



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **H.B. 410**

132nd General Assembly  
(As Introduced)

**Reps.** Seitz and Butler, Brinkman, Merrin, Hood, Becker, Brenner, Wiggam, Lang, Retherford, Patton, Blessing, Vitale

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## **BILL SUMMARY**

### **Court jurisdiction over civil traffic law violations**

- Grants municipal and county courts original and exclusive jurisdiction over every civil action concerning a traffic law violation within the court's territory, including those civil actions involving a traffic law photo-monitoring device ("traffic camera").
- Clarifies that a municipal court has exclusive jurisdiction over every misdemeanor and every violation of a municipal ordinance of every municipal corporation within the court's territory.

### **Hearing officer administrative process**

- Eliminates the administrative hearing process for a civil traffic law violation involving a traffic camera, which is presided over by a hearing officer.
- Requires all filings, affidavits, and forms concerning a civil traffic law violation involving a traffic camera to be handled by the municipal or county court with jurisdiction over the civil action.

### **Court costs and filing fees**

- Specifies that the court with jurisdiction must require a local authority bringing a civil action concerning a traffic law violation involving a traffic camera to make an advance deposit of all filing fees and court costs.
- Requires the court to retain the advance deposit regardless of which party prevails in the civil action.

- Makes conforming changes throughout the law governing traffic cameras.

## **Traffic camera reports and penalties**

### **Reporting requirements**

- Requires local authorities that operate traffic cameras to report information on traffic fines on an annual rather than a quarterly basis.
- Requires such reports to be filed with the Tax Commissioner rather than the Auditor of State.
- Requires the reports to detail only the traffic fines collected rather than all of the traffic fines billed.

### **LGF offsets**

- Reduces Local Government Fund (LGF) payments to all local authorities that collect fines from operating traffic cameras regardless of whether a local authority is complying with the state's traffic camera laws.
- Ceases LGF payments to local authorities that fail to comply with the bill's reporting requirements for the duration of noncompliance.
- Requires LGF money withheld from a local authority to be earmarked for use by the Department of Transportation "to enhance public safety" on roads and highways instead of being redistributed among other subdivisions.

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## **CONTENT AND OPERATION**

### **Court jurisdiction over civil traffic law violations**

The Ohio Constitution gives the General Assembly the authority to both create courts that are inferior to the Ohio Supreme Court and to determine the power and jurisdiction of those courts.<sup>1</sup> The Ohio Supreme Court addressed the issue of court jurisdiction in relation to civil actions concerning traffic law violations in the 2014 case, *Walker vs. City of Toledo*.<sup>2</sup> In that case, the Court determined that a municipal court does not have *exclusive* jurisdiction over misdemeanor cases or the violation of any ordinance of a municipal corporation, including civil traffic law violations involving a traffic law photo-monitoring device ("traffic camera"). Thus, the Court held that "Ohio

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<sup>1</sup> Ohio Constitution Article IV, Section 1 and 18.

<sup>2</sup> 143 Ohio St.3d 420, 39 N.E.3d 474 (2014).



municipalities have home-rule authority to establish administrative proceedings, including administrative hearings, in furtherance of [civil traffic law violation] ordinances, that must be exhausted before offenders or the municipality can pursue judicial remedies."<sup>3</sup>

The bill expressly grants a municipal court exclusive jurisdiction over *every* misdemeanor and *every* violation of a municipal ordinance of every municipal corporation within the court's jurisdictional territory.<sup>4</sup> Additionally, the bill expressly grants both a municipal court and a county court original and exclusive jurisdiction over *every* civil action concerning a violation of a state traffic law or a municipal traffic ordinance within the court's jurisdictional territory.<sup>5</sup> Such a violation includes, but is not limited to, a traffic law violation recorded by a traffic camera.<sup>6</sup>

Under current law, a municipal court has general jurisdiction over misdemeanor cases and the violation of any ordinance of a municipal corporation within the court's territory.<sup>7</sup> A county court has general jurisdiction over all misdemeanor cases.<sup>8</sup> The misdemeanor cases for both a municipal and a county court include criminal actions concerning a violation of a state traffic law or a municipal traffic ordinance, except for certain parking violations. Current law, enacted after *Walker v. City of Toledo*, excludes from both a municipal and a county court's jurisdiction civil violations based on evidence recorded by a traffic camera. That jurisdiction is instead granted to a hearing officer and the civil violation is adjudicated through an administrative process, with the municipal and county court hearing appeals of those cases.<sup>9</sup>

### **Hearing officer administrative process**

The bill eliminates the process in current law that requires a hearing officer to conduct an administrative hearing when a person contests a ticket for a civil traffic law violation that is based on a recording by a traffic camera.<sup>10</sup> Rather than contesting a ticket in an administrative hearing, the bill requires the person to contest it in either the

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<sup>3</sup> *Id.* at 425-426, 427.

<sup>4</sup> R.C. 1901.20(A).

<sup>5</sup> R.C. 1901.19(A)(14); 1901.20(A)(1); 1907.02(C); and 1907.031(A)(8).

<sup>6</sup> R.C. 1901.20(D).

<sup>7</sup> R.C. 1901.20(A).

<sup>8</sup> R.C. 1907.02(A)(1).

<sup>9</sup> R.C. 1901.20(A) and (C)(2); 1907.02(C); and 4511.099, repealed and replaced by the bill.

<sup>10</sup> R.C. 4511.092(B) and 4511.099.

municipal or county court with jurisdiction over the civil action, as established by the bill. The bill makes conforming changes throughout the laws governing traffic cameras to require the court with jurisdiction to handle the filings, affidavits, and forms associated with such civil actions.<sup>11</sup>

### **Court costs and filing fees**

The bill requires a local authority (a municipal corporation, county, or township)<sup>12</sup> to file a certified copy of a ticket charging a registered vehicle owner with a civil traffic law violation based on a recording from a traffic camera with the municipal or county court that has jurisdiction over the civil action.<sup>13</sup> Additionally, when the local authority files the certified copy of the ticket, the municipal or county court with jurisdiction must require that local authority to provide an advance deposit of all applicable court costs and fees for the civil action. The court retains the advance deposit, regardless of which party prevails in the civil action.<sup>14</sup> In all of those civil actions, the court is not permitted to charge a registered owner or the driver who committed the violation any court costs or fees. If a registered owner or driver contests the ticket and does not prevail in the civil action heard by the court, that owner or driver is only responsible for paying the amount of the required civil penalty.<sup>15</sup>

### **Traffic camera reports and penalties**

The bill repeals and replaces provisions in current law that establish reporting requirements for local authorities operating traffic cameras and that penalize them for not complying with the law governing their use of traffic cameras by offsetting their Local Government Fund (LGF) distributions. The bill's replacement provisions are similar to current law in some respects but change the reporting requirements, change the conditions under which LGF distributions are offset, and earmark the offset money for a new state fund for traffic safety.

Ohio's traffic camera laws authorize the use of traffic cameras by local authorities subject to a number of specified conditions, including that a law enforcement officer be present where a traffic camera is installed, that signs are posted to inform motorists of

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<sup>11</sup> R.C. 4511.093(B)(2); 4511.096(C); 4511.097; 4511.098; and 4511.0910.

<sup>12</sup> R.C. 4511.092(C).

<sup>13</sup> R.C. 4511.096(C). A "registered owner" is a person identified as the owner of a motor vehicle, the lessee of a motor vehicle under a lease of six months or longer, or a renter of a motor vehicle pursuant to a rental agreement with a dealer. R.C. 4511.092(G).

<sup>14</sup> R.C. 4511.098(A)(1) and 4511.099(A).

<sup>15</sup> R.C. 4511.099(B).

the camera's presence, that a safety study be conducted before a camera is installed, and that a public information campaign be undertaken to inform motorists of proposed cameras.<sup>16</sup>

### **Reporting requirements**

The bill requires every local authority that operates a traffic camera during a fiscal year to file a report with the Tax Commissioner by the following July 31 showing (1) a detailed statement of the civil fines collected from drivers for violations of local ordinances based on evidence recorded by a traffic camera and (2) a statement of the gross amount of traffic camera fines collected during that period. (The bill specifies that the "gross amount" includes the entire amount paid by drivers.) Such a report is required regardless of whether the local authority complied with the state traffic camera laws.<sup>17</sup>

In contrast, current law requires quarterly, rather than annual, reporting, and requires the report to be filed with the Auditor of State. If a local authority has not been complying with the traffic camera law, it must report all traffic camera fines that are *billed* to drivers rather than the fines that are *collected* from them. If a local authority has been complying, current law does not require it to report traffic camera fines; instead, the local authority must file only a statement affirming its compliance.<sup>18</sup>

### **LGF offsets**

The bill modifies the existing law that reduces LGF distributions to local authorities that operate traffic cameras. As under existing law, LGF payments are to be reduced by the amount of fines reported to have resulted from using traffic cameras, and the payments are suspended entirely if a local authority using traffic cameras does not file the report. But unlike existing law, the bill reduces LGF payments even for local authorities complying with the requirements of having an officer present, posting signs, and conducting safety studies and public information campaigns. Also, the bill's reduction in LGF payments is based on reported fine collections rather than reported fine billings, consistent with the bill's change in how fines are to be reported.

Under continuing law, 1.66% of general revenue tax receipts are credited monthly to the LGF to provide revenue to political subdivisions and other local taxing

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<sup>16</sup> R.C. 4511.092 to 4511.095.

<sup>17</sup> R.C. 5747.502(B).

<sup>18</sup> R.C. 4511.0915, repealed by the bill.

units.<sup>19</sup> About 92% of that money is divided between the undivided local government funds of each county and distributed to the county and subdivisions in that county under a formula either prescribed in state law or adopted by the county budget commission; most of the remaining money is distributed directly to municipal corporations that levied a municipal income tax in 2006. Distributions are made monthly.

Under the bill, each of the twelve monthly LGF payments following the annual traffic camera fine report would be reduced by one-twelfth of the gross amount of fines collected by a local authority in the preceding fiscal year. If the local authority is a municipal corporation receiving direct LGF payments, the offset is first deducted from the direct payment and, if necessary to cover the whole offset, from the municipality's share of distributions made through the county undivided LGF. For other local authorities, the offset is deducted from their respective shares of the county undivided LGF.<sup>20</sup>

If a local authority operating traffic cameras fails to report its traffic camera fines as the bill requires, all LGF payments to that subdivision are suspended until the report is filed. Once the report is filed, the next twelve LGF payments are then reduced to account for the amount of fines reported.<sup>21</sup>

The total amount offset or withheld from local authorities for their fines or failure to report would be credited to the Ohio Highway and Transportation Safety Fund, which the bill creates. The Department of Transportation must use the fund "to enhance public safety on public roads and highways."<sup>22</sup> Under current law, any LGF amount that is offset or withheld from a local authority is distributed among other subdivisions and taxing units in the county.<sup>23</sup>

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## COMMENT

Several of the state's traffic camera laws were overturned in 2017 by the Ohio Supreme Court on home rule grounds (i.e., Article XVIII, Section 3 of the Ohio Constitution) in *Dayton v. State*.<sup>24</sup> The state is also prohibited from enforcing the

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<sup>19</sup> R.C. 131.51(B), not in the bill.

<sup>20</sup> R.C. 5747.502(C) and (E).

<sup>21</sup> R.C. 5747.502(D) and (E).

<sup>22</sup> R.C. 5747.502(F).

<sup>23</sup> R.C. 5747.502(D) and (E).

<sup>24</sup> Slip Opinion No. 2017-Ohio-6909.



corresponding LGF penalties – at least against Toledo – due to an injunction issued in *City of Toledo v. State*, which was upheld by the Sixth District Court of Appeals.<sup>25</sup> The state appealed the Toledo injunction to the Ohio Supreme Court. The appeal was granted, but the case was held pending the result of the *Dayton* case. Essentially, the Court determined that the issues presented in the two cases were similar and that the Court's ruling in *Dayton* would affect its decision in *Toledo*.<sup>26</sup> It is not clear how or if the *Toledo* injunction would affect the operation of the LGF offset statutes that result from replacing the current versions with somewhat different offset provisions.

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## HISTORY

ACTION	DATE
Introduced	11-07-17

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<sup>25</sup> 2017-Ohio-215 (January 20, 2017).

<sup>26</sup> *Toledo v. Ohio*, 147 Ohio St.3d 1411 (2017).

