

Bruce A. Timmons

To the Honorable Representative John Fitzgerald, Chair, and Members of the House Committee on Local Government and Municipal Finance

May 22, 2024

Statement Submitted regarding:

HB 4921 (Rep. Fitzgerald) – Traffic control: speed restrictions; provide for speed limit enforcement mechanisms (camera capture) in school zones; allow local administrative hearings in place of court process; and mandate a civil fine of \$150.

HB 5726 (Rep. McFall) – Courts: district court; modify distribution of fines and costs.

Policy-wise: I have no disagreement about the danger posed by drivers who speed through school zones and endanger school children who are on route to or from school. I raise no objection to the use of camera-capture technology to enforce traffic laws.

However, I **oppose** these bills for several reasons.

Let me first identify myself, so my concerns will make more sense.

I retired end of 2012 after a 45-year career in various legal and policy positions in the Legislature (Oct 1967 thru 2012 – 2 yrs. in LSB and rest in the House). During the tenure I worked for both Democratic Representatives and Republican Representatives – fortunate to have worked for and with dedicated individuals throughout.

I was the principle legislative staff for the package that created the traffic civil infraction system, **1978 PA 510**, of which **MCL 257.907 and 257.909** were key provisions. HB 4921 would amend 257.907 and HB 5726 incorporates 257.909 by reference.

In recent Sessions there have now been 4 packages of bills that would **divert civil infraction civil fine revenue from libraries**. Two have passed the House this Session:

HBs 4132-33 (work zones), reported to the Senate Floor March 19.

HBs 4928-30 (school bus stop-arm camera enforcement). Has had one committee hearing.

HBs 4921 & 5726 are the third package this Session, all using camera enforcement. All also divert civil infraction fines from libraries (or local court funding units).

Reasons and concerns for my opposition to **HBs 4921 and 5726**:

I do not know the origin of the proposed administrative process, but it looks to me like it comes from some other state with a different court system and practice than in Michigan and perhaps in more common use of administrative proceedings for law and ordinance violations. Several of the provisions in HB 4921, Sec. 627c, depart from current law:

- **MCL 257.742(3)** authorizes a law enforcement officer to issue a citation if the officer witnesses the violation. If a law enforcement officer does not witness a traffic civil infraction violation, but a complaint is initiated by a non-officer who did witness the violation, issuance of a citation requires the approval of the prosecutor (or municipal attorney). HB 4921 begs the question. What the officer sees by inspecting a “recorded” image is considered prima facie evidence of the violation and is deemed sufficient to start the enforcement process with issuance of a “citation” under subsection (7), page 3. But the officer did not “witness” the act.

- Under subsection (7), failure to appear is declared an ‘admission’ of responsibility. No where else that I recall is failure to appear an “admission”. That is questionable. Under current law, the result of a failure to respond or pay for a civil infraction is a default judgment, with consequences, but not an admission. It also can be set aside. It also runs counter to the proposed administrative process envisioned under subsection (8) which presumes that the motorist has a contested case that begins with a claim or allegation – not with a ‘confession’.

- The envisioned administrative hearing, page 4, line 20, says the “citation” must include instructions. The problem is there is a **Vehicle Code definition of “citation”** in MCL 257.727c, which is a form that must be approved by MSP, SCAO, SOS, and AG. What is proposed in HB 4921 is not a “citation” in the defined way it applies to traffic civil infraction. Bill needs a different term or a special definition. **How does the ‘citation’ (which doesn’t comply with 257.727c) and result get to the Secretary of State as part of the violator’s driving record?**

- In Michigan, counties don’t enact traffic ordinances like cities and townships. Why would they create an administrative hearings process at its expense with no revenue in return?.

- Traffic civil infractions have no administrative hearings today. The proposed procedure is at variance with what any other motorist given a traffic citation in Michigan experiences. An administrative hearing under the state APA is not the same as what district court provides. One key difference is that a motorist in response to a citation may admit responsibility with explanation that a court may consider to reduce the fine or costs or dismiss the ticket. Next:

- There is no discretion under these bills. The sanction is a mandatory civil fine of \$150.

- The traffic civil infraction system is basically the same transparent process statewide. An administrative hearing in a given locality is much harder to find out about or to access.

-The bill imposes duties on counties and receives but keeps no revenue under these bills. See **HB 5726** (page 4), whereby the county would receive the civil fine in these school zone speed cases but not keep any of it.

- The reference in **HB 5726** to **MCL 257.909** is flawed. By its own terms, the formula under **257.909(1)** only applies to commercial motor vehicles.

- Even if better drafted, the formula intended to be used per **MCL 257.909(1)** would unwisely distribute civil fines as follows (emphasis added):

(a) Seventy percent to the local authority in which the citation is issued.

(b) Thirty percent for library purposes as provided by law.

Please note that **HB 4921**, page 4, line 9, distinguishes “local authority” from “county”. Same distinction on page 5, line 3 and line 7. County would get no money.

Note also that District Court funding units in county-funded districts (77 of the 83 counties, and parts of 5 others) would be cut out – that was the goal of the package in 2000 to discourage counties from enforcing overweight violations with weigh stations.

HBs 4921 & 5726 are another variation on a recurring theme to redirect civil infraction fines away from either libraries (which get 100% if violation is under state law) or local government and court-funding units (ordinance violations per MCL 257.8379).

The proposed use of the unique formula under MCL 257.909(1) is an assault on the resources of libraries. While Const 1963, Art VIII, Sec. 9, that dedicates all penal fines to libraries, applies only to criminal violations, the Legislature in **1978 PA 510 preserved that principle in Sec. 909** when the traffic civil infraction system was created. With the lone exception to date (for commercial trucking), civil fine revenue for traffic civil infractions – per **MCL 257.909** – has continued the historic principle that **FINES** for the violation of state law go to public libraries and county law libraries for the almost 45 years.

Departure from that principle sets a dangerous and unnecessary precedent. These bills and 2 other House-passed proposals are in line to, in my view, “steal” money from libraries. If these pending bills become law, there will be others. Public libraries are not overwhelmed with revenue. Revenue from fines may not be the only source of revenue for all libraries, but revenue from civil fines is a significant portion of what keeps libraries open - perhaps in your own District.

Respectfully.

/s/ Bruce A. Timmons

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