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# OHIO LEGISLATIVE SERVICE COMMISSION

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Office

**H.B. 119**  
**133rd General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Stoltzfus

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### Summary

- 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").
- 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.
- 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, except for violations in a school zone.
- Requires the court to retain the advance deposit regardless of which party prevails in the civil action.
- Requires local authorities that operate traffic cameras to report information on traffic fines on an annual basis with the Tax Commissioner.
- Requires the reports to detail only the traffic fines collected rather than all of the traffic fines billed.
- Requires the reports to specify the amount of traffic camera fines collected on violations in school zones.
- 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.

- Reimburses local authorities for the portion of LGF reductions attributed to traffic camera fines collected on violations in school zones.
- Requires LGF money withheld from a local authority to be earmarked for use by ODOT “to enhance public safety” on roads and highways within the same transportation district.
- Prohibits a township from using traffic cameras on interstate highways.
- Makes clarifying changes to the texting-while-driving and distracted driving law.

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## Detailed Analysis

### Traffic law photo-monitoring devices

#### 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 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 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>4</sup> Such a violation includes, but is not limited to, a traffic law violation recorded by a traffic camera.<sup>5</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>6</sup> A county court has general jurisdiction over all misdemeanor cases.<sup>7</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,

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

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

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

<sup>4</sup> R.C. 1907.19(A)(14), 1901.20(A)(1), 1907.02(C), and 1907.031(A)(8).

<sup>5</sup> R.C. 1901.20(D).

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

<sup>7</sup> R.C. 1907.02(A)(1).

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>8</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>9</sup> Rather than contesting a ticket in an administrative hearing, the bill requires the person to contest it in either the municipal or county court with jurisdiction over the civil action. 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>10</sup>

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

The bill requires a local authority (a municipal corporation, county, or township)<sup>11</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>12</sup> Additionally, the local authority must provide an advance deposit of all applicable court costs and fees for the civil action, except for tickets issued for school zone violations (see below).<sup>13</sup> The court retains the advance deposit, regardless of which party prevails in the civil action.<sup>14</sup> 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> For school zone violations, however, the losing party (either the local authority or the owner of driver) is responsible for paying the court costs and fees.<sup>16</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

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<sup>8</sup> R.C. 1901.20(A) and (C)(2); 1907.02(C); and 4511.099, repealed and replaced by the bill.

<sup>9</sup> R.C. 4511.092(B) and 4511.099.

<sup>10</sup> R.C. 4511.093(B)(2), 4511.096(C), 4511.097, 4511.098, and 4511.0910.

<sup>11</sup> R.C. 4511.092(C).

<sup>12</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>13</sup> R.C. 4511.099.

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

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

<sup>16</sup> R.C. 4511.099.

Government Fund (LGF) distributions. The bill's replacement provisions are similar to current law in some respects but change the reporting requirements, revise the conditions under which LGF distributions are offset, provide for the return of offset money attributed to traffic camera fines collected on school zone violations, and earmark the offset money for a new state fund for traffic safety.<sup>17</sup>

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 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>18</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, (2) a statement of the gross amount of traffic camera fines collected during that period, and (3) a statement of the gross amount of traffic camera fines collected during that period for violations that occurred in school zones. (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>19</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. Current law does not differentiate between traffic camera fines for violations in school zones and other traffic camera fines. If a local authority has been complying with the traffic camera law, current law does not require it to report traffic camera fines; instead, the local authority must file only a statement affirming its compliance.<sup>20</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. Finally, the bill provides for a refund to local authorities for the portion of withheld

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<sup>17</sup> R.C. 5747.502.

<sup>18</sup> R.C. 4511.092 to 4511.095.

<sup>19</sup> R.C. 5747.502(B).

<sup>20</sup> R.C. 4511.0915, repealed by the bill.

LGF payments attributed to traffic camera fines on violations that occurred in school zones, on the condition that the refunded amounts are used for school safety purposes.<sup>21</sup>

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 units.<sup>22</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. (In the current biennium the direct municipal distributions were pre-empted by various other distributions by H.B. 49 of the 132<sup>nd</sup> G.A.)

Under the bill, each of the 12 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>23</sup>

Local authorities that reported traffic camera fines for violations in school zones would then receive a payment equal to one-twelfth of the gross amount of those fines. The bill requires that this refunded amount be used for school safety purposes.

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>24</sup>

The total amount offset or withheld from local authorities for their fines or failure to report, minus any amount refunded to local authorities based on fines for school zone violations, would be credited to the Ohio Highway and Transportation Safety Fund, which the bill creates. The fund would be divided into separate accounts – one for each transportation district in which a local authority operating traffic cameras is located. The Department of Transportation must use the fund “to enhance public safety on public roads and highways” within the transportation district from which the LGF funds were withheld.<sup>25</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>26</sup>

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<sup>21</sup> R.C. 5747.502.

<sup>22</sup> R.C. 131.51(B), not in the bill.

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

<sup>24</sup> R.C. 5747.502(D) and (E).

<sup>25</sup> R.C. 5747.502(F).

<sup>26</sup> R.C. 5747.502(D) and (E).

## Use of traffic cameras on interstate highways

The bill prohibits a township law enforcement officer or any other township representative from using a traffic camera on interstate highways.<sup>27</sup> Current law authorizes a local authority, which includes townships, to utilize a traffic camera for the purpose of detecting specific traffic violations (failure to comply with a red signal at a traffic light and the applicable speed limit), subject to statutory conditions.<sup>28</sup> The statutory conditions under current law, however, do not limit the use of traffic cameras to specific highways or prevent the use of the traffic cameras on interstate highways.

## Texting-while-driving and distracted driving corrective changes

The bill makes several clarifying changes to the texting-while-driving and distracted driving law.

First, the bill amends the portion of the texting-while-driving statute that addresses allied offenses of similar conduct. Current law provides that the prosecution of the state texting-while-driving offense does not preclude a separate prosecution for a violation of a substantially equivalent municipal ordinance for the same conduct, but it states that the offenses are allied offenses of similar import. When an offender's conduct can be construed to constitute two or more allied offenses of similar import, the offender may be **charged with all** of the offenses, but prior to the conviction stage, the offenses merge and the offender may be **convicted of only one**. But, current law related to texting while driving, as enacted in H.B. 95 of the 132<sup>nd</sup> General Assembly, states: "However, if an offender is convicted of or pleads guilty to a violation **and is also convicted** of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import . . . ." <sup>29</sup>

Thus, current law implies that a person may be **convicted of both** offenses, which is inconsistent with the underlying concept of allied offenses. The bill clarifies that there may only be one conviction. The bill makes a similar change in the provision regarding minors violating both the state prohibition on using phones while driving and a substantially equivalent municipal ordinance.

Second, in the distracted driving law, the bill changes "Subject to Traffic Rule 13" to "Subject to the mandatory appearance requirements of Traffic Rule 13." This clarifies that driving distracted, while violating certain offenses for which a court appearance is mandatory, would still require the offender to appear in court per Traffic Rule 13 (an offender is generally allowed to pay the fine for distracted driving and not appear in court).

Third, the bill makes corrective changes to clarify small inconsistencies in the definition of "distracted" in the distracted driving law.<sup>30</sup>

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<sup>27</sup> R.C. 4511.093(C).

<sup>28</sup> R.C. 4511.092(K) and (L) and 4511.093.

<sup>29</sup> R.C. 4511.204(F) and 4511.205(D).

<sup>30</sup> R.C. 4511.991.

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## Comment

Several of the state’s traffic camera laws were overturned in 2017 by the Ohio Supreme Court in *Dayton v. State* on municipal home rule grounds (i.e., Article XVIII, Section 3 of the Ohio Constitution).<sup>31</sup> The current LGF offsets, which are being modified by the bill, were also nullified for a period of time by an injunction issued in *Toledo v. State* – a convergent cause of action that also concerned state traffic camera laws.

The Supreme Court ultimately remanded the Toledo case back to the lower court for application of the Dayton holding. However, the LGF injunction was vacated for procedural reasons. The Court held that the General Assembly’s adoption of the LGF offsets did not amount to contempt of the trial court’s order enjoining enforcement of certain traffic camera laws and, in the absence of contempt, the trial court lacked authority to issue the injunction. The complaint in the Toledo case challenged only the constitutionality of the state’s traffic camera laws, not the LGF offsets. In the absence of such a constitutional challenge, the court cannot enjoin or otherwise invalidate an act of the General Assembly.<sup>32</sup>

The Court did not address the constitutionality of the current LGF offsets beyond citing the general presumption of constitutionality that applies to all acts of the General Assembly.

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## History

Action	Date
Introduced	03-05-19

H0119-I-133/ar

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<sup>31</sup> R.C. 151 Ohio St.3d 168 (2017).

<sup>32</sup> *Toledo v. Ohio*, Slip Opinion No. 2018-Ohio-2358.