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OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research
and Drafting

Legislative Budget
Office

H.B. 416*
135th General Assembly

Occupational Regulation Report

[Click here for H.B. 416's Bill Analysis / Fiscal Note](#)

Primary Sponsor: Rep. Patton

Impacted Profession: Traffic camera dealers

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LSC is required by law to issue a report for each introduced bill that substantially changes or enacts an occupational regulation. The report must: (1) explain the bill's regulatory framework in the context of Ohio's statutory policy of using the least restrictive regulation necessary to protect consumers, (2) compare the regulatory schemes governing the same occupation in other states, and (3) examine the bill's potential impact on employment, consumer choice, market competition, and cost to government.¹

LEAST RESTRICTIVE REGULATION COMPARISON

Ohio's general regulatory policy

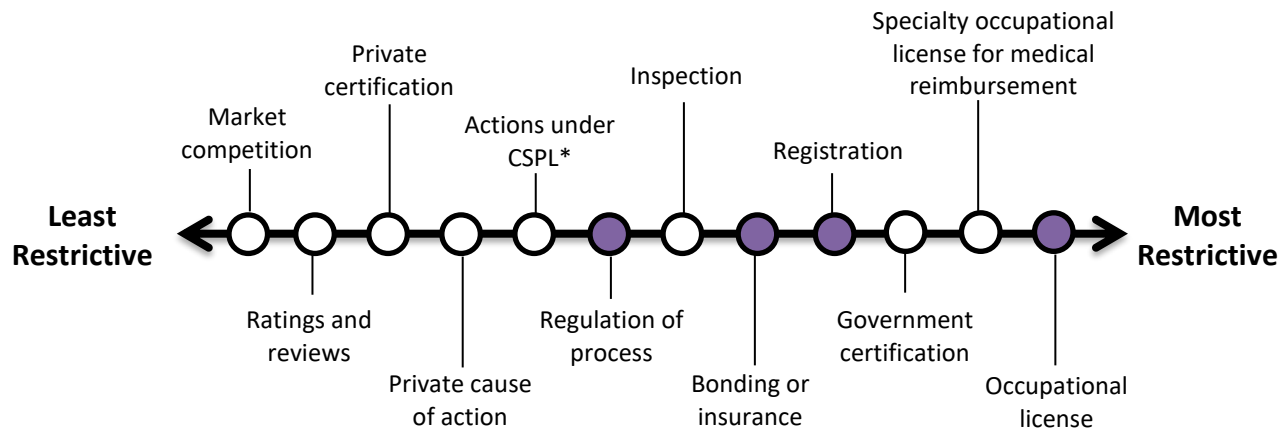
The general policy of the state is reliance on market competition and private remedies to protect the interests of consumers in commercial transactions involving the sale of goods or services. For circumstances in which the General Assembly determines that additional safeguards are necessary to protect consumers from "present, significant, and substantiated harms that threaten health, safety, or welfare," the state's expressed intent is to enact the "least restrictive regulation that will adequately protect consumers from such harms."²

The degree of "restrictiveness" of an occupational regulation is prescribed by statute. The following graphic identifies each type of occupational regulation expressly mentioned in the state's policy by least to most restrictive:

* This report addresses the "As Introduced" version of H.B. 416. It does not account for changes that may have been adopted after the bill's introduction.

¹ R.C. 103.26, not in the bill.

² R.C. 4798.01 and 4798.02, neither in the bill.



*CSPL – The Consumer Sales Practices Law

H.B. 416 establishes a new regulatory program that requires traffic camera dealers to do all of the following relating to occupational regulation:

- Obtain a license from the Department of Commerce’s Division of Industrial Compliance (DIC);³
- Pay a \$100,000 license fee to the DIC for the issuance of each such initial or annually renewed license;⁴
- Include evidence in the license application of bonding or insurance in an amount of \$1 million;⁵
- Register with the Tax Commissioner to pay a specified tax;⁶
- Pay the Department of Public Safety (DPS) a \$5,000 fee for each calibration test that the bill requires DPS to conduct on each traffic camera in the state each month;⁷
- Within 48 hours after a local authority mails a ticket regarding a traffic law violation captured by the dealer’s traffic camera, mail a notice of the available appeals process to the registered owner of the motor vehicle involved;⁸

³ R.C. 4787.02(A).

⁴ R.C. 4787.04.

⁵ R.C. 4787.03(B).

⁶ R.C. 5755.01(A), 5755.02, and 5755.03.

⁷ R.C. 4787.05(B).

⁸ R.C. 4787.06.

- Ensure that its traffic cameras are operating in accordance with state and local laws and with generally accepted standards;⁹
- Annually provide to specified governmental authorities a certificate of proper operation attesting to its cameras' accuracy in recording traffic law violations.¹⁰

The bill defines "person" as an individual, corporation, business, trust, partnership, and association, but not a political subdivision.¹¹ Although it appears that this new license generally will function as a business license, the licensure requirement also applies to individuals.

Necessity of regulations

Representative Thomas Patton, the bill's primary sponsor, testified that the bill is necessary because the State of Ohio has no oversight of traffic cameras that are used to enforce its laws. He explained that the only information the state possesses regarding the quantity, location, and manufacturers of such cameras is obtained through voluntary disclosure by a handful of municipalities that use them (combined with mandatory tax filings submitted to the Ohio Department of Taxation). He stated that none of the traffic camera companies thus reported by municipalities are headquartered in Ohio.

Representative Patton asserted that these out-of-state traffic camera dealers have taken between \$20.3 million and \$27 million from Ohio motorists in fiscal years 2020 through 2023. He arrived at these figures by calculating that traffic cameras have resulted in the collection of \$67.6 million in fines and that traffic camera dealers have received between 30% to 40% of these gross receipts. He said that these fine amounts continue to climb each year the traffic cameras are allowed to operate.

Representative Patton explained that the bill's \$100,000 per-camera annual license fee for traffic camera dealers will be used to pay DPS's equipment, staffing, and transportation costs to calibrate traffic cameras monthly as required under the bill. He stated that such calibration, which costs \$5,000 per camera per month, is necessary to ensure that traffic cameras accurately report a driver's speed. Further, he pointed out that the license fees are dwarfed by the millions in fines collected annually through the use of these cameras.

He also highlighted that the bill seeks to tax the receipts generated via traffic cameras at a rate of 8 per cent. He stated that the resulting tax revenue would be used to fund treatment for first responders with post-traumatic stress disorder.

Finally, Representative Patton testified that no compelling evidence exists to show that speed cameras improve safety; he said they result in tickets that are issued weeks after the violation, when there is no opportunity to intervene in the speeding driver's behavior. Concluding that traffic cameras are nothing more than a revenue generator for a handful of municipalities

⁹ R.C. 4787.05(A).

¹⁰ R.C. 4787.05(A).

¹¹ R.C. 4787.01.

and out-of-state companies at the expense of Ohio drivers, he stated that the bill would reroute this revenue back to Ohio.¹²

Restrictiveness of regulations

Licensure

Licensure is the most restrictive of all regulatory options identified within the state's continuum of regulations. Accordingly, the state's policy prescribes a narrow range of situations in which required licensure is appropriate; specifically, when all of the following circumstances are present:

- The occupation involves providing a service regulated by both state and federal law;
- The licensing framework allows individuals licensed in other states and territories to practice in Ohio; and
- The licensing requirement is based on uniform national laws, practices, and examinations that have been adopted by at least 50 U.S. states and territories.¹³

It does not appear that the bill satisfies the state policy's first criterion because dealing in traffic cameras is not regulated by federal law. Furthermore, it does not appear that the bill satisfies the state policy's remaining two criteria because no other state requires licensure of traffic camera dealers.

Traffic camera dealer license

The bill increases restrictiveness by creating a new license for traffic camera dealers. Under the bill, any person who engages in the business of selling, renting, providing, installing, repairing, or otherwise managing traffic law photo-monitoring devices must obtain the license from the DIC.¹⁴ Under continuing law, "traffic law photo-monitoring device" means an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces recorded images.¹⁵ Engaging in this business without a license is a first degree misdemeanor, subject to a fine of \$1,000, with each day of violation constituting a separate offense.¹⁶

¹² See [Representative Thomas Patton Sponsor Testimony \(PDF\)](#), available on the General Assembly's website, legislature.ohio.gov, by searching for "HB 416" and looking under the "Committee Activity" tab.

¹³ R.C. 4798.02, not in the bill.

¹⁴ R.C. 4787.02(A) and 4787.03(A).

¹⁵ R.C. 4511.092(J).

¹⁶ R.C. 4787.99.

License duration and fee

Under the bill, a traffic camera dealer license is valid for one year and may be renewed.¹⁷ An applicant for an initial or renewed license must pay a \$100,000 licensing fee.¹⁸

Application requirements

The bill requires an applicant for a traffic camera dealer license to submit an application that includes specified information, such as names of political subdivisions with which the applicant intends to conduct business, information regarding the types of traffic cameras the applicant deals in and the cameras' maintenance and calibration schedules, and evidence that the applicant is bonded or insured up to at least \$1 million.¹⁹

Disqualification from licensure

Under the bill, an applicant that has committed any of the following is disqualified from being issued a license:

- A disqualifying offense specified on a list the DIC adopts;
- A violation of the Traffic Camera Dealer Law or rules adopted under it;
- A demonstration of incompetence or untrustworthiness; or
- Fraud, deception, or misrepresentation in conducting its business, in obtaining (or attempting to obtain) a traffic camera dealer license, or in obtaining an order, ruling, or authorization from the DIC.²⁰

License revocation for failure to report or pay tax or penalty

The bill imposes a new tax on traffic camera dealers (see "**Tax**," below).²¹ Under the bill, a traffic camera dealer that fails to do either of the following with respect to the tax is subject to license revocation:

- Report or pay the tax as required under the bill; or
- Pay a related penalty within 90 days after the penalty payment is due.

The bill requires a registered traffic camera dealer to notify the Tax Commissioner if a license issued to the dealer under the Traffic Camera Dealer Law expires or is revoked.²²

¹⁷ R.C. 4787.03(E).

¹⁸ R.C. 4787.04.

¹⁹ R.C. 4787.03(B).

²⁰ R.C. 4787.03(C).

²¹ R.C. 5755.02.

²² R.C. 5755.03(D).

Registration

The state's general policy provides that a registration requirement is the appropriate means by which to protect consumers "against potential damages by transient providers."²³

The bill may increase restrictiveness by requiring every traffic camera dealer in the state to register as a taxpayer with the Tax Commissioner not later than 30 days after first receiving gross receipts (note that a dealer may have to register under continuing law for other tax purposes). The dealer must provide a copy of the dealer's license and specified identification (i.e., the federal employer identification number, Social Security number, or equivalent, as applicable) along with any other information the Commissioner requires.²⁴

The bill's registration requirement enables administration of a new tax that the bill levies on traffic camera dealers (regardless of licensure²⁵) (see "**Tax**," below.) Because the purpose of the bill's registration requirement appears to be identifying traffic camera dealers as taxpayers rather than protecting consumers against transient providers, it does not appear that the bill satisfies the state's policy in this regard.

A traffic camera dealer that fails to register as the bill requires must pay a \$100 fee for each month or part thereof of noncompliance, not to exceed \$1,000. (The Tax Commissioner may abate the fee for good cause.)²⁶

Bonding or insurance

The bill increases restrictiveness by requiring an applicant for a traffic camera dealer license to submit evidence to the DIC that the applicant is bonded or insured to an amount of \$1 million.²⁷

Under the state's general policy on occupational regulations, a bonding or insurance requirement is appropriate when the intent of the regulation is to protect against potential damages to third parties and other types of externalities.²⁸ The question of whether the bill satisfies this provision is a policy judgment. However, according to sponsor testimony on the bill, millions in fines are collected annually from drivers via traffic camera used in Ohio, and calibrating the cameras to ensure they are working properly (as the bill requires DPS to do) is costly. Therefore, it could be argued that the bonding or insurance requirement is appropriate to protect drivers and DPS.

²³ R.C. 4798.02(B)(4), not in the bill.

²⁴ R.C. 5755.01, 5755.03(A), and 5755.14.

²⁵ R.C. 5755.14.

²⁶ R.C. 5755.03(B).

²⁷ R.C. 4787.03(B).

²⁸ R.C. 4798.02(B)(3), not in the bill.

Process regulation

The state's policy does not provide specific guidance as to when a regulation of process is the best means of protecting the health, safety, and welfare of consumers. However, the policy as a whole suggests that regulations of process are the most preferred method of regulation when market competition, ratings and reviews, private certifications, private causes of action, and actions under the state's Consumer Sales Practices Law do not provide sufficient protection.²⁹

Whether these mechanisms are a sufficient means of protecting consumers is a policy decision. However, process regulations are common under continuing Ohio law. For example, holders of a new motor vehicle dealer license (which generally are businesses but may include individuals) must comply with several process regulations, such as a requirement to immediately notify the Registrar of Motor Vehicles on terminating the employment of a licensed salesperson.³⁰

The bill increases restrictiveness by establishing new process regulations for licensed traffic camera dealers as described below.

Calibration test and fee

Under the bill, DPS must test the calibration of each traffic camera each month. The bill increases restrictiveness for licensed traffic camera dealers by requiring them to pay DPS a \$5,000 fee for each such calibration test on their cameras.³¹ Failing to pay the calibration fee (but not failing to have the camera calibrated) is a first degree misdemeanor, subject to a fine of \$1,000.³²

Notice to registered owner

The bill requires a licensed traffic camera dealer, within 48 hours after a local authority mails a ticket regarding a traffic law violation captured by a licensee's traffic cameras, to send a notice of the available appeals process by regular mail to the registered owner of the motor vehicle involved.³³ Failing to do so is a first degree misdemeanor, subject to a fine of \$1,000, with each day of violation constituting a separate offense.³⁴

Certificate of proper operation

Under the bill, a licensed traffic camera dealer must ensure both of the following:

²⁹ R.C. 4798.01, not in the bill.

³⁰ R.C. 4517.02, and 4517.20, not in the bill.

³¹ R.C. 4787.05(B).

³² R.C. 4787.99.

³³ R.C. 4787.06.

³⁴ R.C. 4787.99.

- That all installation, repair, service, and maintenance of a traffic law photo-monitoring device is performed in accordance with state and local laws and with generally accepted standards; and
- That material alterations to the device adhere to any appropriate standards for the alteration.

Failing to ensure either of the above is a first degree misdemeanor, subject to a fine of \$1,000, with each day of violation constituting a separate offense.³⁵

The bill also requires a licensed traffic camera dealer to annually provide a certificate of proper operation attesting to its devices' accuracy in recording traffic law violations to each local authority using its devices, the DIC, and DPS.³⁶

Under the bill, a licensed traffic camera dealer must provide the certificate to a local authority no later than the last day of January of each year. In addition, the bill requires the licensee to provide a device's maintenance record to such a local authority on request.³⁷ (Under current law, traffic camera manufacturers are subject to these requirements involving local authorities.)

IMPACT STATEMENT

Opportunities for employment

Under H.B. 416, employment opportunities for traffic camera dealers would be restricted to individuals who comply with a regulatory program, including obtaining and maintaining licensure. Therefore, any traffic camera dealer who does not meet the requirements would be penalized for noncompliance, which could cause unprofitable individuals to exit the market and deter potentially unqualified individuals from entering the market.

Consumer choice and market competition

For consumer choice and market competition, the bill is expected to result in either market exit for traffic camera dealers or an insignificant impact, depending on the municipality. Given the registration and renewal fee and the calibration test, each traffic camera dealer would incur a minimum cost of \$160,000 annually. This would deter dealers from continuing their business in municipalities where the expected revenues are less than the costs.

In municipalities where the expected revenue from fines exceeds the costs, the impact of the bill on consumer choice and market competition would be minimal. The traffic camera market consists of few major traffic camera dealers, so the introduction of a regulatory program would not substantially reduce the market competition or limit consumer choice. The existing major service providers would likely continue to operate as before. In addition, the required

³⁵ R.C. 4787.99.

³⁶ R.C. 4511.0911(B) and 4787.05(A).

³⁷ R.C. 4511.0911(A) and (B).

monthly calibration test might improve the quality assurance of traffic cameras, thereby enhancing consumer choice.

Cost to government

The cost to state government would be to hire new staff to perform calibration testing, which could be partially offset by fees collected from traffic camera vendors. Local governments might have a revenue loss due to the potential exit of traffic camera dealers from the market. For further details on any potential costs to the government, please refer to the [LBO fiscal note](#).

SUMMARY OF PROPOSED REGULATIONS

Tax

The bill increases restrictiveness by assessing an 8% tax on a traffic camera dealer's gross receipts from the sale of traffic cameras in Ohio. This tax applies to all traffic camera dealers regardless of licensure. The tax is higher than the commercial activity tax (CAT) rate of 0.26%, and the bill does not exclude any gross receipts from the tax, unlike the CAT. Currently, it is possible a dealer is subject to the CAT; it would depend on the amount of the dealer's gross receipts. The bill includes reporting requirements and specifies penalties, refund procedures, and assessment procedures. These requirements and procedures are substantially similar to those involved with the CAT.³⁸

Use of fees and tax revenue

The bill specifies that traffic camera dealer license fees must be deposited into the Traffic Camera Dealer Licensure Fund created by the bill for purposes of administering the Traffic Camera Dealer Law.³⁹

The bill dedicates revenue from its tax on traffic camera dealers to DPS to fund post-traumatic stress disorder services for public service officers such as police officers, firefighters, and other first responders.⁴⁰

For an additional explanation of the bill, please see the [LSC Bill Analysis \(PDF\)](#).

COMPARISON TO OTHER STATES

Other states' licensure of traffic camera dealers

It appears that, unlike the bill, no law of any state specifically requires traffic camera dealers to be licensed.

³⁸ R.C. Chapter 5755 and 131.02, 715.013, 4303.26, 5703.052, 5703.053, 5703.19, 5703.263, 5703.50, 5703.70, and 5703.77.

³⁹ R.C. 4787.04.

⁴⁰ R.C. 5755.01 and 5755.13.

Surrounding states' laws governing traffic camera dealers

The states surrounding Ohio vary in whether or how they regulate the use of traffic cameras, and it appears that Pennsylvania is the only one that specifically regulates traffic camera dealers or their compensation in any way. In Pennsylvania, when a red light camera or speed camera is used to enforce traffic laws, compensation to the camera manufacturer or vendor must be based on the value of the equipment and services provided. Such compensation may not be based on the number of traffic citations issued and may not consist of a portion of fines generated by citations.⁴¹

Pennsylvania also requires administrators of red light cameras to annually report the following information (which is considered a public record) to the transportation committees of the Pennsylvania General Assembly: (1) the number of violations and fines issued, (2) a compilation of fines paid and outstanding, and (3) the amount of money paid to the camera vendor or manufacturer.⁴²

(Please note that administrators of traffic cameras are often municipalities. Ohio's authority to regulate a municipality's use of traffic cameras may differ from that of other states due to municipal home rule authority granted in Article XVIII of the Ohio Constitution.⁴³)

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⁴¹ 75 Pa. Cons. Stat. 3116(n), 3117(o), 3369(h), 3370(o), and 3371(o).

⁴² 75 Pa. Cons. Stat. 3116(i) and 3117(j).

⁴³ For more information, see [Municipal Home Rule \(PDF\)](#), which may be accessed on the Legislative Service Commission's website: lsc.ohio.gov.