

**IN THE SUPREME COURT OF OHIO**

CITY OF DAYTON,	:	
	:	
Plaintiff-Appellant,	:	Supreme Court Case No. 2015-1549
	:	
	:	
v.	:	On Appeal from the Montgomery County
	:	Court of Appeals, Second Appellate
	:	District, Case No. 26643
	:	
	:	
STATE OF OHIO,	:	
	:	
Defendant-Appellee.	:	
	:	

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**REPLY BRIEF OF *AMICUS CURIAE* THE CITY AKRON  
IN SUPPORT OF APPELLANT, CITY OF DAYTON, OHIO**

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## INTRODUCTION

The City of Dayton appealed the Second District’s decision below on the basis that the Contested Provisions of 2014 Am.Sub.S.B. No. 342 (“S.B. 342”) are not general laws under the third and fourth prongs of the Home Rule test established by this Court in *Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963, ¶ 21. In opposition, the State argues that *Canton*’s third and fourth prongs are one and the same, advocating for a new legal standard that has never been adopted or employed by this Court. According to the State, “A law that regulates municipalities satisfies [*Canton*’s] third and fourth factors if it relates to a law that concerns the public health and safety as well as the general welfare of the public.” (Quotation and citation omitted.) Appellee’s Merit Brief at 24.

This, however, is not the law in Ohio. Rather, under the well-established and repeatedly applied precedent set by this Court, when the General Assembly acts to limit municipal authority or does not prescribe a rule of conduct upon citizens generally—as the *Canton* test dictates—the State violates the Home Rule Amendment. The State’s Opposition rests on cases that either predate *Canton* or that interpret constitutional provisions other than the Home Rule Amendment to obscure the reality that this case is not materially different from *Linndale v. State*, 85 Ohio St.3d 52, 53, 706 N.E.2d 1227 (1999). In *Linndale*, this Court struck down a statute that prevented certain municipalities from enforcing speeding laws, even though the state statutes involved were included in the broader motor vehicle statutes. The Court should follow *Linndale* and reverse the Second District.

## ARGUMENT

### THE COURT SHOULD REJECT THE STATE’S ATTEMPT TO REWRITE CANTON.

This Court has held that, pursuant to the Home Rule Amendment, Ohio municipalities may utilize automated traffic cameras to protect their citizens. *See, e.g., Mendenhall v. City of*

*Akron*, 117 Ohio St.3d 33, 2008-Ohio-270, 881 N.E.2d 255, ¶¶ 18-19; *Walker v. City of Toledo*, 143 Ohio St.3d 420, 2014-Ohio-5461, 39 N.E.3d 474, ¶ 3. In *Canton*, this Court articulated a four-prong test for determining whether a state statute is a general law that it has followed, without exception, ever since. 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963, at ¶ 21 (“We ... hold that to constitute a general law for purposes of home-rule analysis, a statute must (1) be part of a statewide and comprehensive legislative enactment, (2) apply to all parts of the state alike and operate uniformly throughout the state, (3) set forth police, sanitary, or similar regulations, rather than purport only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations, and (4) prescribe a rule of conduct upon citizens generally.”).

To avoid the third and fourth prongs of the *Canton* test, the State argues that those two prongs are one and the same, and engineers its own rule of law that eviscerates the *Canton* test (the “State’s Rule of Law”). According to the State, a state statute need only “apply uniformly throughout the State and have a connection to another law that exercises the State’s police power over its citizens” to be valid. Appellee’s Merit Brief at 15.<sup>1</sup> Indeed, according to the State, “once the Court concludes that a law regulating municipalities has a connection to the State’s

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<sup>1</sup> The State’s Opposition reiterates this Rule of Law repeatedly. *See, e.g.*, Appellee’s Merit Brief at 19 (“A ‘general law’ may regulate municipalities or limit their police regulations if it applies statewide in a uniform and comprehensive manner, and has a rational connection to the State’s exercise of its own police-power choices.”); *id.* at 22 (“Under the third and fourth general-law factors, laws regulating or limiting municipal powers set ‘police regulations’ that ‘prescribe rules of conduct on citizens generally’ whenever those laws bear some plausible connection to other state laws exercising the State’s police power.”); *id.* (“These factors place the same limit on ‘general laws’: A law expressly regulating municipalities must have a plausible connection to state laws exercising the police power over the public at large.”); *id.* (“The third and fourth general-law factors require state laws to have a plausible connection to the State’s police power.”); *id.* (“The third and fourth general-law factors address the same concern. Both require a law to have some connection to the State’s police-power choices for the public.”).

police-power choices over the public, the analysis ends.” *Id.* at 40. However, the State’s Rule of Law is not the law of this State, in this Court, under the Home Rule Amendment, or under *Canton*.

A. The State’s attempt to combine the third and fourth prongs of the *Canton* test into some unknown but more lenient test is unsupported by any legal authority.

The State offers four reasons that this Court should abandon the *Canton* test as it exists today and combine the test’s third and fourth prongs into a more State-friendly standard under which the Contested Provisions of S.B. 342 would pass muster. However, none of these reasons provides a legal or policy basis to overturn this Court’s well-reasoned and consistently applied *Canton* test.

First, the State contends that “the [*Canton*] factors’ language supports [the State’s] reading.” Appellee’s Merit Brief at 22. This is facially inaccurate. The *Canton* test has four distinct requirements: To be a general law, “a state statute must (1) be part of a statewide and comprehensive legislative enactment, (2) apply to all parts of the state alike and operate uniformly throughout the state, (3) set forth police, sanitary, or similar regulations, rather than purport only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations, and (4) prescribe a rule of conduct upon citizens generally.” 95 Ohio St. 3d 149, 2002-Ohio-2005, 766 N.E.2d 963, at ¶ 21. The State’s Rule of Law, that legislation need only “bear some plausible connection to other state laws exercising the State’s police power,” reduces the *Canton* test to just its first prong and reads the second, third, and fourth prongs—intended to protect municipal authority—out of the law.

The State relies on *Wymyslo v. Bartec, Inc.*, 132 Ohio St. 3d 167, 2012-Ohio-2187, 970 N.E.2d 898, in support of its argument that the language of *Canton* supports combining the third and fourth prongs of the test. Appellee’s Merit Brief at 22. However, *Wymyslo* is inapposite.

*Wymyslo* involved an alleged regulatory taking by the State. The Court neither considered the Home Rule Amendment nor the *Canton* test. *See generally Wymyslo*. In *Wymyslo*, the Court held that “R.C. 3794, the Smoke Free Workplace Act, is a valid exercise of the state’s police power by Ohio voters and does not amount to a regulatory taking.” *Id.* at syllabus. The legal standard that governs regulatory takings is inapplicable to a constitutional Home Rule challenge.

Second, the State claims that “the pre-*Canton* cases [specifically, *Youngstown v. Evans*, 121 Ohio St. 342, 168 N.E. 844 (1929), and *West Jefferson v. Robinson*, 1 Ohio St.2d 113, 115-116, 205 N.E.2d 382 (1965)] that developed the third and fourth factors used them to describe this same, not a distinct, limit on ‘general laws.’” Appellee’s Merit Brief at 23. But pre-*Canton* cases did not “use[ ]” *Canton*’s “factors” because this Court had not yet enunciated *Canton*’s factors. Moreover, *Youngstown* and *West Jefferson* do not stand for a rule of law that disregards municipal power, as the State claims. In *Youngstown*, the Court struck down a state statute that limited the available penalties for municipal misdemeanors because the state statute was both “not a general law in the sense of prescribing a rule of conduct upon citizens generally” and “a limitation upon law making by municipal legislative bodies”—articulating almost precisely the third and fourth prongs of *Canton*. 121 Ohio St. at 345. Similarly, in *West Jefferson*, this Court invalidated state statutes that limited municipalities’ licensing powers on the ground that they “purport[ed] only to grant legislative power to and to limit legislative power of municipal corporations to adopt and enforce certain police regulations.” 1 Ohio St.2d at 118. The Court made clear the importance of what is now *Canton*’s third prong in pronouncing that:

The words “general laws” as set forth in Section 3 of Article XVIII of the Ohio Constitution mean statutes setting forth police, sanitary or other similar regulations and not statutes which purport only to grant or to limit the legislative powers of a municipal corporation to adopt or enforce police, sanitary or other similar regulations.

*Id.*

Third, the State argues that “the Court’s post-*Canton* cases applying its four-part test confirm that [the third and fourth] factors address the same concern.” Appellee’s Merit Brief at 24. For support, the State cites numerous cases, contending that “[n]one of th[em] [ ] found that a law *violated* one of the two factors, but *satisfied* the other.” *Id.* However, in all of the cases cited by the State, this Court analyzed the challenged legislation under all four prongs of the legal standard. *See id.* (describing the Court’s analysis under the third and fourth prongs in *State ex rel. Morrison v. Beck Energy Corp.*, 143 Ohio St. 3d 271, 2015-Ohio-485, 37 N.E.3d 128; *City of Cleveland v. State*, 138 Ohio St. 3d 232, 2014-Ohio-86, 5 N.E.3d 644; *In re Complaint of Reynoldsburg*, 134 Ohio St. 3d 29, 2012-Ohio-5270, 979 N.E.2d 1229; *City of Cleveland v. State*, 128 Ohio St. 3d 135, 2010-Ohio-6318, 942 N.E.2d 370; *Ohioans for Concealed Carry, Inc. v. Clyde*, 120 Ohio St. 3d 96, 2008-Ohio-4605, 896 N.E.2d 967; *Mendenhall*, 117 Ohio St. 3d 33, 2008-Ohio-270, 881 N.E.2d 255; *Marich v. Bob Bennett Constr. Co.*, 116 Ohio St. 3d 553, 2008-Ohio-92, 880 N.E.2d 906; *Am. Fin. Servs. Ass’n v. City of Cleveland*, 112 Ohio St. 3d 170, 2006-Ohio-6043, 858 N.E.2d 776; *Canton*, 2002-Ohio-2005.) None of these cases suggest that *Canton*’s third and fourth prongs are redundant. This Court’s Home Rule Amendment test explicitly—and intentionally—has four separate requirements. The fact that certain challenged state legislation violated multiple prongs is irrelevant.<sup>2</sup>

Finally, the State claims that combining the third and fourth prongs of the *Canton* test “best adheres to the original meaning of the phrase ‘general laws.’” (Emphasis deleted.)

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<sup>2</sup> On July 8, 2016, the Court of Appeals for the Sixth District affirmed the Lucas County Court of Common Pleas’s finding that certain provisions of S.B. 342 failed *Canton*’s test. The Sixth District specifically held that those provisions “fail to satisfy the second, third, and fourth prongs of the *Canton* ‘general law’ analysis.” *See City of Toledo v. State of Ohio*, 6th Dist. Lucas No. L-15-1121, Decision and Judgment (July 8, 2016), at ¶ 44. In so holding, the court evaluated S.B. 342 under each of *Canton*’s factors and found that S.B. 342 violated the third and fourth factors for independent reasons. *Id.* at ¶¶ 23-31.

Appellee's Merit Brief at 28. However, the State's support for this argument relies exclusively on cases that predate the Home Rule Amendment and therefore provide no relevant guidance. *Id.* at 28-30, citing *State ex rel. Att'y General v. Hawkins*, 44 Ohio St. 98, 5 N.E. 228 (1886); *Bronson v. Oberlin*, 41 Ohio St. 476 (1885); *Costello v. Vill. of Wyoming*, 49 Ohio St. 202, 30 N.E. 613 (1892); *Cincinnati St. Ry. Co. v. Horstman*, 72 Ohio St. 93, 73 N.E. 109 (1905). In addition, this argument makes clear that the State is advocating for a new Home Rule Amendment test, and that the Contested Provisions of S.B. 342 are invalid under the existing standard.

B. The State's proposed Rule of Law is not supported by this Court's pre- or post-Canton decisions.

The State next argues that this Court's decisions support the proposition that a state statute does not violate the Home Rule Amendment so long as it relates to other state laws that validly exercise the State's police powers—the State's Rule of Law. *See* Appellee's Merit Brief at 25-31. The cases that the State cites in support of this proposition, however, do not establish the State's Rule of Law. Rather, they support an unmodified application of the *Canton* test.

The State first relies on certain pre-*Canton* decisions to support its interpretation of *Canton*. *See id.*, citing *Niehaus v. State*, 111 Ohio St. 47, 144 N.E. 433 (1924); *Schneiderman v. Sesanstein*, 121 Ohio St. 80, 167 N.E. 158 (1929); *Canton v. Whitman*, 44 Ohio St. 2d 62, 337 N.E.2d 766 (1975); *In re Decertification of Eastlake*, 66 Ohio St. 2d 363, 422 N.E.2d 598 (1981); *Ohio Ass'n of Private Detective Agencies, Inc. v. North Olmsted*, 65 Ohio St. 3d 242, 602 N.E.2d 1147 (1992). None of these cases involved an interpretation of the *Canton* test, so they provide no support for the State's reimagination of the law.

Moreover, none of the post-*Canton* decisions that the State relies on in support of adopting its truncated Rule of Law militate in favor of amending or abandoning the *Canton* test.

To the contrary, in each of the post-*Canton* cases cited by the State, the Court expressly applied all four prongs of the *Canton* test, and concluded that each was satisfied, to wit:

- In *Am. Fin. Servs. Ass'n v. City of Cleveland*, the Court applied *Canton*'s third and fourth prongs in upholding a predatory lending bill that regulated consumer lenders. 112 Ohio St. 3d 170, 2006-Ohio-6043, 858 N.E.2d 776, ¶¶ 3-13, 35-36. In so holding, the Court found that the law “establishe[d] rules of conduct for all lenders in Ohio and also provide[d] remedies for all consumers subject to predatory loans if lenders violate the state statute.” *Id.* at ¶ 36.
- In *Marich v. Bob Bennett Constr. Co.*, the Court applied *Canton*'s third and fourth prongs in upholding state statutes regulating the width of certain vehicles. 116 Ohio St. 3d 553, 2008-Ohio-92, 880 N.E.2d 906, 914, ¶¶ 26-29. In so holding, the Court found that “[the statutes] neither grant[ed] nor limit[ed] [municipalities’] legislative power to set forth separate police-power regulations” and that “[t]he rule of conduct” that the statutes created “applie[d] to all citizens generally[.]” *Id.* at ¶ 28.
- In *Mendenhall v. City of Akron*, the Court applied *Canton*'s third and fourth prongs in upholding a statute regulating speed limits. 117 Ohio St. 3d 33, 2008-Ohio-270, 881 N.E.2d 255, ¶¶ 24-25. In so holding, the Court found that R.C. 4511.21 “establish[es] the rules regulating the speed of motor vehicles within Ohio” and “prescribe[s] a rule of conduct on citizens generally. *Id.* at ¶¶ 24-25.<sup>3</sup>

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<sup>3</sup> The State suggests that S.B. 342 addresses due-process issues because “[t]he promotion provision promotes fairness in municipal traffic enforcement,” and claims that “th[is] Court has already observed that traffic cameras raise due-process questions. *Id.*, citing *Mendenhall* at ¶ 40. This Court did not find that there were due process violations; the certified question in *Mendenhall* did not involve whether the City of Akron’s automated traffic camera program violated due process rights. *See Mendenhall* at ¶ 40. After this Court answered the certified

- In *Ohioans for Concealed Carry, Inc. v. City of Clyde*, the Court applied *Canton*'s third and fourth prongs in upholding state handgun licensing laws. 120 Ohio St. 3d 96, 2008-Ohio-4605, 896 N.E.2d 967, ¶¶ 48-52. In so holding, the Court found that the law “provides a program to foster proper, legal handgun ownership in this state” and “prescribes a rule of conduct for any citizen seeking to carry a concealed handgun.” *Id.* at ¶¶ 50, 52.
- In *City of Cleveland v. State*, the Court applied *Canton*'s third and fourth prongs in upholding state gun laws. 128 Ohio St. 3d 135, 2010-Ohio-6318, 942 N.E.2d 370, ¶¶ 1, 17. In so holding, the Court “conclude[d] that R.C. 9.68 establishes police regulations rather than limiting municipal legislative power” and that “[it] applies to all citizens generally.” *Id.* at ¶¶ 28-29.
- In *In re Complaint of Reynoldsburg*, the Court applied *Canton*'s third and fourth prongs in upholding statutes regulating public utility tariffs. 134 Ohio St. 3d 29, 2012-Ohio-5270, 979 N.E.2d 1229, ¶¶ 46-49. In so holding, the Court found that the relevant laws did not “grant or limit the municipality’s legislative police power to enact separate regulations to control and use the public right of way” and that “the rule applies to all citizens of this state ....” *Id.* at ¶¶ 48-49.

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question presented, the District Court for the Northern District of Ohio and the Sixth Circuit concluded that Akron’s program did meet due process requirements: “As the district court found, the ordinance provides for notice of the citation, an opportunity for a hearing, provision for a record of the hearing decision, and the right to appeal an adverse decision. We agree with the district court that the ordinance and its implementation, as detailed in the stipulations, satisfy due process, and reject plaintiff’s assertion that it violates due process to impose civil penalties for speeding violations irrespective of whether the owner was, in fact, driving the vehicle when the violation was recorded.” *Mendenhall v. City of Akron*, 374 Fed. Appx. 598, 600 (6th Cir. 2010).

Because the Court’s analysis in each of these cases does not deviate from the plain language of the *Canton* test, including its third and fourth prongs, the cases do not support the State’s Rule of Law or provide a basis for interpreting *Canton* in the manner advocated by the State.

C. The State’s reading of this Court’s *in pari materia* precedents eliminates the Home Rule Amendment’s protections of municipal authority.

The State also contends that S.B. 342 satisfies the State’s Rule of Law because the Contested Provisions must be viewed *in pari materia* with State laws governing traffic generally, and therefore the constitutionality of the Contested Provisions should not be analyzed independently. Appellee’s Merit Brief at 30. This argument impermissibly reads municipal authority out of existence. Indeed, under the State’s *in pari materia* analysis, it would be difficult to imagine a single law that the General Assembly could pass relating to traffic that would not pass constitutional scrutiny.<sup>4</sup>

The State believes that the Contested Provisions of S.B. 342 “must be assessed together with all state laws on traffic” to determine whether they violate the Home Rule Amendment. *Id.* at 31. This is not the rule, however, as one need look no further than this Court’s decision in *Linndale* to conclude. In *Linndale*, the Court determined the constitutionality of a state statute that was incorporated into the larger traffic code that prohibited certain municipalities from issuing traffic tickets on interstates. *See* 85 Ohio St.3d 52, 706 N.E.2d 1227. As here, the State “argue[d] that R.C. 4549.17 [wa]s a general law that [wa]s part of a comprehensive statewide

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<sup>4</sup> For example, the General Assembly could pass a law incorporated into R.C. 4511 stating, “No municipality may issue a speeding ticket to any member of the General Assembly.” Because this would be “a law regulating municipalities” that “has a connection to the State’s police power choices over the public,” this law would also be constitutional, according to the State. Appellee’s Merit Brief at 40.

regulatory scheme covering the interstate highway system and that the General Assembly enacted it to assure the traveling public that law enforcement on the interstate highways was not occurring merely as a revenue-raising plot.” *Id.* at 54.

Notwithstanding that the contested law was incorporated into the state’s traffic laws generally, this Court held that R.C. 4549.17 “[wa]s not a general law,” quoting *West Jefferson’s* directive that general laws are “not statutes which purport only to grant or to limit the legislative powers of a municipal corporation to adopt or enforce police, sanitary or other similar regulations.” (Emphasis deleted.) *Id.* at 54-55. The Court concluded that R.C. 4549.17 (a) “[wa]s a statute that sa[id], in effect, certain cities may not enforce local regulations,” (b) was “precisely the type of statute *West Jefferson* denounced,” and (c) did “not prescribe a rule of conduct upon citizens generally as required by this court.” *Id.*, citing *Garcia v. Siffrin Residential Assn.*, 63 Ohio St.2d 259, 268-69, 407 N.E.2d 1369 (1980). The Court held that the contested state law violated the Home Rule Amendment without analyzing any part of the larger Ohio’s Motor Vehicle Crimes law found at R.C. 4549, *et seq.*, of which the contested law was a part. *See generally id.* The State’s lengthy legal analysis obscures the fact that Dayton’s appeal is indistinguishable from—and governed by—*Linndale* in all material respects. If the traffic law enacted by the State in *Linndale* violated the Home Rule Amendment, so too do the Contested Provisions of S.B. 342.

Other decisions by this Court militate in favor of the same result. In *City of Cleveland v. State*, for example, the Court held that the second sentence of a two-sentence statute that prevented municipalities from governing tow vehicles also violated the Home Rule Amendment. 138 Ohio St. 3d 232, 2014-Ohio-86, 5 N.E.3d 644, at ¶ 1. In *City of Cleveland*, like here, the State argued that “[b]ecause R.C. [former] 4921.25 is part of a comprehensive, statewide

legislative framework that regulates tow truck operations, it is a general law that displaces municipal tow truck ordinances.” *Id.* at ¶ 3. Nevertheless, the Court “conclude[d] that a portion of the statute d[id] fail as an unconstitutional limit upon municipal home-rule authority.” *Id.* at ¶ 15. In making this determination, the Court analyzed separately the second sentence of R.C. 4921.25 without regard for the greater legislative enactment in which it was situated:

The second sentence of R.C. 4921.25 provides that “[towing entities are] not subject to any ordinance, rule, or resolution of a municipal corporation, county, or township that provides for the licensing, registering, or regulation of entities that tow motor vehicles.” This sentence violates the third prong of the *Canton* test by purporting to limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations. Unlike the first sentence of R.C. 4921.25, which subjects towing entities to PUCO regulation, the second sentence fails to set forth any police, sanitary, or similar regulations. Unlike the first sentence of R.C. 4921.25, which subjects towing entities to PUCO regulation, the second sentence fails to set forth any police, sanitary, or similar regulations.

*Id.* at ¶ 16.

Similarly, in *Canton*, the Court analyzed two specific provisions of the four-part R.C. 3781.184 to determine whether a state law prohibiting municipalities from regulating manufactured homes violated the Home Rule Amendment. 95 Ohio St. 3d 149, 2002-Ohio-2005, 766 N.E.2d 963, at ¶¶ 33, 36. The *Canton* Court struck down two of the four sub-sections of R.C. 3781.184, finding they were not general laws without regard to the other two sections, which the Court left intact, or any other provisions of the state’s building code, R.C. 3781, *et seq.* *Id.* at ¶ 37.

Finally, on July 8, 2016, the Sixth District Court of Appeals held that certain provisions of S.B.342 were not general laws under *Canton*. *See City of Toledo v. State of Ohio*, 6th Dist. Lucas No. L-15-1121, Decision and Judgment (July 8, 2016). Specifically, the court held that S.B. 342 violates *Canton*’s third prong because its provisions aim “to limit the legislative power

of municipal corporations to set forth their own police, sanitary, or similar regulations[.]” *Id.* at ¶ 25. In response to a dissent, the court addressed the State’s reading of the *in pari materia* doctrine: “The dissent reminds that the provisions of S.B. 342 must be read together with Chapter 4511 as a whole and not in isolation .... But the provisions of a multi-statute legislative act aimed primarily at limiting municipalities’ power to legislate cannot be insulated simply by placing it into a larger statutory scheme.” *Id.* at ¶ 26, citing *Dublin v. State*, 118 Ohio Misc.2d 18, 2002-Ohio-2431, 769 N.E.2d 436, ¶ 326 (C.P.). The Sixth District also held that S.B. 342 violates *Canton*’s fourth prong because “S.B. 342 is aimed not at setting forth rules to be followed by citizens—it is aimed at establishing conditions to be followed by municipalities that wish to use photo-monitoring devices.” *Id.* at ¶ 29.<sup>5</sup>

The State warns that, if the Court does not follow its view on *in pari materia*, a parade of horrible will befall Ohio’s traffic laws: “a holding invalidating the Contested Provisions could throw the State’s entire traffic regime into doubt.” Appellee’s Merit Brief at 33. The State’s argument ignores that R.C. 4511, *et seq.*, as a whole prescribes rules for citizens’ operation of motor vehicles in Ohio. The General Assembly, on the other hand, expressly passed S.B. 342 “to establish conditions for the use by local authorities of traffic law photo-monitoring devices.” 2014 Am.Sub.S.B. No. 342. The State should not be permitted to avoid the ramifications of this Court’s constitutional scrutiny by simply placing such laws within R.C. 4511. And the Court need not worry that past, constitutional regulations of citizens’ operation of motor vehicles will be harmed by a finding that the Contested Provisions of S.B. 342 are not a general law here.

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<sup>5</sup> As the Sixth District correctly noted, even though certain, isolated provisions of S.B. 342 regulate insurers and manufacturers of cameras, the sole purpose of the bill is regulate municipalities. *City of Toledo* at ¶ 30. Under such circumstances, the proper remedy is to sever the constitutional portions of the legislation, as the appellant seeks here. *See, e.g., id.* at ¶¶ 37-38, citing *Cleveland*, 138 Ohio St.3d 232, 2014-Ohio-86, 5 N.E.3d 644, at ¶ 18.

## CONCLUSION

Under the State's reading of this Court's Home Rule Amendment decisions, to pass constitutional muster under the Home Rule Amendment, the State need only draft legislation that "has a connection to the State's police-power choices over the public." Appellant's Merit Brief at 40. The Court should reject the State's arguments and find that the Contested Provisions of S.B. 342 are not general laws because their purpose is to restrict municipal authority by prescribing rules of conduct directly upon municipalities in violation of the third and fourth prongs of the *Canton* test, which should be applied unmodified to this appeal.

This case is controlled by *Linndale*, and the State has offered no authority that would allow modifying this Court's *Canton* test. Just like in *Linndale*, the Court should reverse the Second District's decision.

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**CERTIFICATE OF SERVICE**

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