

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1961 Session of  
2001

INTRODUCED BY LEH, GEIST, STEIL, WILT, BENNINGHOFF, ADOLPH,  
BROWNE, CAPPELLI, CLYMER, CORRIGAN, FEESE, FICHTER, FLICK,  
FREEMAN, HARHART, HERMAN, HERSHEY, KREBS, LaGROTTA, LEWIS,  
MANDERINO, ROSS, SATHER, SCHRODER, B. SMITH, SOLOBAY,  
STEELMAN, R. STEVENSON, STURLA, TANGRETTI, E. Z. TAYLOR,  
TIGUE, WATSON, C. WILLIAMS AND YOUNGBLOOD, OCTOBER 24, 2001

REFERRED TO COMMITTEE ON TRANSPORTATION, OCTOBER 24, 2001

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, further providing for conviction and point  
3 schedules, for speed timing devices and for State and local  
4 powers.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 1535(d) of Title 75 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 1535. Schedule of convictions and points.

10 \* \* \*

11 (d) [Exception] Exceptions.--

12 (1) This section does not apply to a person who was  
13 operating a pedalcycle or an animal drawn vehicle.

14 (2) If a speeding offense is charged as a result of use  
15 of device authorized by section 3368 (relating to speed  
16 timing devices), no points shall be assigned under subsection  
17 (a) for exceeding the maximum speed limit by less than 26

1     miles per hour.

2     Section 2. Section 3368(a), (c), (d) and (e) of Title 75 are  
3 amended and the section is amended by adding subsections to  
4 read:

5     § 3368. Speed timing devices.

6     (a) Speedometers authorized.--The rate of speed of any  
7 vehicle may be timed on any highway by a police officer using a  
8 motor vehicle equipped with a speedometer, except as provided in  
9 section 6109 (relating to specific powers of department and  
10 local authorities). In ascertaining the speed of a vehicle by  
11 the use of a speedometer, the speed shall be timed for a  
12 distance of not less than three-tenths of a mile.

13     \* \* \*

14     (c) Mechanical, electrical and electronic devices  
15 authorized.--

16         (1) Except as otherwise provided in this section and in  
17 section 6109, the rate of speed of any vehicle may be timed  
18 on any highway by a police officer using a mechanical or  
19 electrical speed timing device.

20         (2) Except as otherwise provided in paragraph (3),  
21 electronic devices such as radio-microwave devices (commonly  
22 referred to as electronic speed meters or radar) or infrared  
23 laser light devices (commonly referred to as LIDAR) may be  
24 used [only] by:

25             (i) members of the Pennsylvania State Police; and

26             (ii) full-time police officers employed by the full-  
27 service department of a political subdivision or regional  
28 police department if official warning signs indicating  
29 the use of these devices are erected within 500 feet of  
30 the border of the political subdivision on the main

1           arteries entering that political subdivision.

2           (2.1) The devices referred to in paragraph (2) may be  
3           used by full-time police officers employed by the full-  
4           service police department of a political subdivision or  
5           regional police department upon completion of a training  
6           course approved by the Pennsylvania State Police and the  
7           Municipal Police Officers' Education and Training Commission.  
8           This paragraph shall expire five years after it takes effect.

9           (3) Electronic devices which calculate speed by  
10          measuring elapsed time between measured road surface points  
11          by using two sensors and devices which measure and calculate  
12          the average speed of a vehicle between any two points may be  
13          used by any police officer.

14          (4) No person may be convicted upon evidence obtained  
15          through the use of devices authorized by paragraphs (2),  
16          (2.1) and (3) unless the speed recorded is six or more miles  
17          per hour in excess of the legal speed limit. Furthermore, no  
18          person may be convicted upon evidence obtained through the  
19          use of devices authorized by paragraph (3) in an area where  
20          the legal speed limit is less than 55 miles per hour if the  
21          speed recorded is less than ten miles per hour in excess of  
22          the legal speed limit. This paragraph shall not apply to  
23          evidence obtained through the use of devices authorized by  
24          paragraph (3) within a school zone.

25          (5) As used in this subsection, the following words and  
26          phrases shall have the meanings given to them in this  
27          paragraph:

28          "Full-time, full-service police department." A local or  
29          regional police department which:

30               (i) is authorized by one or more political

subdivisions;

(ii) provides 24-hour-a-day patrol and investigative services; and

(iii) reports its activities monthly to the Pennsylvania State Police in accordance with the Uniform Crime Reporting System.

"Full-time police officer." An employee of a political subdivision or regional police department who complies with all of the following:

(i) Is certified under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

(ii) Is empowered to enforce 18 Pa.C.S. (relating to crimes and offenses) and this title.

(iii) Works a minimum of 200 days a year.

(iv) Is provided coverage by a police pension plan under:

(A) the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code;

(B) the act of May 29, 1956 (1955 P.L.1804, No.600), referred to as the Municipal Police Pension Law; or

(C) the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law.

The term does not include auxiliary, part-time or fire police.

(d) Classification, approval and testing of mechanical, electrical and electronic devices.--The department may, by regulation, classify specific devices as being mechanical, electrical or electronic. All mechanical, electrical or electronic devices shall be of a type approved by the

1 department, which shall appoint stations for calibrating and  
2 testing the devices [and may prescribe regulations as to the  
3 manner in which calibrations and tests shall be made]. All  
4 devices, including LIDAR laser devices and electronic speed  
5 meters or radar, must have been tested for accuracy within a  
6 period of one year prior to the alleged violation in accordance  
7 with specifications prescribed by the National Highway Traffic  
8 Safety Administration (NHTSA). All electronic devices, such as  
9 LIDAR laser devices, and electronic speed devices, such as speed  
10 meters or radar, approved for use in this Commonwealth, must  
11 appear on the International Association of Chiefs of Police  
12 consumer products list, in conjunction with National Highway  
13 Traffic Safety Administration (NHTSA) standards. The  
14 certification and calibration of electronic devices under  
15 subsection (c)(3) shall also include the certification and  
16 calibration of all equipment, timing strips and other devices  
17 which are actually used with the particular electronic device  
18 being certified and calibrated. [The devices shall have been  
19 tested for accuracy within a period of 60 days prior to the  
20 alleged violation.] A certificate from the station showing that  
21 the calibration and test were made within the required period,  
22 and that the device was accurate, shall be competent and prima  
23 facie evidence of those facts in every proceeding in which a  
24 violation of this title is charged.

25 (e) Distance requirements for use of mechanical, electrical  
26 and electronic devices.--[Mechanical]

27 (1) Except as provided in paragraph (2), mechanical,  
28 electrical or electronic devices may not be used to time the  
29 rate of speed of vehicles within 500 feet after a speed limit  
30 sign indicating a decrease of speed. This limitation on the

1 use of speed timing devices shall not apply to speed limit  
2 signs indicating school zones, bridge and elevated structure  
3 speed limits, hazardous grade speed limits and work zone  
4 speed limits.

5 (2) Whenever radio-microwave speed timing devices or  
6 infrared laser light devices are used by a local or regional  
7 police officer, the police officer must locate the radio-  
8 microwave speed timing device or infrared laser light device  
9 in a location that is readily visible to the motoring public.

10 (f) Local ordinance required to enforce.--Prior to use of  
11 radio-microwave speed timing devices or infrared laser light  
12 devices used for speed timing by local or regional police  
13 officers, the appropriate governing body must adopt an ordinance  
14 authorizing the local or regional police department to employ  
15 such devices on roads within the boundaries of the governing  
16 body and in accordance with section 6109(a)(11) to address  
17 citizen complaints or demonstrable traffic safety concerns, such  
18 as high crash rates or fatalities. This subsection shall expire  
19 five years after it takes effect.

20 (g) Defense.--The primary use of radar or LIDAR by police  
21 officers is for purposes of traffic safety. It shall be a  
22 defense to prosecution under this section if it can be  
23 demonstrated that the primary use of the devices by local or  
24 regional police officers is to generate revenue. The generation  
25 of revenue shall be demonstrated if the revenue to a  
26 municipality or group of municipalities from traffic violations  
27 exceeds 5% of the total municipal budget or budgets. This  
28 subsection shall expire five years after it takes effect.

29 Section 3. Section 6109(a)(11) of Title 75 is amended to  
30 read:

§ 6109. Specific powers of department and local authorities.

(a) Enumeration of police powers.--The provisions of this title shall not be deemed to prevent the department on State-designated highways and local authorities on streets or highways within their physical boundaries from the reasonable exercise of their police powers. The following are presumed to be reasonable exercises of police power:

\* \* \*

(11) Enforcement of speed restrictions authorized under Subchapter F of Chapter 33[, except that] in accordance with the following:

(i) Except as set forth in subparagraph (ii), speed restrictions may be enforced by [local police] full-time police officers employed by the full-service police department of a political subdivision or regional police department on a limited access or divided highway only if [it] this title authorizes such enforcement and the highway is patrolled by the local or regional police force under the terms of an agreement with the Pennsylvania State Police.

(ii) If this title authorizes speed restrictions to be enforced by a police department of a city of the first class, they may be enforced on limited access or divided highways within the police department's jurisdiction. An agreement with the Pennsylvania State Police is not necessary under this subparagraph.

\* \* \*

Section 4. This act shall take effect in 60 days.