

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.