

## AMENDMENTS TO SENATE BILL NO. 172

Sponsor: REPRESENTATIVE MARSHALL

Printer's No. 1067

1 Amend Bill, page 1, lines 3 through 5, by striking out "in  
2 rules of the road in general, further" in line 3 and all of  
3 lines 4 and 5 and inserting

4 in rules of the road in general, providing for pilot program  
5 for automated speed enforcement system in highway work zones.

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

8 a definition

9 Amend Bill, page 2, lines 6 through 30; pages 3 through 13,  
10 lines 1 through 30; page 14, lines 1 through 12; by striking out  
11 all of said lines on said pages and inserting

12 Section 2. Title 75 is amended by adding a section to read:  
13 § 3369. Pilot program for automated speed enforcement system in  
14 highway work zones.

15 (a) General rule.--A pilot program is established to provide  
16 for an automated speed enforcement system in work zones on State  
17 highways. The following apply:

18 (1) The department, following promulgation of  
19 regulations, is authorized to enforce section 3362 (relating  
20 to maximum speed limits) by recording violations using an  
21 automated speed enforcement system approved by the  
22 department.

23 (2) This section shall only be applicable on Federal aid  
24 highways and the Pennsylvania Turnpike in areas agreed upon  
25 by the system administrator and the secretary using an  
26 automated speed enforcement system.

27 (b) Owner liability.--For each violation under this section,  
28 the owner of the vehicle shall be liable for the penalty imposed  
29 unless the owner is convicted of the same violation under  
30 another section of this title or has a defense under subsection  
31 (g).

32 (c) Certificate as evidence.--A certificate, or a facsimile  
33 of a certificate, based upon inspection of recorded images

1 produced by an automated speed enforcement system and sworn to  
2 or affirmed by a police officer shall be prima facie evidence of  
3 the facts contained in it. The system administrator must include  
4 written documentation that the automated speed enforcement  
5 system was operating correctly at the time of the alleged  
6 violation. A recorded image evidencing a violation of section  
7 3362 shall be admissible in any judicial or administrative  
8 proceeding to adjudicate the liability for the violation.

9 (d) Penalty.--The following shall apply:

10 (1) The penalty for a violation under subsection (a)  
11 shall be a fine of \$40.

12 (2) A penalty is authorized only for a violation of this  
13 section if each of the following apply:

14 (i) At least two appropriate warning signs are  
15 conspicuously placed at the beginning and end and at two-  
16 mile intervals of the designated highway work zone  
17 notifying the public that an automated speed enforcement  
18 device is in use.

19 (ii) A notice identifying the location of the  
20 automated speed enforcement system is posted on a  
21 publicly accessible Internet website throughout the  
22 period of use.

23 (3) A fine is not authorized during the first 10 days of  
24 operation of an automated speed enforcement system in each  
25 separate highway work zone.

26 (4) The system administrator may provide a written  
27 warning to the registered owner of a vehicle determined to  
28 have violated this section during the first 10 days of  
29 operation of the automated speed enforcement system.

30 (5) A penalty imposed under this section shall not be  
31 deemed a criminal conviction and shall not be made part of  
32 the operating record under section 1535 (relating to schedule  
33 of convictions and points) of the individual upon whom the  
34 penalty is imposed, nor may the imposition of the penalty be  
35 subject to merit rating for insurance purposes.

36 (6) No surcharge points may be imposed in the provision  
37 of motor vehicle insurance coverage. Penalties collected  
38 under this section shall not be subject to 42 Pa.C.S. § 3571  
39 (relating to Commonwealth portion of fines, etc.) or 3573  
40 (relating to municipal corporation portion of fines, etc.).

41 (e) Liability.--Driving in excess of the posted speed limit  
42 along the designated highway work zone by 11 miles per hour or  
43 more is a violation of this section.

44 (f) Limitations.--The following shall apply:

45 (1) No automated speed enforcement system shall be  
46 utilized in such a manner as to take a frontal view recorded  
47 image of the vehicle as evidence of having committed a  
48 violation.

49 (2) Notwithstanding any other provision of law, camera  
50 equipment deployed as part of an automated speed enforcement  
51 system as provided in this section must be incapable of

1 automated or user-controlled remote surveillance by means of  
2 recorded video images. Recorded images collected as part of  
3 the automated speed enforcement system must only record  
4 traffic violations and may not be used for any other  
5 surveillance purposes, but may include video of the area  
6 enforced when triggered by a violation. The restrictions set  
7 forth in this paragraph shall not be deemed to preclude a  
8 court of competent jurisdiction from issuing an order  
9 directing that the information be provided to law enforcement  
10 officials if the information is reasonably described and is  
11 requested solely in connection with a criminal law  
12 enforcement action.

13 (3) Notwithstanding any other provision of law,  
14 information prepared under this section and information  
15 relating to violations under this section which is kept by  
16 the department, Pennsylvania Turnpike Commission or system  
17 administrator or their authorized agents or employees,  
18 including recorded images, written records, reports or  
19 facsimiles, names, addresses and the number of violations  
20 under this section, shall be for the exclusive use of the  
21 department, Pennsylvania Turnpike Commission and system  
22 administrator, their authorized agents and employees and law  
23 enforcement officials for the purpose of discharging their  
24 duties under this section. The information shall not be  
25 deemed a public record under the act of February 14, 2008  
26 (P.L.6, No.3), known as the Right-to-Know Law. The  
27 information shall not be discoverable by court order or  
28 otherwise, nor shall it be offered in evidence in any action  
29 or proceeding which is not directly related to a violation of  
30 this section. The restrictions set forth in this paragraph  
31 shall not be deemed to preclude a court of competent  
32 jurisdiction from issuing an order directing that the  
33 information be provided to law enforcement officials if the  
34 information is reasonably described and is requested solely  
35 in connection with a criminal law enforcement action.

36 (4) Recorded images obtained through the use of  
37 automated speed enforcement systems deployed as a means of  
38 promoting traffic safety in this Commonwealth shall be  
39 destroyed within one year of final disposition of any  
40 recorded event except that images subject to a court order  
41 under paragraph (2) or (3) shall be destroyed within two  
42 years after the date of the order, unless further extended by  
43 court order. The department shall file notice with the  
44 Department of State that the records have been destroyed in  
45 accordance with this section.

46 (5) Notwithstanding any other provision of law,  
47 registered vehicle owner information obtained as a result of  
48 the operation of an automated speed enforcement system under  
49 this section shall not be the property of the manufacturer or  
50 vendor of the automated speed enforcement system and may not  
51 be used for any purpose other than prescribed in this

1 section.

2 (6) A violation of this subsection shall constitute a  
3 misdemeanor of the third-degree punishable by a \$500 fine.  
4 Each violation shall constitute a separate and distinct  
5 offense.

6 (g) Defenses.--The following shall apply:

7 (1) It shall be a defense to a violation under this  
8 section that the person named in the notice of the violation  
9 was not operating the vehicle at the time of the violation.  
10 The owner may be required to submit evidence that the owner  
11 was not the driver at the time of the alleged violation. The  
12 owner of the vehicle shall not be required to disclose the  
13 identity of the operator of the vehicle at the time of the  
14 violation.

15 (2) If an owner receives a notice of violation pursuant  
16 to this section of a time period during which the vehicle was  
17 reported to a police department of any state or municipality  
18 as having been stolen, it shall be a defense to a violation  
19 under this section that the vehicle has been reported to a  
20 police department as stolen prior to the time the violation  
21 occurred and had not been recovered prior to that time.

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

25 (4) It shall be a defense to a violation under this  
26 section that the device being used to determine speed was not  
27 in compliance with section 3368 (relating to speed timing  
28 devices) with respect to testing for accuracy, certification  
29 or calibration.

30 (h) Department approval.--No automated speed enforcement  
31 system may be used without the approval of the department. The  
32 department shall have the authority to promulgate regulations  
33 for the certification and use of the systems, which may include  
34 the use of radio-microwave devices (commonly referred to as  
35 electronic speed meters or radar) or light detection and ranging  
36 devices (commonly referred to as LIDAR) in their operations.  
37 Notwithstanding any other provision of law, these devices shall  
38 be tested for accuracy at regular intervals as designated by  
39 regulation of the department.

40 (i) Procedure.--The following shall apply:

41 (1) An automated speed enforcement system may not be  
42 used unless there is posted an appropriate sign in a  
43 conspicuous place before the area in which the automated  
44 speed enforcement device is to be used notifying the public  
45 that an automated speed enforcement device is in use  
46 immediately ahead.

47 (2) The department and the Pennsylvania Turnpike  
48 Commission shall designate or appoint a system administrator  
49 or system administrators to supervise and coordinate the  
50 administration of notices of violation issued under this  
51 section.

1           (3) A system administrator shall prepare a notice of  
2 violation to the registered owner of a vehicle identified in  
3 a recorded image produced by an automated speed enforcement  
4 system as evidence of a violation of section 3362. The notice  
5 of violation must be issued by a police officer employed by  
6 the police department with primary jurisdiction over the area  
7 where the violation occurred. The notice of violation shall  
8 have the following attached to it:

9           (i) a copy of the recorded image showing the  
10 vehicle;

11           (ii) the registration number and state of issuance  
12 of the vehicle registration;

13           (iii) the date, time and place of the alleged  
14 violation;

15           (iv) notice that the violation charged is under  
16 section 3362; and

17           (v) instructions for return of the notice of  
18 violation, which shall read:

19           This notice shall be returned personally, by mail or  
20 by an agent duly authorized in writing, within 30  
21 days of issuance. A hearing may be obtained upon the  
22 written request of the registered owner.

23 (j) System administrator.--The following shall apply:

24           (1) A system administrator may hire and designate  
25 personnel as necessary or contract for services to implement  
26 this section.

27           (2) The system administrator shall process notices of  
28 violation and penalties issued under this section.

29           (3) Not later than April 1 annually, the system  
30 administrator shall submit an annual report to the  
31 chairperson and the minority chairperson of the  
32 Transportation Committee of the Senate and the chairperson  
33 and minority chairperson of the Transportation Committee of  
34 the House of Representatives. The report shall be considered  
35 a public record under the Right-to-Know Law and include for  
36 the prior year:

37           (i) The number of violations and fines issued and  
38 data regarding the speeds of vehicles in the enforcement  
39 area.

40           (ii) A compilation of penalties paid and  
41 outstanding.

42           (iii) The amount of money paid to a vendor or  
43 manufacturer under this section.

44           (iv) The number of vehicular accidents and related  
45 serious injuries and deaths along the designated highway  
46 work zones.

47 (k) Notice to owner.--In the case of a violation involving a  
48 motor vehicle registered under the laws of this Commonwealth,  
49 the notice of violation must be mailed within 30 days after the  
50 commission of the violation or within 30 days after the  
51 discovery of the identity of the registered owner, whichever is

1 later, and not thereafter to the address of the registered owner  
2 as listed in the records of the department. In the case of motor  
3 vehicles registered in jurisdictions other than this  
4 Commonwealth, the notice of violation must be mailed within 30  
5 days after the discovery of the identity of the registered owner  
6 to the address of the registered owner as listed in the records  
7 of the official in the jurisdiction having charge of the  
8 registration of the vehicle. A notice of violation under this  
9 section must be provided to an owner within 90 days of the  
10 commission of the offense.

11 (l) Mailing of notice and records.--Notice of violation must  
12 be sent by first class mail. A manual or automatic record of  
13 mailing prepared by the system administrator in the ordinary  
14 course of business shall be prima facie evidence of mailing and  
15 shall be admissible in any judicial or administrative proceeding  
16 as to the facts contained in it.

17 (m) Payment of fine.--The following shall apply:

18 (1) An owner to whom a notice of violation has been  
19 issued may admit responsibility for the violation and pay the  
20 fine provided in the notice.

21 (2) Payment must be made personally, through an  
22 authorized agent, electronically or by mailing both payment  
23 and the notice of violation to the system administrator.  
24 Payment by mail must be made only by money order, credit card  
25 or check made payable to the system administrator. The system  
26 administrator shall remit the fine, less the system  
27 administrator's operation and maintenance costs necessitated  
28 by this section, to the department for deposit into a  
29 restricted receipts account in the Motor License Fund. Fines  
30 deposited in the fund under this paragraph shall be used by  
31 the department for a Transportation Enhancement Grants  
32 Program as established by section 3116 (relating to automated  
33 red light enforcement systems in first class cities). The  
34 department shall award transportation enhancement grants on a  
35 competitive basis. The department may pay actual  
36 administrative costs arising from the department's  
37 administration of this section. The department may not  
38 reserve, designate or set aside a specific level of funds or  
39 percentage of funds to an applicant prior to the completion  
40 of the application process, nor may the department designate  
41 a set percentage of funds to an applicant.

42 (3) Payment of the established fine and applicable  
43 penalties shall operate as a final disposition of the case.

44 (n) Hearing.--The following shall apply:

45 (1) An owner to whom a notice of violation has been  
46 issued may, within 30 days of the mailing of the notice,  
47 request a hearing to contest the liability alleged in the  
48 notice. A hearing request must be made by appearing before  
49 the system administrator during regular office hours either  
50 personally or by an authorized agent or by mailing a request  
51 in writing. A hearing request form may be included with or as

1 part of the notice of violation.

2 (2) Upon receipt of a hearing request, the system  
3 administrator shall in a timely manner schedule the matter  
4 before a hearing officer. The hearing officer shall be  
5 designated by the department. Written notice of the date,  
6 time and place of hearing must be sent by first class mail to  
7 the owner. The system administrator shall establish  
8 convenient hearing hours and times in each of the following  
9 metropolitan areas for challenges to be heard as provided in  
10 this section: Erie, Harrisburg, Philadelphia, Pittsburgh and  
11 Scranton.

12 (3) The hearing shall be conducted pursuant to 2 Pa.C.S.  
13 Ch. 5 (relating to practice and procedure) and will be  
14 subject to appeal pursuant to 2 Pa.C.S. Ch. 7 (relating to  
15 judicial review).

16 (o) Compensation to manufacturer or vendor.--Compensation  
17 paid to the manufacturer or vendor of the automated speed  
18 enforcement system may not be based upon the number of traffic  
19 citations issued or a portion or percentage of the fine  
20 generated by the citations. The compensation paid to the  
21 manufacturer or vendor of the equipment shall be based upon the  
22 value of the equipment and the services provided or rendered in  
23 support of the automated speed enforcement system.

24 (p) Expiration.--This section shall expire five years from  
25 the effective date of regulations promulgated by the department  
26 under this section.

27 Section 3. The Secretary of Transportation and the Chief  
28 Executive Officer of the Pennsylvania Turnpike Commission shall  
29 publish a notice in the Pennsylvania Bulletin when the automated  
30 speed enforcement system is operational along the designated  
31 highway work zones under 75 Pa.C.S. § 3369.

32 Section 4. This act shall take effect as follows:

33 (1) Except as set forth in paragraph (2), the addition  
34 of 75 Pa.C.S. § 3369 shall take effect in 120 days.

35 (2) The addition of 75 Pa.C.S. § 3369(e) shall take  
36 effect 60 days after publication in the Pennsylvania Bulletin  
37 of the notice under section 3.

38 (3) The remainder of this act shall take effect  
39 immediately.