

## AMENDMENTS TO HOUSE BILL NO. 1646

Sponsor: SENATOR RAFFERTY

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1 Amend Bill, page 1, line 4, by inserting after "privilege;"  
2 in rules of the road in general, further providing for speed  
3 timing devices and providing for automated speed enforcement  
4 systems;

5 Amend Bill, page 1, line 9, by striking out "a definition"  
6 and inserting  
7 definitions

8 Amend Bill, page 1, by inserting between lines 15 and 16

9 \* \* \*

10 "Automated speed enforcement system." An electronic traffic  
11 sensor system that:

12 (1) is able to automatically detect vehicles exceeding  
13 the posted speed limit with a type of speed timing device;  
14 and

15 (2) records the vehicle's license plate, location, date,  
16 time and speed.

17 "Automated speed enforcement work area." The portion of an  
18 active work zone with traffic barriers where construction,  
19 maintenance or utility workers are located on the roadway, berm  
20 or shoulder and workers are adjacent to an active travel lane  
21 and where an automated speed enforcement system is active. For  
22 the purposes of this definition, workers shall also be  
23 considered adjacent to an active travel lane where workers are  
24 present and are protected by a traffic barrier.

25 Amend Bill, page 2, line 5, by striking out "Sections" and  
26 inserting

27 Section

28 Amend Bill, page 2, line 5, by striking out "and 3714"

29 Amend Bill, page 3, by inserting between lines 19 and 20

30 Section 3. Section 3368(c)(2) of Title 75 is amended and the  
31 subsection is amended by adding a paragraph to read:

1 § 3368. Speed timing devices.--

2 \* \* \*

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

5 \* \* \*

6 (2) Except as otherwise provided in paragraph (3),  
7 electronic devices such as radio-microwave devices  
8 [()], commonly referred to as electronic speed meters or  
9 radar[], may be used only as part of an automated speed  
10 enforcement system or by members of the Pennsylvania State  
11 Police.

12 \* \* \*

13 (5) Light detection and ranging devices, commonly  
14 referred to as LIDAR, may be used only as part of an  
15 automated speed enforcement system or by members of the  
16 Pennsylvania State Police.

17 \* \* \*

18 Section 4. Title 75 is amended by adding a section to read:  
19 § 3369. Automated speed enforcement systems.

20 (a) Establishment.--A program is established to provide for  
21 automated speed enforcement systems in active work areas with  
22 traffic barriers.

23 (b) Applicability.--This section shall apply only to  
24 automated speed enforcement work areas on interstate highways  
25 under the jurisdiction of the department or interstate highways  
26 or freeways under the jurisdiction of the Pennsylvania Turnpike  
27 Commission. An automated speed enforcement system shall not be  
28 used unless:

29 (1) At least two appropriate warning signs are  
30 conspicuously placed before the active work area notifying  
31 the public that an automated speed enforcement device is in  
32 use.

33 (2) A notice identifying the location of the automated  
34 speed enforcement system is posted on the department's or  
35 Pennsylvania Turnpike Commission's publicly accessible  
36 Internet website throughout the period of use.

37 (c) Liability.--Driving in excess of the posted speed limit  
38 in an automated speed enforcement work area by at least 11 miles  
39 per hour is a violation of this section.

40 (d) Notice of violation.--

41 (1) (i) An action to enforce this section shall be  
42 initiated by an administrative notice of violation to the  
43 registered owner of a vehicle identified by an automated  
44 speed enforcement system as violating this section. A  
45 notice of violation based upon inspection of recorded  
46 images produced by an automated speed enforcement system  
47 and sworn or affirmed by an authorized member of the  
48 Pennsylvania State Police within the area command  
49 location of the automated speed enforcement system shall  
50 be prima facie evidence of the facts contained in the  
51 notice.

1           (ii) The notice of violation must include written  
2 verification that the automated speed enforcement system  
3 was operating correctly at the time of the alleged  
4 violation and the date of the most recent inspection that  
5 confirms the automated speed enforcement system to be  
6 operating properly.

7           (iii) An automated speed enforcement system operator  
8 shall complete training offered by the manufacturer of  
9 the automated speed enforcement system, including  
10 training on any devices critical to the operation of the  
11 system, or the manufacturer's representative in the  
12 procedures for setting up, testing and operating an  
13 automated speed enforcement system. Upon completion of  
14 the training, the manufacturer or manufacturer's  
15 representative shall issue a signed certificate to the  
16 automated speed enforcement system device operator, which  
17 shall be admitted as evidence in any court proceeding for  
18 a violation involving an automated speed enforcement  
19 system device. An automated speed enforcement system  
20 device operator shall fill out and sign a daily log for  
21 an automated speed enforcement system, which:

22               (A) states the date, time and location of the  
23 device setup;

24               (B) states that the automated speed enforcement  
25 system device operator successfully performed and the  
26 automated speed enforcement system device passed the  
27 self-tests specified by the manufacturer of the  
28 automated speed enforcement system device;

29               (C) shall be kept on file; and

30               (D) shall be admitted in any proceeding for a  
31 violation involving an automated speed enforcement  
32 system device.

33           (iv) An automated speed enforcement system device  
34 shall undergo an annual calibration check performed by a  
35 calibration laboratory. The calibration laboratory shall  
36 issue a signed certificate of calibration after the  
37 annual calibration check, which shall be kept on file and  
38 shall be admitted as evidence in any proceeding for a  
39 violation involving an automated speed enforcement system  
40 device.

41           (v) The following shall be attached to the notice of  
42 violation:

43               (A) A copy of the recorded image showing the  
44 vehicle with its license plate visible.

45               (B) The registration number and state of  
46 issuance of the vehicle registration.

47               (C) Verification that the automated speed  
48 enforcement system was operating correctly at the  
49 time of the alleged violation and the date of the  
50 most recent inspection that confirms the automated  
51 speed enforcement system to be operating properly.

1           (D) The date, time and place of the alleged  
2           violation.

3           (E) Notice that the violation charged is under  
4           this section.

5           (F) Instructions for return of the notice of  
6           violation.

7           (2) In the case of a violation involving a motor vehicle  
8           registered under the laws of this Commonwealth, the notice of  
9           violation shall be mailed within 30 days after the commission  
10           of the violation or within 30 days after the discovery of the  
11           identity of the registered owner, whichever is later, to the  
12           address of the registered owner as listed in the records of  
13           the department.

14           (3) In the case of a violation involving a motor vehicle  
15           registered in a jurisdiction other than this Commonwealth,  
16           the notice of violation shall be mailed within 30 days after  
17           the discovery of the identity of the registered owner to the  
18           address of the registered owner as listed in the records of  
19           the official in the jurisdiction having charge of the  
20           registration of the vehicle.

21           (4) A notice of violation shall be invalid unless  
22           provided to an owner within 90 days of the offense.

23           (5) The notice shall include the following text:  
24           This notice shall be returned personally, by mail or by  
25           an agent duly authorized in writing, within 30 days of  
26           issuance. A hearing may be obtained upon the written  
27           request of the registered owner.

28           (6) Notice of violation must be sent by first class  
29           mail. A manual or automatic record of mailing prepared by the  
30           system administrator in the ordinary course of business shall  
31           be prima facie evidence of mailing and shall be admissible in  
32           a judicial or administrative proceeding as to the facts  
33           contained in the notice.

34           (e) Penalty.--

35           (1) The penalty of a violation under this section shall  
36           be a fine of \$100, and the fine shall not be subject to 42  
37           Pa.C.S. § 3571 (relating to Commonwealth portion of fines,  
38           etc.) or 3573 (relating to municipal corporation portion of  
39           fines, etc.).

40           (2) The fine is not authorized during times when the  
41           automated speed enforcement work area is not active.

42           (3) A penalty imposed under this section shall not:

43           (i) be deemed a criminal conviction;

44           (ii) be made part of the operating record of the  
45           individual upon whom the penalty is imposed under section  
46           1535 (relating to schedule of convictions and points);

47           (iii) be the subject of merit rating for insurance  
48           purposes; or

49           (iv) authorize imposition of surcharge points in the  
50           provision of motor vehicle insurance coverage.

51           (f) Limitations.--

1       (1) Recorded images collected as part of the automated  
2 speed enforcement system may record only violations of this  
3 section and may not be used for any other surveillance  
4 purposes. The restrictions provided in this paragraph shall  
5 not preclude a court of competent jurisdiction from issuing  
6 an order directing that the information be provided to law  
7 enforcement officials, if the information is requested solely  
8 in connection with a criminal law enforcement action and is  
9 reasonably described.

10       (2) Notwithstanding any other provision of law,  
11 information gathered and maintained under this section that  
12 is kept by the Commonwealth, its authorized agents or its  
13 employees, including recorded images, written records,  
14 reports or facsimiles, names and addresses, shall be for the  
15 exclusive purpose of discharging its duties under this  
16 section. The information shall not be deemed a public record  
17 under the act of February 14, 2008 (P.L.6, No.3), known as  
18 the Right-to-Know Law. The information shall not be  
19 discoverable by court order or otherwise or be admissible as  
20 evidence in a proceeding except to determine liability under  
21 this section. The restrictions provided in this paragraph  
22 shall not preclude a court of competent jurisdiction from  
23 issuing an order directing that the information be provided  
24 to law enforcement officials, if the information is requested  
25 solely in connection with a criminal law enforcement action  
26 and is reasonably described.

27       (3) Recorded images obtained through the use of  
28 automated speed enforcement systems deployed as a means of  
29 promoting traffic safety in automated speed enforcement work  
30 areas shall be destroyed within one year of final disposition  
31 of a notice of violation, except that images subject to a  
32 court order under paragraph (1) or (2) shall be destroyed  
33 within two years after the date of the order, unless further  
34 extended by court order. The department or the Pennsylvania  
35 Turnpike Commission shall retain evidence that the records  
36 have been destroyed in accordance with this section.

37       (4) Notwithstanding any other provision of law,  
38 registered vehicle owner information obtained as a result of  
39 the operation of an automated speed enforcement system under  
40 this section shall be the exclusive property of the  
41 Commonwealth and not the property of the manufacturer or  
42 vendor of the automated speed enforcement system and may not  
43 be used for a purpose other than prescribed in this section.

44       (5) Intentional misuse of automated speed enforcement  
45 system images and records contrary to the provisions of this  
46 subsection shall constitute a \$500 fine.

47       (g) Defenses.--

48       (1) It shall be a defense to a violation under this  
49 section that the vehicle was reported to a police department  
50 as stolen prior to the time the violation occurred and was  
51 not recovered prior to that time.

1       (2) It shall be a defense to a violation under this  
2       section that the person receiving the notice of violation was  
3       not the owner of the vehicle at the time of the offense.

4       (h) Authority and duties of department and Pennsylvania  
5       Turnpike Commission.--

6       (1) The department and Pennsylvania Turnpike Commission  
7       shall each establish a three-year automated speed enforcement  
8       system program not later than 18 months following the  
9       effective date of this section.

10       (2) (i) The department and Pennsylvania Turnpike  
11       Commission may each promulgate regulations for the  
12       certification and the use of automated speed enforcement  
13       systems.

14       (ii) In order to facilitate the prompt  
15       implementation of this section, regulations promulgated  
16       by the department and Pennsylvania Turnpike Commission  
17       under this section shall be deemed temporary regulations  
18       and not subject to:

19               (A) Sections 201, 202 and 203 of the act of July  
20               31, 1968 (P.L.769, No.240), referred to as the  
21               Commonwealth Documents Law.

22               (B) The act of June 25, 1982 (P.L.633, No.181),  
23               known as the Regulatory Review Act.

24       (3) (i) The department and Pennsylvania Turnpike  
25       Commission shall each serve directly or through a  
26       contracted private service as the system administrator of  
27       the program. Compensation under a contract authorized by  
28       this paragraph shall be based only upon the value of  
29       equipment and services provided or rendered in support of  
30       the automated speed enforcement system program and may  
31       not be based on the quantity of notices of violation  
32       issued or amount of fines imposed or generated.

33       (ii) The system administrator shall prepare and  
34       issue notices of violation.

35       (iii) Two restricted accounts are established in the  
36       State Treasury for fines remitted under this section to  
37       the department and Pennsylvania Turnpike Commission,  
38       respectively. The system administrator of the department  
39       or Pennsylvania Turnpike Commission, if any, shall send  
40       an invoice to the department or Pennsylvania Turnpike  
41       Commission based, respectively, on the services under  
42       subparagraph (i). The department and Pennsylvania  
43       Turnpike Commission shall use the appropriate restricted  
44       account to pay for the administration of the pilot  
45       program and the system administrator's invoice costs.  
46       Remaining fines shall be allocated by the department or  
47       Pennsylvania Turnpike Commission as follows:

48               (A) Forty-five percent of the fines over the  
49               duration of the three-year program from violations  
50               occurring in an automated speed enforcement system on  
51               either an interstate highway managed by the

1 department or an interstate highway or freeway under  
2 the jurisdiction of the Pennsylvania Turnpike  
3 Commission shall be deposited into a restricted  
4 account in the State Treasury on a quarterly basis.  
5 The Department of Revenue shall, within 90 days of  
6 the date of deposit, transfer to the Pennsylvania  
7 State Police an amount equivalent to the previous  
8 quarterly deposit to be used by the Pennsylvania  
9 State Police as follows:

10 (I) Fifty-five percent of the funds shall be  
11 dedicated and used for the purpose of recruiting,  
12 training or equipping Pennsylvania State Police  
13 Cadets.

14 (II) Forty-five percent of the funds shall  
15 be dedicated and used to pay for an increased  
16 Pennsylvania State Trooper presence in work zones  
17 on the State road system managed by the  
18 department or the Pennsylvania Turnpike  
19 Commission that do not utilize concrete barriers.  
20 The assignments shall be made on an as-necessary  
21 basis as determined by the Pennsylvania State  
22 Police. Funds under this subclause shall be in  
23 addition to any contractual agreement between the  
24 department or the Pennsylvania Turnpike  
25 Commission and the Pennsylvania State Police for  
26 enforcement in work zones on the State road  
27 system managed by the department or the  
28 Pennsylvania Turnpike Commission.

29 (B) Fifteen percent of the fines over the  
30 duration of the three-year program from violations  
31 occurring in an automated speed enforcement system  
32 shall be transferred to the department or the  
33 Pennsylvania Turnpike Commission, whichever State  
34 road system utilized the automated speed enforcement  
35 system, for the purpose of work zone safety, traffic  
36 safety and educating the motoring public on work zone  
37 safety, at the discretion of the department or  
38 Pennsylvania Turnpike Commission.

39 (C) Forty percent of the fines over the duration  
40 of the three-year program from violations occurring  
41 in an automated speed enforcement system shall be  
42 deposited in the Motor License Fund and shall be  
43 appropriated by the General Assembly.

44 (iv) If the amount of funds under subparagraph (iii)  
45 (A) is lower than the amount of funds under subparagraph  
46 (iii) (A) for the previous fiscal year, funds from the  
47 Motor License Fund may not be used to supplement the  
48 funds for the current fiscal year. Funding provided for  
49 under subparagraph (iii) (A) shall be supplemental and  
50 shall not prohibit the Pennsylvania State Police from  
51 obtaining additional funding from any other means.

1           (v) If the three-year program is not extended by the  
2           General Assembly, any remaining fines remitted to the  
3           department or Pennsylvania Turnpike Commission shall  
4           remain with the department or Pennsylvania Turnpike  
5           Commission for the purpose of work zone safety, traffic  
6           safety and educating the motoring public on work zone  
7           safety, at the discretion of the department or  
8           Pennsylvania Turnpike Commission.

9           (vi) The system administrator shall provide an  
10          appropriate printed form by which owners may challenge a  
11          notice of violation and convenient hearing hours and  
12          times in each of the following metropolitan areas for  
13          challenges to be heard as provided in this section: Erie,  
14          Harrisburg, Philadelphia, Pittsburgh and Scranton. the  
15          form may be included with or as part of the notice of  
16          violation.

17          (4) Not later than April 1 annually, the department and  
18          Pennsylvania Turnpike Commission shall submit a report on the  
19          program for the preceding calendar year to the chairperson  
20          and minority chairperson of the Transportation Committee of  
21          the Senate and the chairperson and minority chairperson of  
22          the Transportation Committee of the House of Representatives.  
23          The report shall be a public record under the Right-to-Know  
24          Law and include:

25               (i) The number of vehicular accidents and related  
26               serious injuries and deaths in all work zones and in  
27               automated speed enforcement work areas where the program  
28               operated.

29               (ii) Speed data.

30               (iii) The number of notices of violation issued.

31               (iv) The amount of fines imposed and collected.

32               (v) Amounts paid under contracts authorized by this  
33          section.

34               (vi) The number of hours of Pennsylvania State  
35          Police presence that were provided as a result of the  
36          funds under paragraph (3) (iii) (A) (II).

37          (i) Payment of fine.--

38               (1) An owner may admit responsibility for the violation  
39          and pay the fine provided in the notice personally, through  
40          an authorized agent, electronically or by mailing both  
41          payment and the notice of violation to the system  
42          administrator.

43               (2) Payment by mail must be made only by money order,  
44          credit card or check made payable to the Commonwealth.

45               (3) Payment of the fine shall operate as a final  
46          disposition of the case.

47               (4) If payment is not received within 90 days of  
48          original notice, the department or Pennsylvania Turnpike  
49          Commission may turn the matter over to applicable credit  
50          collection agencies.

51          (j) Contest.--



1       (1) An owner may, within 30 days of the mailing of the  
2       notice, request a hearing to contest liability by appearing  
3       before the system administrator either personally or by an  
4       authorized agent or by mailing a request in writing on the  
5       prescribed form. Appearances in person shall be only at the  
6       locations and times set by the system administrator.

7       (2) Upon receipt of a hearing request, the system  
8       administrator shall in a timely manner schedule the matter  
9       before a hearing officer designated by the department or  
10       Pennsylvania Turnpike Commission. Written notice of the date,  
11       time and place of hearing must be presented or sent by first  
12       class mail to the owner.

13       (3) The hearing shall be informal and the rules of  
14       evidence shall not apply. The decision of the hearing officer  
15       shall be final, subject to the right of the owner to appeal  
16       the decision.

17       (4) If the owner requests in writing that the decision  
18       of the hearing officer be appealed, the system administrator  
19       shall file the notice of violation and supporting documents  
20       with the office of the magisterial district judge for the  
21       magisterial district where the violation occurred, and the  
22       magisterial district judge shall hear and decide the matter  
23       de novo.

24       (k) Expiration.--This section shall expire three years from  
25       the effective date of this section.

26       (l) Definitions.--As used in this section, the following  
27       words or phrases shall have the meanings given to them in this  
28       subsection unless the context clearly indicates otherwise:

29       "Traffic barrier." A concrete, metal or plastic structure  
30       that establishes a temporary travel lane or provides for a  
31       separation between motor vehicles and areas in which workers are  
32       present. This term does not include traffic cones or barrels.

33       Section 5. Section 3714 of Title 75 is amended to read:

34       Amend Bill, page 4, line 19, by striking out all of said line  
35       and inserting

36       Section 6. The Secretary of Transportation or the Chairman  
37       of the Pennsylvania Turnpike Commission shall publish a notice  
38       in the Pennsylvania Bulletin when an automated speed enforcement  
39       system is operational in this Commonwealth.

40       Section 7. This act shall take effect as follows:

41       (1) The addition of 75 Pa.C.S. § 3369(e) shall take  
42       effect 60 days after publication in the Pennsylvania Bulletin  
43       of the notice under section 4.

44       (2) The addition of 75 Pa.C.S. § 3369(h)(2) shall take  
45       effect in 45 days.

46       (3) Section 4 and this section shall take effect  
47       immediately.

48       (4) The remainder of this act shall take effect in 120  
49       days.