

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 526 Session of 2011

INTRODUCED BY RAFFERTY, BROWNE, BRUBAKER, EICHELBERGER, WAUGH,
ALLOWAY, BREWSTER, MENSCH AND ERICKSON, FEBRUARY 14, 2011

REFERRED TO TRANSPORTATION, FEBRUARY 14, 2011

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in licensing of drivers, further providing for
3 schedule of convictions and points; in rules of the road in
4 general, further providing for speed timing devices; and
5 further providing for State and local powers.

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

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

10 § 1535. Schedule of convictions and points.

11 * * *

12 (d) [Exception] Exceptions.--

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

15 (2) If a speeding offense under section 3362 (relating
16 to maximum speed limits) is charged as a result of use of a
17 device authorized by section 3368(c)(2)(ii) (relating to
18 speed timing devices), no points shall be assigned under
19 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 situate in a county of the first class, second
3 class, second class A or third class if official warning
4 signs indicating the use of these devices are erected
5 within 500 feet of the border of the political
6 subdivision on the main arteries entering that political
7 subdivision.

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

13 (4) No person may be convicted upon evidence obtained
14 through the use of devices authorized by paragraphs (2) and
15 (3) unless the speed recorded is six or more miles per hour
16 in excess of the legal speed limit. Furthermore, no person
17 may be convicted upon evidence obtained through the use of
18 devices authorized by subparagraph (2)(ii) or paragraph (3)
19 in an area where the legal speed limit is less than 55 miles
20 per hour if the speed recorded is less than ten miles per
21 hour in excess of the legal speed limit. This paragraph shall
22 not apply to evidence obtained through the use of devices
23 authorized by paragraph (2) or (3) within a school zone or an
24 active work 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-service police department." A local or regional
29 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) 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," or works a minimum of 200 days a year.

(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),

1 referred to as the Second Class City Policemen Relief
2 Law;

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

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

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

10 (d) Classification, approval and testing of mechanical,
11 electrical and electronic devices.--

12 (1) The department may, by regulation, classify specific
13 devices as being mechanical, electrical or electronic.

14 (2) All mechanical, electrical or electronic devices
15 shall be of a type approved by the department, which shall
16 appoint stations for calibrating and testing the devices [and
17 may prescribe regulations as to the manner in which
18 calibrations and tests shall be made].

19 (3) All devices, including LIDAR laser devices and
20 electronic speed meters or radar, must have been tested for
21 accuracy within a period of one year prior to the alleged
22 violation in accordance with specifications prescribed by the
23 National Highway Traffic Safety Administration (NHTSA).

24 (4) All electronic devices, such as LIDAR laser devices,
25 and electronic speed devices, such as speed meters or radar,
26 approved for use in this Commonwealth, must appear on the
27 International Association of Chiefs of Police consumer
28 products list, in conjunction with National Highway Traffic
29 Safety Administration (NHTSA) standards.

30 (5) The certification and calibration of electronic

1 devices under subsection (c)(3) shall also include the
2 certification and calibration of all equipment, timing strips
3 and other devices which are actually used with the particular
4 electronic device being certified and calibrated.

5 (6) Electronic devices commonly referred to as
6 electronic speed meters or radar shall have been tested for
7 accuracy within a period of one year prior to the alleged
8 violation. [Other devices shall have been tested for accuracy
9 within a period of 60 days prior to the alleged violation.]

10 (7) A certificate from the station showing that the
11 calibration and test were made within the required period and
12 that the device was accurate shall be competent and prima
13 facie evidence of those facts in every proceeding in which a
14 violation of this title is charged.

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

17 (1) Except as provided in paragraph (2), mechanical,
18 electrical or electronic devices may not be used to time the
19 rate of speed of vehicles within 500 feet after a speed limit
20 sign indicating a decrease of speed. This limitation on the
21 use of speed timing devices shall not apply to speed limit
22 signs indicating school zones, bridge and elevated structure
23 speed limits, hazardous grade speed limits and work zone
24 speed limits.

25 (2) Whenever radio-microwave speed timing devices or
26 infrared laser light devices are used by a local or regional
27 police officer of a political subdivision authorized under
28 subsection (c), the police officer must locate the vehicle
29 with the radio-microwave speed timing device or infrared
30 laser light device in a location that is not intentionally

1 concealed from the motoring public.

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

3 (1) Prior to use of radio-microwave speed timing devices
4 or infrared laser light devices used for speed timing by
5 local or regional police officers of political subdivisions
6 authorized under subsection (c), the appropriate governing
7 body must adopt an ordinance authorizing the local or
8 regional police department to employ such devices on roads
9 within the boundaries of the governing body where a required
10 engineering and traffic study has been conducted and in
11 accordance with section 6109(a)(11) to address citizen
12 complaints or demonstrable traffic safety concerns, such as
13 high crash rates or fatalities.

14 (2) During the initial 90 days of speed enforcement by a
15 local or regional police department of a political
16 subdivision authorized under subsection (c) using radio-
17 microwave speed timing devices or infrared laser light
18 devices, persons may only be sanctioned for violations with a
19 written warning.

20 (g) Excess revenues.--

21 (1) The primary use of radar or LIDAR by local or
22 regional police officers of political subdivisions authorized
23 under subsection (c) is for traffic safety purposes.

24 (2) Each local or regional police department that uses
25 radar or LIDAR shall report annually to the Pennsylvania
26 State Police the municipal revenue generated from speed
27 enforcement citations on such forms as may be prescribed by
28 the Pennsylvania State Police.

29 (3) In the event the municipal share of revenue
30 generated from speed enforcement citations exceeds 5% of the

1 total municipal budget or 5% of the regional police
2 department budget, all sums in excess thereof shall be
3 remitted to the Pennsylvania State Police to be used for
4 traffic safety purposes.

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

7 § 6109. Specific powers of department and local authorities.

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

14 * * *

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

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

27 (ii) If this title authorizes speed restrictions to
28 be enforced by a police department of a city of the first
29 class, they may be enforced on limited access or divided
30 highways within the police department's jurisdiction.

1 (iii) An agreement with the Pennsylvania State
2 Police shall not be required under this subparagraph.

3 * * *

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