

Bruce A Timmons  
October 20, 2015

The Honorable Kurt Heise, Chair, House Committee on Criminal Justice  
Members of the House Committee on Criminal Justice

Re: **HB 4651** (Rep. J. Plawecki) - Traffic control; driver license; modify penalties for unendorsed motorcycle riders. Amends MCL 257.312a.

As introduced, HB 4651- as linked to HB 4905 – has a constitutional problem with directing revenue from penal fines to uses other than libraries. Const 1963, Art VIII, §9.

I understand that a substitute may be offered to change the sanction to a (traffic) civil infraction. If so, different objections surface in redirecting revenue from the current formula under MCL 600.8379.

First, there is not a constitutional issue, but there is a breach of a commitment made to librarians in 1978 that decriminalization of traffic offenses would not change the flow of revenue. That commitment was adhered to before term limits began and for 22 years until a package to discourage local enforcement of commercial trucking laws and regulations created the current and lone exception in MCL 257.909 that reduced revenue for counties, cities, and townships funding the district court. (2000 PA 94.)

Please understand that legislation to decriminalize traffic was stopped dead in its tracks by opposition from librarians around the state out of fear of losing fines revenue. It was only after it was assured that the distribution of revenue would not change – that fines for state law traffic violations would continue to go to libraries – and MCL 257.909 was added to the package, that the package was able to proceed to enactment. Of course, in the era of term limits, who remembers? I do, because I was the principal staff for it.

That is all MCL 257.909 was intended to address – state law violations. Ordinance violations before and after decriminalization of traffic violations always had and still have a different formula for revenue distribution, recognized under MCL 600.8379 – a formula intended to provide both funding for the district court and funding for local law enforcement to enforce the traffic laws (that is what the 1/3-2/3 split is all about).

Second, the proposal to allocate a portion (25%) of fines for the motorcycle safety fund reduces the percentage of civil fine revenue collected for violations of state law – in this case, a violation of MCL 257.312a(4). Libraries now get 100% of that revenue, not 75%. If you apply this same rake-off to ordinance equivalents, losers include both court funding and law enforcement. My objection is not just the small “exception” of today but the precedent it will set. It will be repeated. This is the proverbial slippery slope (it almost happened last year) or perhaps the emerald ash borer which is as small as your little fingernail but can claim a tree and eventually the entire forest.

I have no objection to the motorcycle safety fund, but I would encourage the Committee not to pursue the use of traffic civil fines as its source of funding.

Thank you for the opportunity to comment.

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