

Bruce A. Timmons

Members of the Senate Committee on Infrastructure Modernization
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HB 5453 – Proposal to Increase traffic fines for overweight and oversized vehicles.

First and foremost, I support the efforts of Governor Snyder and Members of the Michigan Legislature to provide additional funding for highways, roads, and bridges.

With regard to HB 5453(H-3), I do not object to the portion of the bill that would increase civil fines for overweight vehicles. A reexamination of those amounts may be warranted.

I have concern over the amendment to **MCL 257.909** that would redirect one-half of civil fines for overweight violations to road funding.

Under the Michigan Constitution of 1963, **Art VIII, § 9** (Public libraries, fines) provides:

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law. (Emphasis added.)

When the Legislature was considering a proposal to decriminalize traffic misdemeanors during the 1977-78 Session, librarians around the state descended on your predecessors in opposition to the legislation because they feared that the change from criminal penalties to civil infractions would negate the Art VIII, Sec, 9, guarantee that penal fines go to libraries and that the proposed civil fines would be directed elsewhere. The bill stalled.

That opposition was mitigated once **Sec. 909**, as worded below (before being amended by 2000 PA 94), was added to the bill, which became 1978 PA 511:

Sec. 909. (1) **A civil fine which is ordered under section 907 for a violation of this act or other state statute shall be exclusively applied to the support of public libraries and county law libraries in the same manner as is provided by law for penal fines assessed and collected for violation of a penal law of the state.**

(2) Subsection (1) is intended to maintain a source of revenue for public libraries which previously received penal fines for misdemeanor violations of this act which are now civil infractions. (Emphasis added.)

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There were 3 basic principles for traffic decriminalization legislation in 1978 PA 511:

1. Minor traffic violations merited a fine-only sanction. Jail was inappropriate.
2. In exchange for the elimination of a criminal conviction record, the offender would no longer have the right to a jury trial or the right to counsel at public expense.
3. The legislation would not alter the distribution of fines revenue.

In the era of term limits, the history and context of statutory provisions are forgotten. I remember – because I worked on that legislation and drafted Sec. 909.

Note that both Art VIII, §9, and Sec. 909 refer to violations of state law. Neither applies to local ordinances. The current exception in Sec. 909 applies to the enforcement of ordinances involving commercial vehicles. While the 2000 PA 94 adversely affected funding for the district court, it did not run counter to the 1978 premise of Sec. 909 regarding violations of state law.

Until now there has been no assault on the commitment made by the Legislature in 1978 that decriminalization of minor traffic violations would not be used to divert fine revenue for violations of Michigan Vehicle Code. HB 5453 (H-3), as passed by the House, would do that. The bill would not be a violation of Art VIII, §9, and it is true that one Legislature by statute cannot bind another. **Nonetheless, it would breach a 35-year-old commitment not to divert civil fine revenue for traffic civil infractions (for violations of state law) from libraries.**

Even though HB 5453 would redirect “new revenue” for roads and not reduce current funding for libraries, the proposed exception in Sec. 909(3) would establish a questionable precedent. The rationale for the new exception is expediency over principle – or perhaps, “principal” over “principle”. Tomorrow, the half could become the whole. Once the Legislature makes one exception, how many future exceptions will follow? Libraries beware!

One further note: Sec. 909(3) is silent as to how the courts administratively distribute the funds. Would they go to MDOT? Or does every court have to establish its own software to distribute each fine imposed to 3 separate accounts, thereby generating new audit trails for each court?

I would respectfully recommend that the commitment made in 1978 be continued and that Sec. 909 be removed from the bill.

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