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MEMORANDUM

TO: [REDACTED]

FROM: BRIDGET COONTZ, AAG, EXECUTIVE AGENCIES

DATE: MAY 11, 2012

SUBJECT: O.R.C. 4511.21, SPEED

I recently received an email from a municipal prosecutor regarding improper speed citations written by [REDACTED]. Although I have only heard from one prosecutor regarding this, it seems that the error could be a common one and a statewide reminder might be appropriate. Ohio Revised Code Section 4511.21, Speed Limits, has only two prohibition sections that can be charged on a ticket. In short, O.R.C. § 4511.21(A) prohibits operation of a motor vehicle at a speed greater or less than is reasonable or proper, and O.R.C. § 4511.21(D) prohibits speeding in a zone that is posted either 55 or 65 mph. These are the only two code sections which state a violation of law, and are therefore the only ones that should be charged when issuing a speeding ticket.

Prosecutors have seen tickets on which [REDACTED] are charging individuals with a violation of O.R.C. § 4511.21(B) and/or O.R.C. § 4511.21(C). These sections do not prohibit a driver from doing anything, rather they are rules of evidence which set forth prima facie speed limits. That is, if a person is driving in excess of a prima facie speed limit set forth in (B) or (C) there is a presumption that the speed is not "reasonable or proper" and he or she should be charged with violating O.R.C. § 4511.21(A).

In conclusion, all [REDACTED] personnel should be reminded that O.R.C. §§ 4511.21(A) and (D) are the only proper sections that can be charged for a speeding violation. Neither §§ 4511.21(B) or (C) state an offense, therefore a ticket charging either is subject to dismissal. If you have any questions or concerns regarding this, please let me know.