

AMENDMENTS TO SENATE BILL NO. 840

Sponsor: SENATOR RAFFERTY

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1 Amend Bill, page 1, lines 1 through 5, by striking out all of
2 said lines and inserting

3 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
4 Statutes, in preliminary provisions, further providing for
5 definitions; and, in rules of the road in general, further
6 providing for speed timing devices and providing for
7 automated speed enforcement systems.

8 Amend Bill, page 1, lines 8 through 19; pages 2 through 13,
9 lines 1 through 30; page 14, lines 1 through 13; by striking out
10 all of said lines on said pages and inserting

11 Section 1. Section 102 of Title 75 of the Pennsylvania
12 Consolidated Statutes is amended by adding definitions to read:
13 § 102. Definitions.

14 Subject to additional definitions contained in subsequent
15 provisions of this title which are applicable to specific
16 provisions of this title, the following words and phrases when
17 used in this title shall have, unless the context clearly
18 indicates otherwise, the meanings given to them in this section:

19 * * *

20 "Automated speed enforcement system." An electronic traffic
21 sensor system that:

22 (1) is able to automatically detect vehicles exceeding
23 the posted speed limit with a type of speed timing device;
24 and

25 (2) records the vehicle's rear license plate, location,
26 date, time and speed.

27 "Automated speed enforcement work area." The portion of an
28 active work zone where construction, maintenance or utility
29 workers are located on the roadway, berm or shoulder and workers
30 are adjacent to an active travel lane and where an automated
31 speed enforcement system is active. For the purposes of this
32 definition, workers shall also be considered adjacent to an
33 active travel lane where workers are present and are protected
34 by a traffic barrier.

35 * * *

1 Section 2. Section 3368(c)(2) of Title 75 is amended and the
2 subsection is amended by adding a paragraph to read:

3 § 3368. Speed timing devices.--

4 * * *

5 (c) Mechanical, electrical and electronic devices
6 authorized.--

7 * * *

8 (2) Except as otherwise provided in paragraph (3),
9 electronic devices such as radio-microwave devices
10 [()], commonly referred to as electronic speed meters or
11 radar[], may be used only as part of an automated speed
12 enforcement system or by members of the Pennsylvania State
13 Police.

14 * * *

15 (5) Light detection and ranging devices, commonly
16 referred to as LIDAR, may be used only as part of an
17 automated speed enforcement system.

18 * * *

19 Section 3. Title 75 is amended by adding a section to read:
20 § 3368.1. Automated speed enforcement systems.

21 (a) Establishment.--A program is established to provide for
22 automated speed enforcement systems in active work areas.

23 (b) Applicability.--This section shall apply only to
24 automated speed enforcement work areas on interstate highways
25 under the jurisdiction of the department or interstate highways
26 or freeways under the jurisdiction of the Pennsylvania Turnpike
27 Commission. An automated speed enforcement system shall not be
28 used unless:

29 (1) At least two appropriate warning signs are
30 conspicuously placed before the active work area notifying
31 the public that an automated speed enforcement device is in
32 use.

33 (2) A notice identifying the location of the automated
34 speed enforcement system is posted on the department's or
35 Pennsylvania Turnpike Commission's publicly accessible
36 Internet website throughout the period of use.

37 (c) Liability.--Driving in excess of the posted speed limit
38 in an automated speed enforcement work area by at least 11 miles
39 per hour is a violation of this section.

40 (d) Notice of violation.--

41 (1) (i) An action to enforce this section shall be
42 initiated by an administrative notice of violation to the
43 registered owner of a vehicle identified by an automated
44 speed enforcement system as violating this section. A
45 notice of violation based upon inspection of recorded
46 images produced by an automated speed enforcement system
47 and sworn or affirmed by an authorized employee of the
48 department or the Pennsylvania Turnpike Commission shall
49 be prima facie evidence of the facts contained in it. The
50 authorized employee of the department or the Pennsylvania
51 Turnpike Commission must be under contract to the

1 department or the Pennsylvania Turnpike Commission.

2 (ii) The notice of violation must include written
3 verification that the automated speed enforcement system
4 was operating correctly at the time of the alleged
5 violation and the date of the most recent inspection that
6 confirms it to be operating properly.

7 (iii) The following shall be attached to the notice
8 of violation:

9 (A) A copy of the recorded image showing the
10 vehicle with its license plate visible.

11 (B) The registration number and state of
12 issuance of the vehicle registration.

13 (C) The date, time and place of the alleged
14 violation.

15 (D) Notice that the violation charged is under
16 this section.

17 (E) Instructions for return of the notice of
18 violation.

19 (2) In the case of a violation involving a motor vehicle
20 registered under the laws of this Commonwealth, the notice of
21 violation shall be mailed within 30 days after the commission
22 of the violation or within 30 days after the discovery of the
23 identity of the registered owner, whichever is later, to the
24 address of the registered owner as listed in the records of
25 the department.

26 (3) In the case of a violation involving a motor vehicle
27 registered in a jurisdiction other than this Commonwealth,
28 the notice of violation shall be mailed within 30 days after
29 the discovery of the identity of the registered owner to the
30 address of the registered owner as listed in the records of
31 the official in the jurisdiction having charge of the
32 registration of the vehicle.

33 (4) A notice of violation shall be invalid unless
34 provided to an owner within 90 days of the offense.

35 (5) The notice shall include the following text:
36 This notice shall be returned personally, by mail or by
37 an agent duly authorized in writing, within 30 days of
38 issuance. A hearing may be obtained upon the written
39 request of the registered owner.

40 (6) Notice of violation must be sent by first class
41 mail. A manual or automatic record of mailing prepared by the
42 system administrator in the ordinary course of business shall
43 be prima facie evidence of mailing and shall be admissible in
44 any judicial or administrative proceeding as to the facts
45 contained in it.

46 (e) Penalty.--

47 (1) The penalty of a violation under this section shall
48 be a fine of \$100, and the fine shall not be subject to 42
49 Pa.C.S. § 3571 (relating to Commonwealth portion of fines,
50 etc.) or 3573 (relating to municipal corporation portion of
51 fines, etc.).

1 (2) The fine is not authorized during times when the
2 automated speed enforcement work area is not active.

3 (3) A penalty imposed under this section shall not be:

4 (i) deemed a criminal conviction;

5 (ii) be made part of the operating record under
6 section 1535 (relating to schedule of convictions and
7 points) of the individual upon whom the penalty is
8 imposed;

9 (iii) the subject of merit rating for insurance
10 purposes; or

11 (iv) authorize imposition of surcharge points in the
12 provision of motor vehicle insurance coverage.

13 (f) Limitations.--

14 (1) Recorded images collected as part of the automated
15 speed enforcement system may record only violations of this
16 section and may not be used for any other surveillance
17 purposes. The restrictions set forth in this paragraph shall
18 not preclude a court of competent jurisdiction from issuing
19 an order directing that the information be provided to law
20 enforcement officials, if the information is requested solely
21 in connection with a criminal law enforcement action and is
22 reasonably described.

23 (2) Notwithstanding any other provision of law,
24 information gathered and maintained under this section which
25 is kept by the Commonwealth, its authorized agents or its
26 employees, including recorded images, written records,
27 reports or facsimiles, names and addresses shall be for the
28 exclusive purpose of discharging its duties under this
29 section. The information shall not be deemed a public record
30 under the act of February 14, 2008 (P.L.6, No.3), known as
31 the Right-to-Know Law. The information shall not be
32 discoverable by court order or otherwise or be admissible as
33 evidence in any proceeding except to determine liability
34 under this section. The restrictions set forth in this
35 paragraph shall not preclude a court of competent
36 jurisdiction from issuing an order directing that the
37 information be provided to law enforcement officials, if the
38 information is requested solely in connection with a criminal
39 law enforcement action and is reasonably described.

40 (3) Recorded images obtained through the use of
41 automated speed enforcement systems deployed as a means of
42 promoting traffic safety in automated speed enforcement work
43 areas shall be destroyed within one year of final disposition
44 of a notice of violation, except that images subject to a
45 court order under paragraph (1) or (2) shall be destroyed
46 within two years after the date of the order, unless further
47 extended by court order.

48 (4) Notwithstanding any other provision of law,
49 registered vehicle owner information obtained as a result of
50 the operation of an automated speed enforcement system shall
51 be the exclusive property of the department or Pennsylvania

1 Turnpike Commission and may not be used for any purpose other
2 than prescribed in this section.

3 (5) A violation of this subsection shall constitute a
4 third-degree misdemeanor punishable by a \$500 fine. Each
5 violation shall constitute a separate and distinct offense.

6 (g) Defenses.--

7 (1) It shall be a defense to a violation under this
8 section that the vehicle was reported to a police department
9 as stolen prior to the time the violation occurred and was
10 not recovered prior to that time.

11 (2) It shall be a defense to a violation under this
12 section that the person receiving the notice of violation was
13 not the owner of the vehicle at the time of the offense.

14 (h) Authority and duties of department and Pennsylvania
15 Turnpike Commission.--

16 (1) The department and Pennsylvania Turnpike Commission
17 shall each establish a five-year automated speed enforcement
18 system program not later than 18 months following the
19 effective date of this section.

20 (2) (i) The department and Pennsylvania Turnpike
21 Commission may each promulgate regulations for the
22 certification and the use of automated speed enforcement
23 systems.

24 (ii) In order to facilitate the prompt
25 implementation of this section, regulations promulgated
26 by the department and Pennsylvania Turnpike Commission
27 under this section shall be deemed temporary regulations
28 and not subject to:

29 (A) Sections 201, 202 and 203 of the act of July
30 31, 1968 (P.L.769, No.240), referred to as the
31 Commonwealth Documents Law.

32 (B) The act of June 25, 1982 (P.L.633, No.181),
33 known as the Regulatory Review Act.

34 (3) (i) The department and Pennsylvania Turnpike
35 Commission shall each serve directly or through a
36 contracted private service as the system administrator of
37 the program. Compensation under a contract authorized by
38 this paragraph shall be based only upon the value of
39 equipment and services provided or rendered in support of
40 the automated speed enforcement system program and may
41 not be based in any part upon the quantity of notices of
42 violation issued or amount of fines imposed or generated.

43 (ii) The system administrator shall prepare and
44 issue notices of violation.

45 (iii) A restricted account is established in the
46 State Treasury for fines remitted to the department or
47 Pennsylvania Turnpike Commission, based on where the
48 violation occurred. The system administrator shall send
49 an invoice to the department or Pennsylvania Turnpike
50 Commission based on the services under subparagraph (i).
51 The department or Pennsylvania Turnpike Commission shall

1 establish a restricted account to remit fines to pay for
2 the administration of the pilot program and the system
3 administrator's invoice costs. Remaining fines shall be
4 allocated by the department or Pennsylvania Turnpike
5 Commission as follows:

6 (A) Seventy-five percent of the fines over the
7 duration of the five-year program from violations
8 occurring in an automated speed enforcement system on
9 either an interstate highway managed by the
10 department or an interstate highway or freeway under
11 the jurisdiction of the Pennsylvania Turnpike
12 Commission shall be deposited into a restricted
13 account on a quarterly basis. The Department of
14 Revenue shall, within 90 days of the date of deposit,
15 transfer to the Pennsylvania State Police an amount
16 equivalent to the previous quarterly deposit to be
17 used by the Pennsylvania State Police as follows:

18 (I) Fifty-five percent of the funds shall be
19 dedicated and used for the purpose of recruiting,
20 training or equipping Pennsylvania State Police
21 Cadets.

22 (II) Forty-five percent of the funds shall
23 be dedicated and used to pay for an increased
24 Pennsylvania State Trooper presence in work zones
25 on the State road system managed by the
26 department or the Pennsylvania Turnpike
27 Commission that do not utilize concrete barriers.
28 The assignments shall be made on as-necessary
29 basis as determined by the Pennsylvania State
30 Police. Funds under this subclause shall be in
31 addition to any contractual agreement between the
32 department or the Pennsylvania Turnpike
33 Commission and the Pennsylvania State Police for
34 enforcement in work zones on the State road
35 system managed by the department or the
36 Pennsylvania Turnpike Commission.

37 (B) Twenty-five percent of the fines over the
38 duration of the five-year program from violations
39 occurring in an automated speed enforcement system
40 shall be transferred to the department or the
41 Pennsylvania Turnpike Commission, whichever State
42 road system utilized the automated speed enforcement
43 system, for the purpose of work zone safety, traffic
44 safety and educating the motoring public on work zone
45 safety, at the discretion of the department or
46 Pennsylvania Turnpike Commission.

47 (iv) If the amount of funds under clause (A) is
48 lower than the amount of funds under clause (A) for the
49 previous fiscal year, funds from the Motor License Fund
50 may not be used to supplement the funds for the current
51 fiscal year. Funding provided for under clause (A) shall

1 be supplemental and shall not prohibit the Pennsylvania
2 State Police from obtaining additional funding from any
3 other means.

4 (v) If the five-year program is not extended by the
5 General Assembly, any remaining fines remitted to the
6 department or Pennsylvania Turnpike Commission shall
7 remain with the department or Pennsylvania Turnpike
8 Commission for the purpose of work zone safety, traffic
9 safety and educating the motoring public on work zone
10 safety, at the discretion of the department or
11 Pennsylvania Turnpike Commission.

12 (vi) The system administrator shall provide an
13 appropriate printed form by which owners may challenge a
14 notice of violation and convenient hearing hours and
15 times in each of the following metropolitan areas for
16 challenges to be heard as provided in this section: Erie,
17 Harrisburg, Philadelphia, Pittsburgh and Scranton. the
18 form may be included with or as part of the notice of
19 violation.

20 (4) Not later than April 1 annually, the department and
21 Pennsylvania Turnpike Commission shall submit a report on the
22 program for the preceding calendar year to the chairperson
23 and minority chairperson of the Transportation Committee of
24 the Senate and the chairperson and minority chairperson of
25 the Transportation Committee of the House of Representatives.
26 The report shall be a public record under the Right-to-Know
27 Law and include:

28 (i) The number of vehicular accidents and related
29 serious injuries and deaths in all work zones and in
30 automated speed enforcement work areas in which the
31 program operated.

32 (ii) Speed data.

33 (iii) The number of notices of violation issued.

34 (iv) The amount of fines imposed and collected.

35 (v) Amounts paid under contracts authorized by this
36 section.

37 (vi) The number of hours of Pennsylvania State
38 Police presence that were provided as a result of the
39 funds under paragraph (3) (iii) (A) (II).

40 (i) Payment of fine.--

41 (1) An owner may admit responsibility for the violation
42 and pay the fine provided in the notice personally, through
43 an authorized agent, electronically or by mailing both
44 payment and the notice of violation to the system
45 administrator.

46 (2) Payment by mail must be made only by money order,
47 credit card or check made payable to the Commonwealth.

48 (3) Payment of the fine shall operate as a final
49 disposition of the case.

50 (4) If payment is not received within 90 days of
51 original notice, the department or Pennsylvania Turnpike

1 Commission may turn the matter over to applicable credit
2 collection agencies.

3 (j) Contest.--

4 (1) An owner may, within 30 days of the mailing of the
5 notice, request a hearing to contest liability by appearing
6 before the system administrator either personally or by an
7 authorized agent or by mailing a request in writing on the
8 prescribed form. Appearances in person shall be only at the
9 locations and times set by the system administrator.

10 (2) Upon receipt of a hearing request, the system
11 administrator shall in a timely manner schedule the matter
12 before a hearing officer designated by the department or
13 Pennsylvania Turnpike Commission. Written notice of the date,
14 time and place of hearing must be presented or sent by first
15 class mail to the owner.

16 (3) The hearing shall be informal and the rules of
17 evidence shall not apply. The decision of the hearing officer
18 shall be final, subject to the right of the owner to appeal
19 the decision.

20 (4) If the owner requests in writing that the decision
21 of the hearing officer be appealed, the system administrator
22 shall file the notice of violation and supporting documents
23 with the office of the magisterial district judge for the
24 magisterial district where the violation occurred, and the
25 magisterial district judge shall hear and decide the matter
26 de novo.

27 (k) Expiration.--This section shall expire five years from
28 the effective date of this section.

29 Section 4. The Secretary of Transportation or the Chairman
30 of the Pennsylvania Turnpike Commission shall publish a notice
31 in the Pennsylvania Bulletin when an automated speed enforcement
32 system is operational in this Commonwealth.

33 Section 5. This act shall take effect as follows:

34 (1) The addition of 75 Pa.C.S. § 3368.1(e) shall take
35 effect 60 days after publication in the Pennsylvania Bulletin
36 of the notice under section 4.

37 (2) The addition of 75 Pa.C.S. § 3368.1(h)(2) shall take
38 effect in 45 days.

39 (3) Section 4 and this section shall take effect
40 immediately.

41 (4) The remainder of this act shall take effect in 60
42 days.