

AMENDMENTS TO SENATE BILL NO. 172

Sponsor: REPRESENTATIVE MARSHALL

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1 Amend Bill, page 1, lines 3 through 5, by striking out "in
2 rules of the road in general, further" in line 3 and all of
3 lines 4 and 5 and inserting

4 in rules of the road in general, providing for pilot program
5 for automated speed enforcement system in highway work zones.

6 Amend Bill, page 1, line 9, by striking out "definitions" and
7 inserting

8 a definition

9 Amend Bill, page 2, lines 6 through 30; pages 3 through 13,
10 lines 1 through 30; page 14, lines 1 through 12; by striking out
11 all of said lines on said pages and inserting

12 Section 2. Title 75 is amended by adding a section to read:
13 \$ 3369. Pilot program for automated speed enforcement system in
14 highway work zones.

15 (a) General rule.--A pilot program is established to provide
16 for an automated speed enforcement system in work zones on State
17 highways. The following apply:

18 (1) The department, following promulgation of
19 regulations, is authorized to enforce section 3362 (relating
20 to maximum speed limits) by recording violations using an
21 automated speed enforcement system approved by the
22 department.

23 (2) This section shall only be applicable on Federal aid
24 highways and the Pennsylvania Turnpike in areas agreed upon
25 by the system administrator and the secretary using an
26 automated speed enforcement system.

27 (b) Owner liability.--For each violation under this section,
28 the owner of the vehicle shall be liable for the penalty imposed
29 unless the owner is convicted of the same violation under
30 another section of this title or has a defense under subsection
31 (g).

32 (c) Certificate as evidence.--A certificate, or a facsimile
33 of a certificate, based upon inspection of recorded images

1 produced by an automated speed enforcement system and sworn to
2 or affirmed by a police officer shall be prima facie evidence of
3 the facts contained in it. The system administrator must include
4 written documentation that the automated speed enforcement
5 system was operating correctly at the time of the alleged
6 violation. A recorded image evidencing a violation of section
7 3362 shall be admissible in any judicial or administrative
8 proceeding to adjudicate the liability for the violation.

9 (d) Penalty.--The following shall apply:

10 (1) The penalty for a violation under subsection (a)
11 shall be a fine of \$40.

12 (2) A penalty is authorized only for a violation of this
13 section if each of the following apply:

14 (i) At least two appropriate warning signs are
15 conspicuously placed at the beginning and end and at two-
16 mile intervals of the designated highway work zone
17 notifying the public that an automated speed enforcement
18 device is in use.

19 (ii) A notice identifying the location of the
20 automated speed enforcement system is posted on a
21 publicly accessible Internet website throughout the
22 period of use.

23 (3) A fine is not authorized during the first 10 days of
24 operation of an automated speed enforcement system in each
25 separate highway work zone.

26 (4) The system administrator may provide a written
27 warning to the registered owner of a vehicle determined to
28 have violated this section during the first 10 days of
29 operation of the automated speed enforcement system.

30 (5) A penalty imposed under this section shall not be
31 deemed a criminal conviction and shall not be made part of
32 the operating record under section 1535 (relating to schedule
33 of convictions and points) of the individual upon whom the
34 penalty is imposed, nor may the imposition of the penalty be
35 subject to merit rating for insurance purposes.

36 (6) No surcharge points may be imposed in the provision
37 of motor vehicle insurance coverage. Penalties collected
38 under this section shall not be subject to 42 Pa.C.S. § 3571
39 (relating to Commonwealth portion of fines, etc.) or 3573
40 (relating to municipal corporation portion of fines, etc.).

41 (e) Liability.--Driving in excess of the posted speed limit
42 along the designated highway work zone by 11 miles per hour or
43 more is a violation of this section.

44 (f) Limitations.--The following shall apply:

45 (1) No automated speed enforcement system shall be
46 utilized in such a manner as to take a frontal view recorded
47 image of the vehicle as evidence of having committed a
48 violation.

49 (2) Notwithstanding any other provision of law, camera
50 equipment deployed as part of an automated speed enforcement
51 system as provided in this section must be incapable of

1 automated or user-controlled remote surveillance by means of
2 recorded video images. Recorded images collected as part of
3 the automated speed enforcement system must only record
4 traffic violations and may not be used for any other
5 surveillance purposes, but may include video of the area
6 enforced when triggered by a violation. The restrictions set
7 forth in this paragraph shall not be deemed to preclude a
8 court of competent jurisdiction from issuing an order
9 directing that the information be provided to law enforcement
10 officials if the information is reasonably described and is
11 requested solely in connection with a criminal law
12 enforcement action.

13 (3) Notwithstanding any other provision of law,
14 information prepared under this section and information
15 relating to violations under this section which is kept by
16 the department, Pennsylvania Turnpike Commission or system
17 administrator or their authorized agents or employees,
18 including recorded images, written records, reports or
19 facsimiles, names, addresses and the number of violations
20 under this section, shall be for the exclusive use of the
21 department, Pennsylvania Turnpike Commission and system
22 administrator, their authorized agents and employees and law
23 enforcement officials for the purpose of discharging their
24 duties under this section. The information shall not be
25 deemed a public record under the act of February 14, 2008
26 (P.L.6, No.3), known as the Right-to-Know Law. The
27 information shall not be discoverable by court order or
28 otherwise, nor shall it be offered in evidence in any action
29 or proceeding which is not directly related to a violation of
30 this section. The restrictions set forth in this paragraph
31 shall not be deemed to preclude a court of competent
32 jurisdiction from issuing an order directing that the
33 information be provided to law enforcement officials if the
34 information is reasonably described and is requested solely
35 in connection with a criminal law enforcement action.

36 (4) Recorded images obtained through the use of
37 automated speed enforcement systems deployed as a means of
38 promoting traffic safety in this Commonwealth shall be
39 destroyed within one year of final disposition of any
40 recorded event except that images subject to a court order
41 under paragraph (2) or (3) shall be destroyed within two
42 years after the date of the order, unless further extended by
43 court order. The department shall file notice with the
44 Department of State that the records have been destroyed in
45 accordance with this section.

46 (5) Notwithstanding any other provision of law,
47 registered vehicle owner information obtained as a result of
48 the operation of an automated speed enforcement system under
49 this section shall not be the property of the manufacturer or
50 vendor of the automated speed enforcement system and may not
51 be used for any purpose other than prescribed in this

1 section.

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

6 (g) Defenses.--The following shall apply:

7 (1) It shall be a defense to a violation under this
8 section that the person named in the notice of the violation
9 was not operating the vehicle at the time of the violation.
10 The owner may be required to submit evidence that the owner
11 was not the driver at the time of the alleged violation. The
12 owner of the vehicle shall not be required to disclose the
13 identity of the operator of the vehicle at the time of the
14 violation.

15 (2) If an owner receives a notice of violation pursuant
16 to this section of a time period during which the vehicle was
17 reported to a police department of any state or municipality
18 as having been stolen, it shall be a defense to a violation
19 under this section that the vehicle has been reported to a
20 police department as stolen prior to the time the violation
21 occurred and had not been recovered prior to that time.

22 (3) It shall be a defense to a violation under this
23 section that the person receiving the notice of violation was
24 not the owner of the vehicle at the time of the offense.

25 (4) It shall be a defense to a violation under this
26 section that the device being used to determine speed was not
27 in compliance with section 3368 (relating to speed timing
28 devices) with respect to testing for accuracy, certification
29 or calibration.

30 (h) Department approval.--No automated speed enforcement
31 system may be used without the approval of the department. The
32 department shall have the authority to promulgate regulations
33 for the certification and use of the systems, which may include
34 the use of radio-microwave devices (commonly referred to as
35 electronic speed meters or radar) or light detection and ranging
36 devices (commonly referred to as LIDAR) in their operations.
37 Notwithstanding any other provision of law, these devices shall
38 be tested for accuracy at regular intervals as designated by
39 regulation of the department.

40 (i) Procedure.--The following shall apply:

41 (1) An automated speed enforcement system may not be
42 used unless there is posted an appropriate sign in a
43 conspicuous place before the area in which the automated
44 speed enforcement device is to be used notifying the public
45 that an automated speed enforcement device is in use
46 immediately ahead.

47 (2) The department and the Pennsylvania Turnpike
48 Commission shall designate or appoint a system administrator
49 or system administrators to supervise and coordinate the
50 administration of notices of violation issued under this
51 section.

1 (3) A system administrator shall prepare a notice of
2 violation to the registered owner of a vehicle identified in
3 a recorded image produced by an automated speed enforcement
4 system as evidence of a violation of section 3362. The notice
5 of violation must be issued by a police officer employed by
6 the police department with primary jurisdiction over the area
7 where the violation occurred. The notice of violation shall
8 have the following attached to it:

9 (i) a copy of the recorded image showing the
10 vehicle;

11 (ii) the registration number and state of issuance
12 of the vehicle registration;

13 (iii) the date, time and place of the alleged
14 violation;

15 (iv) notice that the violation charged is under
16 section 3362; and

17 (v) instructions for return of the notice of
18 violation, which shall read:

19 This notice shall be returned personally, by mail or
20 by an agent duly authorized in writing, within 30
21 days of issuance. A hearing may be obtained upon the
22 written request of the registered owner.

23 (j) System administrator.--The following shall apply:

24 (1) A system administrator may hire and designate
25 personnel as necessary or contract for services to implement
26 this section.

27 (2) The system administrator shall process notices of
28 violation and penalties issued under this section.

29 (3) Not later than April 1 annually, the system
30 administrator shall submit an annual report to the
31 chairperson and the minority chairperson of the
32 Transportation Committee of the Senate and the chairperson
33 and minority chairperson of the Transportation Committee of
34 the House of Representatives. The report shall be considered
35 a public record under the Right-to-Know Law and include for
36 the prior year:

37 (i) The number of violations and fines issued and
38 data regarding the speeds of vehicles in the enforcement
39 area.

40 (ii) A compilation of penalties paid and
41 outstanding.

42 (iii) The amount of money paid to a vendor or
43 manufacturer under this section.

44 (iv) The number of vehicular accidents and related
45 serious injuries and deaths along the designated highway
46 work zones.

47 (k) Notice to owner.--In the case of a violation involving a
48 motor vehicle registered under the laws of this Commonwealth,
49 the notice of violation must be mailed within 30 days after the
50 commission of the violation or within 30 days after the
51 discovery of the identity of the registered owner, whichever is

1 later, and not thereafter to the address of the registered owner
2 as listed in the records of the department. In the case of motor
3 vehicles registered in jurisdictions other than this
4 Commonwealth, the notice of violation must be mailed within 30
5 days after the discovery of the identity of the registered owner
6 to the address of the registered owner as listed in the records
7 of the official in the jurisdiction having charge of the
8 registration of the vehicle. A notice of violation under this
9 section must be provided to an owner within 90 days of the
10 commission of the offense.

11 (l) Mailing of notice and records.--Notice of violation must
12 be sent by first class mail. A manual or automatic record of
13 mailing prepared by the system administrator in the ordinary
14 course of business shall be prima facie evidence of mailing and
15 shall be admissible in any judicial or administrative proceeding
16 as to the facts contained in it.

17 (m) Payment of fine.--The following shall apply:

18 (1) An owner to whom a notice of violation has been
19 issued may admit responsibility for the violation and pay the
20 fine provided in the notice.

21 (2) Payment must be made personally, through an
22 authorized agent, electronically or by mailing both payment
23 and the notice of violation to the system administrator.
24 Payment by mail must be made only by money order, credit card
25 or check made payable to the system administrator. The system
26 administrator shall remit the fine, less the system
27 administrator's operation and maintenance costs necessitated
28 by this section, to the department for deposit into a
29 restricted receipts account in the Motor License Fund. Fines
30 deposited in the fund under this paragraph shall be used by
31 the department for a Transportation Enhancement Grants
32 Program as established by section 3116 (relating to automated
33 red light enforcement systems in first class cities). The
34 department shall award transportation enhancement grants on a
35 competitive basis. The department may pay actual
36 administrative costs arising from the department's
37 administration of this section. The department may not
38 reserve, designate or set aside a specific level of funds or
39 percentage of funds to an applicant prior to the completion
40 of the application process, nor may the department designate
41 a set percentage of funds to an applicant.

42 (3) Payment of the established fine and applicable
43 penalties shall operate as a final disposition of the case.

44 (n) Hearing.--The following shall apply:

45 (1) An owner to whom a notice of violation has been
46 issued may, within 30 days of the mailing of the notice,
47 request a hearing to contest the liability alleged in the
48 notice. A hearing request must be made by appearing before
49 the system administrator during regular office hours either
50 personally or by an authorized agent or by mailing a request
51 in writing. A hearing request form may be included with or as

1 part of the notice of violation.

2 (2) Upon receipt of a hearing request, the system
3 administrator shall in a timely manner schedule the matter
4 before a hearing officer. The hearing officer shall be
5 designated by the department. Written notice of the date,
6 time and place of hearing must be sent by first class mail to
7 the owner. The system administrator shall establish
8 convenient hearing hours and times in each of the following
9 metropolitan areas for challenges to be heard as provided in
10 this section: Erie, Harrisburg, Philadelphia, Pittsburgh and
11 Scranton.

12 (3) The hearing shall be conducted pursuant to 2 Pa.C.S.
13 Ch. 5 (relating to practice and procedure) and will be
14 subject to appeal pursuant to 2 Pa.C.S. Ch. 7 (relating to
15 judicial review).

16 (o) Compensation to manufacturer or vendor.--Compensation
17 paid to the manufacturer or vendor of the automated speed
18 enforcement system may not be based upon the number of traffic
19 citations issued or a portion or percentage of the fine
20 generated by the citations. The compensation paid to the
21 manufacturer or vendor of the equipment shall be based upon the
22 value of the equipment and the services provided or rendered in
23 support of the automated speed enforcement system.

24 (p) Expiration.--This section shall expire five years from
25 the effective date of regulations promulgated by the department
26 under this section.

27 Section 3. The Secretary of Transportation and the Chief
28 Executive Officer of the Pennsylvania Turnpike Commission shall
29 publish a notice in the Pennsylvania Bulletin when the automated
30 speed enforcement system is operational along the designated
31 highway work zones under 75 Pa.C.S. § 3369.

32 Section 4. This act shall take effect as follows:

33 (1) Except as set forth in paragraph (2), the addition
34 of 75 Pa.C.S. § 3369 shall take effect in 120 days.

35 (2) The addition of 75 Pa.C.S. § 3369(e) shall take
36 effect 60 days after publication in the Pennsylvania Bulletin
37 of the notice under section 3.

38 (3) The remainder of this act shall take effect
39 immediately.