

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 285 Session of  
2005

INTRODUCED BY THOMPSON, RAFFERTY, WONDERLING, EARLL, M. WHITE,  
ERICKSON, STACK, D. WHITE, CORMAN, ARMSTRONG, WAUGH, PILEGGI,  
PUNT, C. WILLIAMS AND LOGAN, FEBRUARY 15, 2005

REFERRED TO TRANSPORTATION, FEBRUARY 15, 2005

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 under section 3362 (relating  
15 to maximum speed limits) is charged as a result of use of a  
16 device authorized by section 3368(c)(2)(ii) (relating to  
17 speed timing devices), no points shall be assigned under  
18 subsection (a) unless the speed recorded is ten or more miles

1 per hour in excess of the legal speed limit.

2 \* \* \*

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

6 § 3368. Speed timing devices.

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

14 \* \* \*

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

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

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

26 (i) By members of the Pennsylvania State Police.

27 (ii) Upon completion of a training course approved  
28 by the Pennsylvania State Police and the Municipal Police  
29 Officers' Education and Training Commission, by full-time  
30 police officers employed by the full-service police

1 department of a political subdivision or regional police  
2 department if official warning signs indicating the use  
3 of these devices are erected within 500 feet of the  
4 border of the political subdivision on the main arteries  
5 entering that political subdivision.

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

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

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

26 "Full-service police department." A local or regional  
27 police department which:

28 (i) is authorized by one or more political  
29 subdivisions;

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

1       services; and

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

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

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

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

12          (iii) Is a regular full-time police officer under  
13       the act of June 15, 1951 (P.L.586, No.144), entitled "An  
14       act regulating the suspension, removal, furloughing and  
15       reinstatement of police officers in boroughs and  
16       townships of the first class having police forces of less  
17       than three members, and in townships of the second  
18       class," or works a minimum of 200 days a year.

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

21            (A) the act of May 24, 1893 (P.L.129, No.82),  
22       entitled "An act to empower boroughs and cities to  
23       establish a police pension fund, to take property in  
24       trust therefor and regulating and providing for the  
25       regulation of the same";

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

28            (C) the act of May 22, 1935 (P.L.233, No.99),  
29       referred to as the Second Class City Policemen Relief  
30       Law;

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

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

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

8       (d) Classification, approval and testing of mechanical,  
9       electrical and electronic devices.--The department may, by  
10      regulation, classify specific devices as being mechanical,  
11      electrical or electronic. All mechanical, electrical or  
12      electronic devices shall be of a type approved by the  
13      department, which shall appoint stations for calibrating and  
14      testing the devices [and may prescribe regulations as to the  
15      manner in which calibrations and tests shall be made]. All  
16      devices, including LIDAR laser devices and electronic speed  
17      meters or radar, must have been tested for accuracy within a  
18      period of one year prior to the alleged violation in accordance  
19      with specifications prescribed by the National Highway Traffic  
20      Safety Administration (NHTSA). All electronic devices, such as  
21      LIDAR laser devices, and electronic speed devices, such as speed  
22      meters or radar, approved for use in this Commonwealth, must  
23      appear on the International Association of Chiefs of Police  
24      consumer products list, in conjunction with National Highway  
25      Traffic Safety Administration (NHTSA) standards. The  
26      certification and calibration of electronic devices under  
27      subsection (c)(3) shall also include the certification and  
28      calibration of all equipment, timing strips and other devices  
29      which are actually used with the particular electronic device  
30      being certified and calibrated. [The devices shall have been

1 tested for accuracy within a period of 60 days prior to the  
2 alleged violation.] A certificate from the station showing that  
3 the calibration and test were made within the required period,  
4 and that the device was accurate, shall be competent and prima  
5 facie evidence of those facts in every proceeding in which a  
6 violation of this title is charged.

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

9 (1) Except as provided in paragraph (2), mechanical,  
10 electrical or electronic devices may not be used to time the  
11 rate of speed of vehicles within 500 feet after a speed limit  
12 sign indicating a decrease of speed. This limitation on the  
13 use of speed timing devices shall not apply to speed limit  
14 signs indicating school zones, bridge and elevated structure  
15 speed limits, hazardous grade speed limits and work zone  
16 speed limits.

17 (2) Whenever radio-microwave speed timing devices or  
18 infrared laser light devices are used by a local or regional  
19 police officer, the police officer must locate the vehicle  
20 with the radio-microwave speed timing device or infrared  
21 laser light device in a location that is not intentionally  
22 concealed from the motoring public.

23 (f) Local ordinance required to enforce.--

24 (1) Prior to use of radio-microwave speed timing devices  
25 or infrared laser light devices used for speed timing by  
26 local or regional police officers, the appropriate governing  
27 body must adopt an ordinance authorizing the local or  
28 regional police department to employ such devices on roads  
29 within the boundaries of the governing body where a required  
30 engineering and traffic study has been conducted and in

1 accordance with section 6109(a)(11) to address citizen  
2 complaints or demonstrable traffic safety concerns, such as  
3 high crash rates or fatalities.

4 (2) During the initial 90 days of speed enforcement by a  
5 local or regional police department using radio-microwave  
6 speed timing devices or infrared laser light devices, persons  
7 may only be sanctioned for violations with a written warning.

8 (g) Excess revenues.--The primary use of radar or LIDAR by  
9 local or regional police officers is for traffic safety  
10 purposes. Each local or regional police department that uses  
11 radar or LIDAR shall report annually to the Pennsylvania State  
12 Police the municipal revenue generated from speed enforcement  
13 citations on such forms as may be prescribed by the Pennsylvania  
14 State Police. In the event the municipal share of revenue  
15 generated from speed enforcement citations exceeds 5% of the  
16 total municipal budget or 5% of the regional police department  
17 budget, all sums in excess thereof shall be remitted to the  
18 Pennsylvania State Police to be used for traffic safety  
19 purposes. This subsection shall expire five years after it takes  
20 effect.

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

23 § 6109. Specific powers of department and local authorities.

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

30 \* \* \*

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

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

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

19           \* \* \*

20           Section 4. This act shall take effect in 120 days.