic centimeters, so dealers sell mopeds with 49.5 cc engines so that purchasers do not need a driver's license or insurance to ride them, Murphy said. For that reason, officers see many individuals with DUI-suspended licenses riding them, he said.

In one case, Murphy recalled an individual on a moped who was under the influence and hit a Ford Mustang. The Mustang suffered immense damage and since there is no law that required the individual to carry insurance, the car's owner was not able to get an insurance payment from the moped's driver to cover the damage.

Though not much is written that specifically regulates mopeds in the commonwealth, they are addressed in the Kentucky Revised Statutes, unlike Richmond's most recent and severe traffic problem – motorized wheelchairs.

"It is such a new problem that it is not addressed as far as laws pertaining to them," Johnson said.

The Richmond Police Department has responded to accidents involving motorized wheelchairs where motorists have simply

not seen them on the roadway. Individuals in motorized wheelchairs also have darted out into traffic, causing a motorist to collide with another motorist while swerving to miss the wheelchair's occupant.

"Not having laws that deal with it ties our hand on enforcement," Johnson said. "The only thing we can really do is list them in the report as a contributing factor."

Murphy agrees with the difficulty of the situation.

"You can't cite them for something that doesn't exist," he said.

For Murphy and Johnson, it is a fine line to walk with regards to how to handle the safety hazards motorized wheelchairs on the roadway present.

"I'm torn – they have to get somewhere and they shouldn't have to be just stuck at home and I see that side of it, but the law doesn't address the risk to motorists," Murphy said. "The roads are not designed or developed for motorized wheelchairs."

"You don't want to come off like you are picking on people in wheelchairs that don't have another way to get around, but you have to balance that with safety for them and for the public," Johnson agreed.

Some issues are addressed in general in the KRS for slow-moving or motor-less vehicles. These include placing at least one light on the left side of the vehicle in such a manner that it can be seen from at least 500 feet, using a four-way flashing system between sunset and sunrise and displaying a slow-moving vehicle emblem on the back, center of the vehicle for any vehicle capable of a speed no greater than 25 miles per hour.

These regulations are in place as a way to try and protect the individuals using these slow-moving modes of transportation and to make motorists more aware of their presence on the roadway and encourage them to use more caution. However, in various parts of the commonwealth, these

seemingly simple safety precautions strike a chord that runs much deeper than traffic safety.

For the Swartzentruber, old-order Amish community in Graves County, the use of flashing lights and triangular emblem go against their religious beliefs, causing some friction in the county about whether being forced to abide by these specific statutes infringes on the Amish community's constitutional right to freely practice their religion.

"I wish we could abide by the law, but I'm not scared of the law officers because I know they are just doing their job," said Jacob Gingerich, a member of the 20-family Swartzentruber Amish community in Graves County.

"Call it a mutual respect," said Graves County Sheriff John Davis. "They understand that we are doing what we do because we need to be doing that for safety reasons. And we respect them for their beliefs. We don't understand one to the other, but we do respect each other, though we do disagree."

In the past 15 years, Kentucky's Amish population has tripled, making Kentucky home to one of the fastest-growing Amish populations in the nation, according to researchers based at Elizabethtown College in Pennsylvania. There are now Amish districts in 21 Kentucky counties. Known best for their modest dress, limited use of modern technology and horse-based farming and transportation, their horse-drawn buggies on the roadways have sparked numerous controversies across the state in recent years.

Gingerich was issued his first ticket for not displaying the slow-moving vehicle triangular emblem in October 2004. Gingerich said the bright color and shape of the emblem are what keep him from using it on his buggy.

"It's the bright, flashy colors and the >>>



▲ The Graves County Sheriff's Office, along with other Graves County law enforcement agencies, have written 50 tickets since 2004 to members of the Swartzentruber Amish community for not displaying the orange slow-moving-vehicle emblem on the back of their buggies. Three men from the community have appealed their convictions because they think they violate their freedom of religion.



shape of the triangle represents the symbol of the Trinity," he said. "We don't use the symbol. We do believe in the Father, Son and the Holy Ghost, but we don't believe in using the symbol."

Gingerich, who has lived in Graves County since February 2002, and other members of his community have tried other methods of ensuring that their buggies are as visible as possible while traveling on public roadways. They have placed reflective tape around the entire outline of the back of their buggies. Also, they have placed two lanterns, one on each side of the buggy with red on the back and white on the front that can be seen from more than 1,000 feet, Gingerich said.

Despite these efforts, members of their community received two more citations for the absence of the triangle in 2006 and have received 47 citations since June 2007, bringing the total to 50. Gingerich, along with two other men from his community, are in the process of appealing their conviction for failing to attach the orange triangles to their buggies. Each man was fined \$20 and ordered to pay \$128 in court costs for not complying with the law.

"I try not to go to town too often, not more than I have to," said Joe Stutzman, another member of the Amish community. "We stay off the road as much as we can because of the problems we are having with the triangles. And we get off the road where we can to give the traffic room."

Gingerich and Stutzman both believe that the methods they currently are using on their buggies are more visible than the triangle.

"We set our lanterns a little different than we had them," Gingerich said. "We've put 100 square inches of reflector tape on the back, whereas the triangle only has 72 inches."

After nearly four years, unless the law changes, the problem will not resolve itself, Davis said.

"They have put reflective tape all around the outside of their buggy, which does some-

what help, but it still does not follow the letter of the law and until they change the law, we have to enforce what's there," Davis said. "And it's not that we are picking on them and I know they understand that. It is a safety factor for them and for other motorists as well."

To date in Graves County, there have been around six to eight accidents involving Amish buggies, Davis said.

Graves County isn't the only place dealing with this issue. In Barren County in 1985 a Swartzentruber man was acquitted in court for refusing to use the safety triangle, and in January 2008 a young woman broke her neck when she was thrown from her buggy after being hit by a Chevy Avalanche, according to local news reports. In Mason County this past November, one man was injured and his horse had to be destroyed following an accident between an Amish buggy and a Chevrolet Cavalier.

Though many argue that if the triangular emblem had been on the back of the buggies these incidents, and others, could have been avoided, Gingerich disagrees, citing that most accidents occur in the daytime when reflectors do not make as much of a difference.

"If somebody comes over the hill, it is not going to matter if I have the triangle on there or not, they just have that much time to stop," Gingerich said. "They can see the top of the buggy before they can see the triangle. And if they are close enough where they can't stop, they are plenty close enough to see the buggy – there is no reason not to see the buggy."

The Swartzentrubers are not the only sect of Amish that use buggies. Toby Borntrecker lives in an Amish community just across the Graves-Hickman County line. As you approach his farm, you can see nearly a dozen buggies with bright triangular emblems on the back.

"For one thing it's safety," Borntrecker said about why members of his community use the emblems. "I am for safety. But ... I was raised up this way. We've had them since

I was born. ... There ain't no more speeders or no more drunks than there was 10 years ago. Probably ain't no more wrecks either, but it is safety. If you've got a family on a buggy – that's what I look for."

Borntrecker has also added battery-powered lights to his buggy instead of hanging lanterns and usually hires a driver if he goes into town, he said. Despite these differences, members of Borntrecker's community have also been involved in accidents.

"It's just (drivers) not thinking or not paying attention, just like anyone else gets in an accident," he said. "It can happen no matter how many lights you put on."

Gingerich agrees the safety factor needs to go both ways.

"I had one man tell me he was real worried about [our] safety, then one time I was coming home from town and he shot around me and cut in front and showed me he's not worried about the safety, it's just, 'Get off the road,'" Gingerich said.

Like the Graves County case which is tied up in the court system now, law enforcement officers' hands are tied in dealing with non-motor vehicles on the roadways in many parts of Kentucky, both rural and city, because many of Kentucky's laws do not adequately address some of the situations being faced in communities.

"Unfortunately, it may take a tragic incident before something gets done," Richmond's Murphy said. "It's not an issue until it becomes an issue."

And for law enforcement officers who are sworn to serve and protect their communities, a tragic ending to a difficult situation is not how anyone wants to see these issues resolved. J