

The Ohio Supreme Court Holds Driving On but Not Over the Highway Fog Line Is Not a Violation of Ohio Law

By Moriah Cheatham-Williams

In a decision interpreting an Ohio traffic statute concerning highway driving, the Ohio Supreme Court recently held that the single solid white longitudinal line on the right-hand edge of a roadway – the fog line – merely discourages or prohibits a driver from crossing it, and does not prohibit driving on or touching it. The decision resolves a conflict between Ohio appellate courts regarding whether police are authorized to stop a vehicle that is touching, but has not crossed, the fog line. But the Ohio Supreme Court's decision also has implications in civil law.

In its review of [*State v. Turner*](#), Slip Opinion No. 2020-Ohio-6773, the Ohio Supreme Court analyzed R.C. 4511.33(A)(1):

(A) Whenever any roadway has been divided into two or more clearly marked lanes for traffic, or wherever within municipal corporations traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

(1) A vehicle or trackless trolley shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.

The Court examined the definitions for the roadway marking at issue and the vehicular movement that is permitted, as well as the statutory scheme behind the legislation. Because Ohio law gives the Ohio Department of Transportation the authority to adopt a manual for a uniform system of traffic control devices, known as the MUTCD, the Court examined the MUTCD to assist in its review of R.C. 4511.33(A)(1), including the general function of fog lines. The Court explained that because all markings on the roadway serve different purposes, and function to provide guidance and information to drivers, it is important to distinguish what meaning is prescribed to a marking when determining whether R.C. 4511.33(A)(1) has been violated. Because the fog line only serves to mark the right-hand edge of the roadway and merely discourages or prohibits crossing it, not driving on it or touching it, there is no violation of R.C. 4511.33(A)(1) when a vehicle drives on the fog line.

In the high stakes world of catastrophic truck accidents, where the plaintiffs' bar attempts to make a mountain out of every traffic violation mole hill, this decision is positive for the defense. Should a witness statement in the Traffic Crash Report identify our commercial vehicle as having driven on the fog line, there will be no violation of R.C. 4511.33 for the plaintiffs' bar to use against the trucking company. Even if the truck crossed over the fog line, the Ohio Supreme Court has clarified that this is merely discouraged and not necessarily prohibited in every situation.

If you would like more information on this or other issues relating to transportation, please contact any of the listed attorneys.

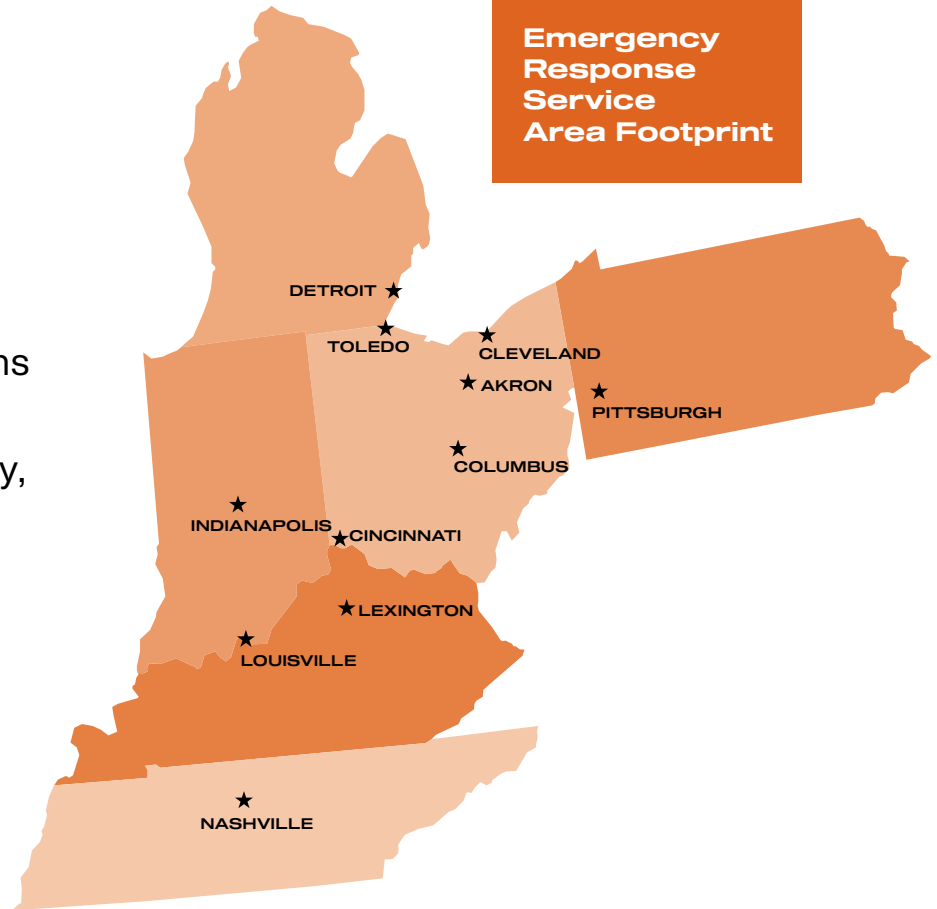
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