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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1041 Session of 2011

INTRODUCED BY SCAVELLO, AUMENT, BENNINGHOFF, BOYD, CARROLL, CLYMER, CREIGHTON, CUTLER, DeLUCA, DONATUCCI, EVERETT, FLECK, GROVE, HARRIS, HORNAMAN, KNOWLES, KOTIK, MANN, MILLER, MUNDY, MURT, PAYNE, PEIFER, PETRI, ROSS, SCHRODER, K. SMITH, STABACK, STEPHENS, STURLA, SWANGER, VEREB AND VULAKOVICH, MARCH 14, 2011

REFERRED TO COMMITTEE ON TRANSPORTATION, MARCH 14, 2011

AN ACT

Amending Titles 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for municipal corporation portion of fines; establishing the Municipal Law Enforcement Accreditation Fund; and further providing for speed timing devices and for State and local powers.

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

Section 1. Section 3573(b) of Title 42 of the Pennsylvania Consolidated Statutes is amended to read:

§ 3573. Municipal corporation portion of fines, etc.

* * *

(b) Vehicle offenses.--

(1) When prosecution under the provisions of Title 75 (relating to vehicles) for parking is the result of local police action, all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are

organized.

(2) Except as provided in [paragraph] paragraphs (3) and (4), when prosecution under any other provision of Title 75 (except Chapter 77 (relating to snowmobiles)) is the result of local police action, one-half of all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized.

(3) When prosecution under 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) is the result of local police action, 50% of all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized, and 50% shall be payable to the county which shall be further divided as follows:

(i) Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting drug abuse and alcoholism prevention, education, treatment and research.

(ii) Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.

(4) When prosecution under 75 Pa.C.S. § 3362 (relating to maximum speed limits) is the result of local police action using devices authorized under 75 Pa.C.S. § 3368(c)(2)(ii) (relating to speed timing devices):

(i) One-half of all fines, forfeited recognizances

and other forfeitures imposed, lost or forfeited, minus $1, shall be payable to the municipal corporation under which the local police are organized.

(ii) One dollar shall be remitted to the Municipal Law Enforcement Accreditation Fund.

* * *

Section 2. Title 42 is amended by adding a section to read:

§ 3576. Municipal Law Enforcement Accreditation Fund.

(a) Establishment.--There is established within the State Treasury a nonlapsing, restricted receipt account to be known as the Municipal Law Enforcement Accreditation Fund. The account shall be comprised of fines statutorily designated by section 3573 (relating to municipal corporation portion of fines, etc.) to the account.

(b) Distribution from account.--The money in the account is appropriated to the Pennsylvania Commission on Crime and Delinquency to carry out the provisions of subsection (c).

(c) Law enforcement accreditation grants.--

(1) The Pennsylvania Commission on Crime and Delinquency shall create and maintain a grant program for distributing moneys from the fund to any Pennsylvania-based nonprofit corporation comprised solely of Pennsylvania municipal police department administrators which accredits law enforcement agencies throughout this Commonwealth.

(2) An eligible nonprofit corporation that receives funds under paragraph (1) shall use these funds solely for the purpose of administering and operating the law enforcement accreditation program.

Section 3. Section 3368(a), (c) and (d) of Title 75 are amended and the section is amended by a adding subsection to

read:

§ 3368. Speed timing devices.

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

* * *

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

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

(2) Except as otherwise provided in paragraph (3), electronic devices such as radio-microwave devices (commonly referred to as electronic speed meters or radar) may be used [only by]:

(i) By members of the Pennsylvania State Police.

(ii) Upon completion of a training course approved by the Pennsylvania State Police and the Municipal Police Officers' Education and Training Commission, by full-time police officers employed by the full-service police department of a political subdivision or regional police department.

(3) Electronic devices which calculate speed by measuring elapsed time between measured road surface points by using two sensors and devices which measure and calculate

the average speed of a vehicle between any two points may be used by any police officer.

(4) No person may be convicted upon evidence obtained through the use of devices authorized by paragraphs [(2)] (2)(i) and (3) unless the speed recorded is six or more miles per hour in excess of the legal speed limit. Furthermore, no person may be convicted upon evidence obtained through the use of devices authorized by paragraph (3) in an area where the legal speed limit is less than 55 miles per hour if the speed recorded is less than ten miles per hour in excess of the legal speed limit. This paragraph shall not apply to evidence obtained through the use of devices authorized by paragraph (2) or (3) within a school zone or an active work zone.

(4.1) No person may be convicted upon evidence obtained through the use of devices authorized by paragraph (2)(ii) unless the speed recorded is ten or more miles per hour in excess of the legal speed limit.

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

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

(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) Is a regular full-time police officer under the act of June 15, 1951 (P.L.586, No.144), entitled "An act regulating the suspension, removal, furloughing and reinstatement of police officers in boroughs and townships of the first class having police forces of less than three members, and in townships of the second class."

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

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

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

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

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

(E) 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 department, which shall appoint stations for calibrating and testing the devices and may prescribe regulations as to the manner in which calibrations and tests shall be made. The certification and calibration of electronic devices under subsection (c)(3) shall also include the certification and calibration of all equipment, timing strips and other devices which are actually used with the particular electronic device being certified and calibrated. Electronic devices commonly referred to as electronic speed meters or radar shall have been tested for accuracy within a period of one year prior to the alleged violation. Other devices shall have been tested for accuracy within a period of [60 days] one year prior to the alleged violation. A certificate from the station showing that the calibration and test were made within the required period and that the device was accurate shall be competent and prima facie evidence of those facts in every proceeding in which a violation of this title is charged.

* * *

(f) Local ordinance required to enforce.--

(1) Prior to use of radio-microwave speed timing devices used for speed timing by local or regional police officers of political subdivisions authorized under subsection (c), the

appropriate governing body must adopt an ordinance authorizing the local or regional police department to employ such devices on roads within the boundaries of the governing body where speed limits have been posted according to the results of a required engineering and traffic study and in accordance with section 6109(a)(11).

(2) During the initial 120 days of speed enforcement by a local or regional police department of a political subdivision authorized under subsection (c) using radio-microwave speed timing devices, persons may only be sanctioned for violations with a written warning.

Section 4. Section 6109(a)(11) of Title 75 is amended to 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 5. This act shall take effect in 120 days.