



DEPARTMENT OF LAW

**DALE R. EMCH
DIRECTOR**

Written Testimony in Opposition to HB 410

House Government Accountability and Oversight Committee

January 23, 2018 | Columbus, Ohio

Chairman Blessing and Members of the Committee:

Background & Statement of Interest

My name is Joe McNamara and I am a Senior Attorney with the City of Toledo's Law Department. For the past few years, I have been working on litigation surrounding the General Assembly's attempts to ban automated traffic cameras. The Ohio Supreme Court has definitively decided, in three separate decisions, that a charter city's decision to use automated-traffic cameras is a legal exercise of its police power under the Home Rule Amendment of the Ohio Constitution. *See Dayton v. State*, 151 Ohio St.3d 168, 2017-Ohio-6909, *Mendenhall v. Akron*, 117 Ohio St.3d 33, 2008-Ohio-270 and *Walker v. Toledo*, 143 Ohio St.3d 420, 2014-Ohio-5461.

On November 19, 2014, the Senate passed S.B. 342, which "regulated" the use of automated-traffic cameras by cities. Three years later, the Ohio Supreme Court struck down S.B. 342 as an unconstitutional violation of the Home Rule Amendment. The Ohio Supreme Court's decision in *Dayton* was hardly a surprise. Legislators in both chambers warned their colleagues that the bill likely violated the Ohio Constitution. In fact, in voting "no", Senator Frank Larose explained that "[t]his bill constitutes a ban of these devices... and in that sense I believe it violates home rule."

In April of 2015, the City of Toledo successfully obtained a judgment declaring S.B. 342 unconstitutional and enjoined its enforcement. Meanwhile, the General Assembly passed Am.Sub.H.B. 64 (the state's biennial budget bill), which included provisions that conditioned a city's receipt of local government funds upon not using automated traffic cameras. The City challenged these provisions in the trial court, which described them as "economic dragooning" and enjoined the State from reducing the City's funding. The State appealed and the decision was upheld in the Sixth District Court of Appeals. The time spent defending blatantly unconstitutional statutes is a tremendous waste of taxpayer dollars and the judiciary's attention.

Legislators claim to sponsor bills that "regulate" the use of automated traffic cameras when the true goal is to ban them or make their use unfeasible. H.B. 410 is the next iteration of this pattern. The bill before you resurrects some of the language of Am.Sub.H.B. 64 and seeks to

penalize municipalities with decreased funding for exercising a constitutionally-protected use of police power.

Aside from the constitutional problems, H.B. 410 will create other unintended consequences. The bill ostensibly creates “exclusive” jurisdiction of “every” ordinance of every municipal corporation within its territory. If it is the intent and effect of this bill to eliminate administrative processes, then many local health, sanitary and safety problems will become much more difficult to police. If enforcing any housing code or nuisance violation requires filing a municipal court lawsuit, then many violations are going to be unenforced. Cities fighting blight will have even fewer tools to address these problems.

On the other hand, if cities do begin filing lawsuits for every municipal code violation, the dockets will become bogged down with minor matters that should not be in court because they are better handled through an administrative process.

Additionally, automated traffic cameras save lives. The City of Toledo attributes a 39% reduction of red-light-running fatalities to the use of these cameras. The data supports the fact that the cameras are effective in preventing accidents throughout all of Ohio.

The bill before you is yet another attempt to disguise a ban of automated traffic cameras as a “regulation.” Passage of this bill guarantees further pointless litigation and is a distraction to both the legislature and the judiciary.

I respectfully ask all Members to support the Home Rule Amendment and vote “no” on H.B. 410.

Respectfully submitted,

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