



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Margaret E. Marcy

### **Sub. H.B. 125\***

132nd General Assembly  
(As Reported by H. Criminal Justice)

**Reps.** Craig and Seitz, West, Leland, Young, Retherford, Sheehy, Patterson, K. Smith, Antonio, Celebrezze, Boccieri, Cera, O'Brien, Howse, Boggs, Ashford, Sykes, Rogers, Boyd

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### **BILL SUMMARY**

- Specifies that a municipal or county court has exclusive jurisdiction over a violation of a traffic-related municipal ordinance unless the mayor's court of the municipal corporation has jurisdiction over the violation.
- Clarifies that a violation that is based on evidence recorded by a traffic camera and for which a ticket is issued by a county, township, or municipal corporation under the civil violation ticketing process is not under the original jurisdiction of a county court.
- Prohibits a municipal corporation that is not authorized to establish a mayor's court from imposing or charging fines, fees, or other charges that are in excess of, or not included in, the applicable municipal or county court's schedule of fines and costs for violations of state law.
- Clarifies that township officers serving a population of 50,000 or less do not have the authority to enforce any traffic and motor vehicle equipment violations on interstate highways.

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\* This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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## CONTENT AND OPERATION

### Municipal and county court jurisdiction

#### Background: when a mayor's court may be established

Mayor's courts are courts authorized by statute but are not courts of record. The General Assembly's authority to create and abolish mayor's courts is conferred by the Ohio Constitution.<sup>1</sup> Generally, a municipal corporation that has a population of more than 200 may establish a mayor's court. However, there are exceptions, including that a municipal corporation that is the site of a municipal court may not establish a mayor's court.<sup>2</sup> The mayor in a municipal corporation authorized to establish a mayor's court is not required to exercise the mayor's jurisdiction by establishing a mayor's court.<sup>3</sup>

#### Jurisdiction over traffic-related municipal ordinances

The bill specifies that a municipal or county court has exclusive jurisdiction over the violation of a traffic-related municipal ordinance committed within the court's territory unless the mayor's court of the municipal corporation has jurisdiction over the violation. If a mayor's court has jurisdiction over the violation, that jurisdiction is concurrently held by the municipal or county court and the mayor's court of the municipality. Therefore, if Ohio law does not authorize a municipal corporation to establish a mayor's court, a violation of a traffic-related ordinance is exclusively within the jurisdiction of the municipal or county court.<sup>4</sup>

#### Jurisdiction over civil traffic camera violations

The bill clarifies that civil violations based on evidence recorded by a traffic camera for which a ticket is issued by a county, township, or municipal corporation under the civil violation ticketing process are not under the original jurisdiction of a county court.<sup>5</sup> Under continuing law, a municipal court also does not have original jurisdiction.<sup>6</sup> Rather, initial challenges to such civil violations are heard in an

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<sup>1</sup> Ohio Constitution, Art. IV, § 1.

<sup>2</sup> See R.C. 1905.01 for all exceptions. See R.C. 1901.01(A) for a list of municipal corporations that are the site of a municipal court.

<sup>3</sup> *State ex rel Boston Heights vs. Petsche*, 27 Ohio App.3d 106 (Summit 1985).

<sup>4</sup> R.C. 1905.01, not in the bill, and 1901.20 and 1907.02.

<sup>5</sup> R.C. 4511.093(B)(3), not in the bill, and 1907.02(D).

<sup>6</sup> R.C. 1901.20(A)(1). The bill makes this division (A)(2)(b), but the law is unchanged.



administrative hearing by an officer appointed by a county, township, or municipal corporation. Municipal and county courts have jurisdiction over an appeal of a decision rendered by an administrative hearing officer under that process.<sup>7</sup>

### **Penalty for a traffic violation imposed by a municipal corporation**

Under current law, a municipal or county court is required to establish a schedule of fines and costs for traffic violations.<sup>8</sup> The bill prohibits a municipal corporation that is not authorized to establish a mayor's court from doing either of the following:

(1) Imposing a fine, fee, or other charge that is in excess of the schedule of fines and costs for state violations established by the municipal or county court having territorial jurisdiction over the location of the violation; and

(2) Charging a fine, fee, or other charge for a traffic violation or infraction that is not included in the schedule of fines for state violations established by the municipal or county court having territorial jurisdiction over the location of the violation.

The bill does not restrict municipalities authorized to establish mayor's courts in the same manner (see **COMMENT**, below).<sup>9</sup>

### **Township officer jurisdiction on interstate highways**

Under current law, a township officer<sup>10</sup> who serves a township with a population of 50,000 or less has the express authority to enforce specified traffic and motor equipment violations, such as speeding, on highways that are a part of the national highway system. However, such an officer is expressly prohibited from enforcing those same violations on interstate highways. There are certain traffic violations that are not expressly included in the current prohibition, particularly civil violations associated with traffic law photo-monitoring devices.<sup>11</sup> The bill clarifies that a township officer who serves a township with a population of 50,000 or less does not have the authority

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<sup>7</sup> R.C. 4511.099(A) and (G), not in the bill, and 1907.02(C).

<sup>8</sup> Ohio Traffic Rule 13 as adopted by the Ohio Supreme Court.

<sup>9</sup> R.C. 4511.072.

<sup>10</sup> A "township officer" includes a township constable, a member of a police force of a township police district, or a member of the police force of a joint police district, which includes a township. R.C. 4513.39(B).

<sup>11</sup> R.C. 4513.39(A) and (B)(1); see also R.C. 4511.092 through 4511.10, not in the bill.



to enforce *any* traffic or motor vehicle equipment violations on an interstate highway, including, it appears, those associated with traffic law photo-monitoring devices.<sup>12</sup>

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## COMMENT

Insofar as the bill directly regulates municipal activity, it may be subject to challenge under the home rule provision of the Ohio Constitution. Under home rule authority, municipalities have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations as are not in conflict with general laws. The regulation of traffic is an exercise of municipal police power<sup>13</sup> and is valid so long as it does not conflict with a general law.<sup>14</sup> By prohibiting activities of municipal corporations, the bill may be found to only limit the legislative power of a municipality rather than set forth a police regulation.

Generally, a municipal ordinance is in conflict with a general law if the ordinance permits or licenses what a statute forbids or prohibits, or vice versa.<sup>15</sup> The Ohio Supreme Court has held, in the context of criminal penalties, that a municipal ordinance is not in conflict with a general law on the same subject only because the municipal ordinance imposes a greater penalty than state law.<sup>16</sup>

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## HISTORY

ACTION	DATE
Introduced	03-09-17
Reported, H. Criminal Justice	---

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<sup>12</sup> R.C. 4513.99(C).

<sup>13</sup> *Linndale v. State*, 85 Ohio St.3d 52 (1999), citing *Geauga Cty. Bd. of Commrs. v. Munn Rd. Sand & Gravel*, 67 Ohio St.3d 579 (1993).

<sup>14</sup> A general law is a statute that: (1) is part of a statewide and comprehensive legislative enactment, (2) applies to all parts of the state alike and operates uniformly throughout the state, (3) sets forth police, sanitary, or similar regulations, rather than purports only to grant or limit the legislative power of a municipal corporation to set forth police, sanitary, or similar regulations, and (4) prescribes a rule of conduct upon citizens generally. *Canton v. State*, 95 Ohio St.3d 149 (2002).

<sup>15</sup> *Struthers v. Sokol*, 108 Ohio St. 263 (1923).

<sup>16</sup> *City of Niles v. Howard*, 12 Ohio St.3d 162 (1984). Though, an ordinance that includes a criminal penalty *is* in conflict if it alters the degree of penalty under the statute from misdemeanor to felony, or vice versa. *Niles*; *Cleveland v. Betts*, 168 Ohio St. 386 (1958).

