



Ohio Legislative Service Commission

Bill Analysis

Joseph G. Aninao

H.B. 16

129th General Assembly
(As Introduced)

Rep. Sears

BILL SUMMARY

- Specifies that no person may be arrested, charged, or convicted of a state or municipal speeding violation based on a peace officer's unaided visual estimation of the speed of a motor vehicle, trackless trolley, or streetcar.

CONTENT AND OPERATION

Speeding violations based on a peace officer's unaided visual estimation of a vehicle's speed

The bill specifies that no person may be arrested, charged, or convicted of a state or municipal speeding violation¹ or, in certain circumstances, a speeding violation that occurs on a private road or driveway,² based on a peace officer's unaided visual estimation of the speed of a motor vehicle, trackless trolley, or streetcar.³ The term "peace officer" is defined through a cross-reference to a provision of current law.⁴ The bill neither addresses nor affects the use by peace officers of any type of timing device to determine a vehicle's speed, whether the device be radar or any other electrical or mechanical device.

¹ The state speed limits are found in R.C. 4511.21.

² R.C. 4511.211, which is not in the bill.

³ R.C. 4511.091(C)(1).

⁴ R.C. 4511.091(C)(2). The cross-reference is to R.C. 2935.01, which is not in the bill.

COMMENT

In *Barberton v. Jenney*,⁵ the Supreme Court of Ohio upheld the conviction of one Mark Jenney for traveling at a speed of 79 miles per hour in a 60 mile per hour zone in violation of the state speeding statute.⁶ At trial, the officer who had issued the citation testified as to his training and experience in visually estimating the speed of a vehicle and that, based on that training and experience, he had estimated Jenney's speed as being well in excess of the posted speed limit. The officer also testified that he had used a radar unit to determine the speed of Jenney's vehicle. The trial judge found Jenney guilty of the speeding violation, basing the conviction solely on the involved law enforcement officer's unaided visual estimation of Jenney's vehicle at the time of the offense. Jenney appealed his conviction to the Ninth District Court of Appeals, which upheld the decision of the trial court.

The Supreme Court upheld the judgment of the Court of Appeals, holding that a police officer's "unaided visual estimation" of a vehicle's speed is sufficient evidence to support a conviction for speeding in violation of the state speed limit statute without independent verification of the vehicle's speed if the officer is trained, is certified by the Ohio Peace Officer Training Academy or a similar organization that develops and implements training programs to meet the needs of law enforcement professionals and the communities they serve, and is experienced in visually estimating vehicle speed. The Court stated that, in the case before it, given the involved law enforcement officer's training, OPOTA certification, and experience in visually estimating vehicle speed, his estimation that Jenney was traveling at 79 miles per hour was sufficient to support a conviction for driving over the posted speed limit of 60 miles per hour in violation of the state speed limit statute.

HISTORY

ACTION	DATE
Introduced	01-11-11

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⁵ (2010), 126 Ohio St.3d 5.

⁶ Specifically, R.C. 4511.21(D).