



Ohio appellate court strikes down texting-while-driving law

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The 10th District Court of Appeals issued a significant and potentially far-reaching decision that specifically impacts Ohio's texting-and-driving laws. [Linndale v. State](#), 2014-Ohio-4024, issued September 16, 2014, examined a challenge to H.B. 606.

H.B. 606 was initially introduced and passed through the House as legislation making a single change to reduce the number of municipal court judges in Youngstown. After two readings in the Senate, the bill was referred to committee where additional amendments were made to: 1) increase the population necessary for a municipal corporation to have a mayor's court from 100 to 200; and 2) change the texting-while-driving provisions in Ohio Revised Code sections 4511.204 and 4511.205. The amendments clarified that state laws for texting while driving and substantially equivalent municipal ordinances for the same conduct were "allied offenses of similar import." In other words, the amendments provided that prosecution for violation of Ohio Revised Code sections 4511.204 (texting and driving as a secondary offense) or 4511.205 (texting and driving as a primary offense for probationary drivers under the age of 18) did not preclude a prosecution for a violation of a substantially equivalent municipal ordinance based on the same conduct. However, only one conviction could result.

H.B. 606 was passed from committee, quickly read for a third time in the Senate, voted through the House and signed into law. H.B. 606 became effective March 22, 2013.

The Village of Linndale, Ohio, challenged the constitutionality of H.B. 606, arguing that it violated various requirements of the Ohio Constitution. The Appellate Court agreed with the village on one point and struck the texting-while-driving prohibitions in H.B. 606 as violative of the single-subject provision of the Ohio Constitution. But the village's other constitutional challenges to the law were rejected, narrowly, by the court.

Single-Subject Rule. Article II, Section 15(D) of the Ohio Constitution requires: "No bill shall contain more than one subject, which shall be clearly expressed in its title." The Linndale court rejected the state's argument that all of the provisions in H.B. 606



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shared the common purpose of modifying the authority, scope and jurisdiction of the courts. "Unlike the other two provisions in H.B. 606, the texting-while-driving provision does not relate to the number of judges or courts in the state. Rather, it addresses the prosecution and punishment for specific violations of the traffic laws. Therefore, we conclude that H.B. 606 violates the one-subject rule because it contains provisions that share no relationship or common purpose." Linndale, at ¶18.

As a result, the court found the texting-while-driving amendments violated the single-subject requirement and severed those amendments from the law. Unless the state files a further appeal to the Ohio Supreme Court, the texting-while-driving provisions in H.B. 606 are stricken from the law as violations of state laws prohibiting texting and violations of substantially equivalent municipal ordinances can both be prosecuted and can both result in separate convictions.

Three-Readings Rule. The Village of Linndale also argued that H.B. 606 was unconstitutional because of violations to Article II, Section 15(C), which requires that every bill have three separate readings of all legislative changes by each chamber. Additional changes to the court structure, as well as the texting-while-driving amendments, were made in Senate committee between the second and third readings of the bill. Prior case law on this topic established that the three-reading rule is met where requisite entries are made in the legislative journals and the subject matter of the original bill was not "vitally altered." Having already severed the texting-while-driving provisions of H.B. 606, the court focused only on the remaining provisions of the bill, related to the Youngstown court, and found that the late amendments in the Senate committee regarding the mayor's courts did not vitally alter the bill, but related to the organization and structure of Ohio courts.

However, one judge dissented from the majority ruling related to the three-readings rule. Concurring with the majority on all other aspects of the ruling, Judge Lisa Sadler dissented and would have found H.B. 606 to be unconstitutional because of a violation of the three-readings rule. In her dissent, Judge Sadler noted that the mayor's court amendment was introduced late in the bill's process, was not publicly debated and was only read in one chamber, thus evading the purpose announced by the Ohio Supreme Court "to prevent hasty action and to lessen the danger of ill-advised amendment at the last moment." *Id.* (Sadler, J. dissenting) ¶4, citations omitted. Judge Sadler noted that changing the minimum population threshold for mayor's courts through a late amendment in Senate committee eliminated "some mayor's courts in their entirety [and] was not only swift but also unanticipated."

Classification and Uniformity. Other challenges raised by the village involved an argument that H.B. 606 violated Article XVIII, Section 1 of the Ohio Constitution by classifying municipalities differently based on population despite other constitutional provisions classifying cities and villages. The village also argued that H.B. 606 violated the requirement that all laws "have a uniform operation throughout the state." Article

II, Section 26, Ohio Constitution. Each of these arguments was soundly rejected by a unanimous appellate court.

While the court's decision specifically strikes down Ohio's texting-and-driving laws, it could have even greater implications on the analysis of the constitutionality of legislative actions in general.