

AMENDMENTS TO SENATE BILL NO. 172

Sponsor: SENATOR MCGARRIGLE

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1 Amend Bill, page 1, lines 1 through 6, by striking out all of
2 said lines and inserting

3 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
4 Statutes, in general provisions, further providing for
5 definitions; and, in rules of the road in general, further
6 providing for speed timing devices and providing for
7 automated speed enforcement systems in active work zones and
8 establishing a pilot program for automated speed enforcement
9 system on designated highway.

10 Amend Bill, page 1, lines 9 through 18; pages 2 through 23,
11 lines 1 through 30; page 24, lines 1 through 25; by striking out
12 all of said lines on said pages and inserting

13 Section 1. Section 102 of Title 75 of the Pennsylvania
14 Consolidated Statutes is amended by adding definitions to read:
15 § 102. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this title which are applicable to specific
18 provisions of this title, the following words and phrases when
19 used in this title shall have, unless the context clearly
20 indicates otherwise, the meanings given to them in this section:

21 * * *

22 "Automated speed enforcement system." An electronic traffic
23 sensor system that:

24 (1) is able to automatically detect vehicles exceeding
25 the posted speed limit with a type of speed timing device;

26 (2) produces a recorded image that shows:

27 (i) a clear and legible identification of only the
28 vehicle's license plate;

29 (ii) location; and

30 (iii) date and time.

31 "Automated speed enforcement work area." The portion of an
32 active work zone where construction, maintenance or utility
33 workers are located on the roadway, berm or shoulder and workers
34 are adjacent to an active travel lane and where an automated
35 speed enforcement system is active. For the purposes of this

1 definition, workers shall also be considered adjacent to an
2 active travel lane where workers are present and are protected
3 by a traffic barricade.

4 * * *

5 Section 2. Section 3368(c)(2) of Title 75 is amended,
6 subsection (c) is amended by adding a paragraph and the section
7 is amended by adding a subsection to read:

8 § 3368. Speed timing devices.--

9 * * *

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

12 * * *

13 (2) Except as otherwise provided in paragraph (3),
14 electronic devices such as radio-microwave devices
15 [(commonly], commonly referred to as electronic speed meters
16 or [radar] radar, may be used only as part of an automated
17 speed enforcement system or by members of the Pennsylvania
18 State Police.

19 * * *

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

24 * * *

25 (f) LIDAR testing and calibration.--

26 (1) The department may, upon publication in the
27 Pennsylvania Bulletin, provide that LIDAR speed measuring
28 devices and LIDAR systems shall be calibrated and tested
29 using the testing procedures in department regulation.

30 (2) LIDAR speed measuring devices and LIDAR systems
31 shall be calibrated and tested every 365 days at a minimum
32 before being utilized by the Pennsylvania State Police or as
33 part of an automated speed enforcement system.

34 (3) The certification that the LIDAR device and system,
35 as applicable, have been tested and found to be accurate
36 shall create a presumption that the requirements of this
37 subsection have been fulfilled.

38 (4) As used in this subsection, the following words and
39 phrases shall have the meanings given to them in this
40 paragraph unless the context clearly indicates otherwise:

41 "LIDAR." The technology of measuring target range using
42 reflected light to determine target range and speed from the
43 time-of-flight of laser pulses.

44 "LIDAR speed-measuring device." Speed-measuring
45 equipment that determines target range and speed based on the
46 time-of-flight of laser light pulses reflected off a target.

47 "LIDAR system." A LIDAR speed-measuring device that
48 incorporates additional equipment that is used to gather,
49 process and record images, as applicable, to be used as part
50 of speed enforcement efforts.

51 Section 3. Title 75 is amended by adding sections to read:

1 § 3369. Automated speed enforcement systems in active work
2 zones.

3 (a) Establishment.--A program is established to provide for
4 automated speed enforcement systems in active work zones.

5 (b) Applicability.--This section shall apply to Federal aid
6 highways only under the jurisdiction of the department and the
7 Pennsylvania Turnpike Commission. An automated speed enforcement
8 system may not be used unless:

9 (1) At least two appropriate warning signs are
10 conspicuously placed before the active work zone notifying
11 the public that an automated speed enforcement device is in
12 use.

13 (2) A notice identifying the location of the automated
14 speed enforcement system is posted at the active work zone
15 and on the department's or Pennsylvania Turnpike Commission's
16 publicly accessible Internet website. The notice on the
17 websites shall remain throughout the period of use.

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

21 (c.1) Owner liability.--For each violation under this
22 section, the owner of the vehicle shall be liable for the
23 penalty imposed unless the owner is convicted of the same
24 violation under another provision of this title or has a defense
25 under subsection (g).

26 (d) Notice of violation.--

27 (1) (i) An action to enforce this section shall be
28 initiated by an administrative notice of violation to the
29 registered owner of a vehicle identified by an automated
30 speed enforcement system as violating this section. A
31 notice of violation based upon inspection of recorded
32 images produced by an automated speed enforcement system
33 and sworn or affirmed by an authorized member of the
34 Pennsylvania State Police shall be prima facie evidence
35 of the facts contained in the notice. The Pennsylvania
36 State Police shall receive certification from the
37 department, the Pennsylvania Turnpike Commission or the
38 system administrator when an automated speed enforcement
39 system is active in accordance with subsection (b).

40 (ii) The notice of violation must include written
41 verification that the automated speed enforcement system
42 was operating correctly at the time of the alleged
43 violation and the date of the most recent inspection that
44 confirms the automated speed enforcement system to be
45 operating properly.

46 (iii) An automated speed enforcement system operator
47 shall complete training offered by the manufacturer of
48 the automated speed enforcement system, including
49 training on any devices critical to the operation of the
50 system, or the manufacturer's representative in the
51 procedures for setting up, testing and operating an

1 automated speed enforcement system. Upon completion of
2 the training, the manufacturer or manufacturer's
3 representative shall issue a signed certificate to the
4 automated speed enforcement system device operator, which
5 shall be admitted as evidence in any court proceeding for
6 a violation involving an automated speed enforcement
7 system device. An automated speed enforcement system
8 device operator shall fill out and sign a daily log for
9 an automated speed enforcement system, which:

10 (A) states the date, time and location of the
11 device setup;

12 (B) states that the automated speed enforcement
13 system device operator successfully performed and the
14 automated speed enforcement system device passed the
15 self-tests specified by the manufacturer of the
16 automated speed enforcement system device;

17 (C) shall be kept on file; and

18 (D) shall be admitted in any proceeding for a
19 violation involving an automated speed enforcement
20 system device.

21 (iv) An automated speed enforcement system device
22 shall undergo an annual calibration check performed by a
23 calibration laboratory. The calibration laboratory shall
24 issue a signed certificate of calibration after the
25 annual calibration check, which shall be kept on file and
26 shall be admitted as evidence in any proceeding for a
27 violation involving an automated speed enforcement system
28 device.

29 (v) The following shall be attached to the notice of
30 violation:

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

33 (B) The registration number and state of
34 issuance of the vehicle registration.

35 (C) Verification that the automated speed
36 enforcement system was operating correctly at the
37 time of the alleged violation and the date of the
38 most recent inspection that confirms the automated
39 speed enforcement system to be operating properly.

40 (D) The date, time and place of the alleged
41 violation.

42 (E) Notice that the violation charged is under
43 this section.

44 (F) Instructions for return of the notice of
45 violation.

46 (2) In the case of a violation involving a motor vehicle
47 registered under the laws of this Commonwealth, the notice of
48 violation shall be mailed within 30 days after the commission
49 of the violation or within 30 days after the discovery of the
50 identity of the registered owner, whichever is later, to the
51 address of the registered owner as listed in the records of

1 the department.

2 (3) In the case of a violation involving a motor vehicle
3 registered in a jurisdiction other than this Commonwealth,
4 the notice of violation shall be mailed within 30 days after
5 the discovery of the identity of the registered owner to the
6 address of the registered owner as listed in the records of
7 the official in the jurisdiction having charge of the
8 registration of the vehicle.

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

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

16 (6) Notice of violation must be sent by first class
17 mail. A manual or automatic record of mailing prepared by the
18 system administrator in the ordinary course of business shall
19 be prima facie evidence of mailing and shall be admissible in
20 a judicial or administrative proceeding as to the facts
21 contained in the notice.

22 (e) Penalty.--

23 (1) The penalty of a violation under this section shall
24 be a fine of \$75 for the first offense and \$150 for the
25 second and subsequent offenses, and the fine shall not be
26 subject to 42 Pa.C.S. § 3571 (relating to Commonwealth
27 portion of fines, etc.) or 3573 (relating to municipal
28 corporation portion of fines, etc.).

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

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

32 (i) be deemed a criminal conviction;

33 (ii) be made part of the operating record of the
34 individual upon whom the penalty is imposed under section
35 1535 (relating to schedule of convictions and points);

36 (iii) be the subject of merit rating for insurance
37 purposes; or

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

40 (f) Limitations.--

41 (1) Recorded images collected as part of the automated
42 speed enforcement system may record only violations of this
43 section and may not be used for any other surveillance
44 purposes. The restrictions provided in this paragraph shall
45 not preclude a court of competent jurisdiction from issuing
46 an order directing that the information be provided to law
47 enforcement officials, if the information is requested solely
48 in connection with a criminal law enforcement action and is
49 reasonably described.

50 (2) Notwithstanding any other provision of law,
51 information gathered and maintained under this section that

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

16 (3) Recorded images obtained through the use of
17 automated speed enforcement systems deployed as a means of
18 promoting traffic safety in automated speed enforcement work
19 areas shall be destroyed within one year of final disposition
20 of a notice of violation, except that images subject to a
21 court order under paragraph (1) or (2) shall be destroyed
22 within two years after the date of the order, unless further
23 extended by court order. The department, the Pennsylvania
24 Turnpike Commission or the system administrator shall retain
25 evidence that the records have been destroyed in accordance
26 with this section.

27 (4) Notwithstanding any other provision of law,
28 registered vehicle owner information obtained as a result of
29 the operation of an automated speed enforcement system under
30 this section shall be the exclusive property of the
31 Commonwealth and not the property of the manufacturer or
32 vendor of the automated speed enforcement system and may not
33 be used for a purpose other than prescribed in this section.

34 (5) A violation of this subsection shall constitute a
35 misdemeanor of the third degree punishable by a \$500 fine.
36 Each violation shall constitute a separate and distinct
37 offense.

38 (g) Defenses.--

39 (1) It shall be a defense to a violation under this
40 section that the vehicle was reported to a police department
41 as stolen prior to the time the violation occurred and was
42 not recovered prior to that time.

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

46 (3) It shall be a defense to a violation under this
47 section that the device being used to determine speed was not
48 in compliance with section 3368 (relating to speed timing
49 devices) with respect to testing for accuracy, certification
50 or calibration.

51 (h) Authority and duties of department and Pennsylvania

1 Turnpike Commission.--

2 (1) The department and Pennsylvania Turnpike Commission
3 shall establish a five-year automated speed enforcement
4 system program not later than 18 months following the
5 effective date of this section.

6 (2) (i) The department and Pennsylvania Turnpike
7 Commission may promulgate regulations for the
8 certification and the use of automated speed enforcement
9 systems.

10 (ii) In order to facilitate the prompt
11 implementation of this section, regulations promulgated
12 by the department and Pennsylvania Turnpike Commission
13 under this section shall be deemed temporary regulations
14 and not subject to:

15 (A) Sections 201, 202, 203, 204 and 205 of the
16 act of July 31, 1968 (P.L.769, No.240), referred to
17 as the Commonwealth Documents Law.

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

20 (C) Section 204 (b) of the act of October 15,
21 1980 (P.L.950, No.164), known as the Commonwealth
22 Attorneys Act.

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

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

34 (iii) Two restricted accounts are established in the
35 State Treasury for fines remitted under this section to
36 the department and Pennsylvania Turnpike Commission,
37 respectively. The system administrator of the department
38 or Pennsylvania Turnpike Commission, if any, shall send
39 an invoice to the department or Pennsylvania Turnpike
40 Commission based, respectively, on the services under
41 subparagraph (i) and the Pennsylvania State Police under
42 subsection (d)(1)(i). The department, Pennsylvania
43 Turnpike Commission and the Pennsylvania State Police
44 shall use the appropriate restricted account to pay for
45 the administration of the pilot program and the system
46 administrator's invoice costs, if applicable. Remaining
47 fines shall be allocated by the department or
48 Pennsylvania Turnpike Commission for the first three
49 years as follows:

50 (A) Forty-five percent of the fines from
51 violations occurring in an automated speed

1 enforcement work area shall be deposited into a
2 restricted account in the State Treasury on a
3 quarterly basis. The Department of Revenue shall,
4 within 90 days of the date of deposit, transfer to
5 the Pennsylvania State Police an amount equivalent to
6 the previous quarterly deposit to be used by the
7 Pennsylvania State Police as follows:

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

12 (II) Forty-five percent of the funds shall
13 be dedicated and used to pay for an increased
14 Pennsylvania State Trooper presence in work zones
15 on the State road system managed by the
16 department or the Pennsylvania Turnpike
17 Commission. Funds under this subclause shall be
18 in addition to any contractual agreement between
19 the department or the Pennsylvania Turnpike
20 Commission and the Pennsylvania State Police for
21 enforcement in work zones on the State road
22 system managed by the department or the
23 Pennsylvania Turnpike Commission.

24 (B) Fifteen percent of the fines from violations
25 occurring in an automated speed enforcement work area
26 shall be transferred to the department or the
27 Pennsylvania Turnpike Commission, whichever State
28 road system utilized the automated speed enforcement
29 system, for the purpose of work zone safety, traffic
30 safety and educating the motoring public on work zone
31 safety, at the discretion of the department or
32 Pennsylvania Turnpike Commission.

33 (C) Forty percent of the fines from violations
34 occurring in an automated speed enforcement work area
35 shall be deposited in the Motor License Fund and
36 shall be appropriated by the General Assembly.

37 (iv) Remaining fines shall be allocated by the
38 department or Pennsylvania Turnpike Commission for the
39 last two years to develop a Work Zone and Highway Safety
40 Program. At a minimum, funds from the Work Zone and
41 Highway Safety Program shall be used for improvement
42 projects and countermeasures to improve the safety in
43 work zones and on highways. Funds may also be used to
44 increase awareness of distracted driving and
45 transportation enhancements established under section
46 3116 (relating to automated red light enforcement systems
47 in first class cities).

48 (v) If the amount of funds under subparagraph (iii)
49 (A) is lower than the amount of funds under subparagraph
50 (iii) (A) for the previous fiscal year, funds from the
51 Motor License Fund may not be used to supplement the

1 funds for the current fiscal year. Funding provided for
2 under subparagraph (iii) (A) shall be supplemental and
3 shall not prohibit the Pennsylvania State Police from
4 obtaining additional funding from any other means.

5 (vi) If the five-year program is not extended by the
6 General Assembly, any remaining fines remitted to the
7 department or Pennsylvania Turnpike Commission shall be
8 used as provided under subparagraph (iv).

9 (vii) 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, the
18 Pennsylvania Turnpike Commission and the Pennsylvania State
19 Police shall submit a report on the program for the preceding
20 calendar year to the chairperson and minority chairperson of
21 the Transportation Committee of the Senate and the
22 chairperson and minority chairperson of the Transportation
23 Committee of the House of Representatives. The report shall
24 be a public record under the Right-to-Know 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 in work zones that were provided as a
36 result of the funds under paragraph (3) (iii) (A) (II).

37 (vii) Use of funds under paragraph (3) (iv).

38 (i) Payment of fine.--

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

44 (2) Payment by mail must be made only by money order,
45 credit card or check made payable to the Commonwealth, the
46 Pennsylvania Turnpike Commission or the system administrator,
47 as applicable.

48 (3) Payment of the fine shall operate as a final
49 disposition of the case.

50 (4) If payment is not received within 90 days of
51 original notice, the department or Pennsylvania Turnpike

1 Commission may turn the matter over to applicable credit
2 collection agencies.

3 (j) Contest.--

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

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

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

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

27 (k) Expiration.--This section shall expire five years from
28 the effective date of this section.

29 § 3370. Pilot program for automated speed enforcement system on
30 designated highway.

31 (a) General rule.--A pilot program is established to provide
32 for an automated speed enforcement system on the designated
33 highway.

34 (1) A city of the first class, upon passage of an
35 ordinance, is authorized to enforce section 3362 (relating to
36 maximum speed limits) by recording violations using an
37 automated speed enforcement system approved by the
38 department.

39 (2) This section shall only be applicable in a city of
40 the first class in areas agreed upon by the system
41 administrator and the Secretary of Transportation using the
42 automated speed enforcement system on U.S. Route 1 (Roosevelt
43 Boulevard) between Ninth Street and the Philadelphia County
44 line shared with Bucks County.

45 (b) Owner liability.--For each violation under this section,
46 the owner of the vehicle shall be liable for the penalty imposed
47 unless the owner is convicted of the same violation under
48 another section of this title or has a defense under subsection
49 (g).

50 (c) Certificate as evidence.--A certificate, or a facsimile
51 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 employed by the city of the
3 first class shall be prima facie evidence of the facts contained
4 in it. The city must include written documentation that the
5 automated speed enforcement system was operating correctly at
6 the time of the alleged violation. A recorded image evidencing a
7 violation of section 3362 shall be admissible in any judicial or
8 administrative proceeding to adjudicate the liability for the
9 violation.

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

11 (1) The penalty for a violation under subsection (a)
12 shall be a fine of \$150 unless a lesser amount is set by
13 ordinance. The ordinance may create fines for first offense,
14 second offense and third and subsequent offenses, but no
15 single fine shall exceed \$150.

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

18 (i) At least two appropriate warning signs are
19 conspicuously placed at the beginning and end and at two-
20 mile intervals of the designated highway notifying the
21 public that an automated speed enforcement device is in
22 use.

23 (ii) A notice identifying the location of the
24 automated speed enforcement system is posted on the
25 department's publicly accessible Internet website
26 throughout the period of use.

27 (3) A fine is not authorized during the first 30 days of
28 operation of an automated speed enforcement system.

29 (4) The system administrator may provide a written
30 warning to the registered owner of a vehicle determined to
31 have violated this section during the first 30 days of
32 operation of the automated speed enforcement system.

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

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

44 (e) Liability.--Driving in excess of the posted speed limit
45 along the designated highway by 11 miles per hour or more is a
46 violation of this section.

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

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

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

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

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

49 (5) Notwithstanding any other provision of law,
50 registered vehicle owner information obtained as a result of
51 the operation of an automated speed enforcement system under

1 this section shall not be the property of the manufacturer or
2 vendor of the automated speed enforcement system and may not
3 be used for any purpose other than prescribed in this
4 section.

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

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

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

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

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

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

33 (h) Department approval.--

34 (1) No automated speed enforcement system may be used
35 without the approval of the department, which shall have the
36 authority to promulgate regulations for the certification and
37 use of the systems which regulations may include the use of
38 radio-microwave devices, commonly referred to as electronic
39 speed meters or radar, or light detection and ranging
40 devices, commonly referred to as LIDAR, in their operations.

41 (2) Notwithstanding any other provision of law, the
42 devices identified in paragraph (1) shall be tested for
43 accuracy at regular intervals as designated by regulation of
44 the department.

45 (i) Duty of city.--If a city of the first class elects to
46 implement this section, the following provisions shall apply:

47 (1) The city may not use an automated speed enforcement
48 system unless there is posted an appropriate sign in a
49 conspicuous place before the area in which the automated
50 speed enforcement device is to be used notifying the public
51 that an automated speed enforcement device is in use

1 immediately ahead.

2 (2) The city shall designate or appoint the Philadelphia
3 Parking Authority as the system administrator to supervise
4 and coordinate the administration of notices of violation
5 issued under this section.

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

14 (i) a copy of the recorded image showing the
15 vehicle;

16 (ii) the registration number and state of issuance
17 of the vehicle registration;

18 (iii) the date, time and place of the alleged
19 violation;

20 (iv) notice that the violation charged is under
21 section 3362; and

22 (v) instructions for return of the notice of
23 violation, which shall read:

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

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

29 (1) The system administrator may hire and designate
30 personnel as necessary or contract for services to implement
31 this section.

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

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

42 (i) The number of violations and fines issued and
43 data regarding the speeds of vehicles in the enforcement
44 area.

45 (ii) A compilation of penalties paid and
46 outstanding.

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

49 (iv) The number of vehicular accidents and related
50 serious injuries and deaths along the designated highway.

51 (k) Notice to owner.--In the case of a violation involving a

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

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

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

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

25 (2) Payment must be made personally, through an
26 authorized agent, electronically or by mailing both payment
27 and the notice of violation to the system administrator.
28 Payment by mail must be made only by money order, credit card
29 or check made payable to the system administrator. The system
30 administrator shall remit the fine, less the system
31 administrator's operation and maintenance costs necessitated
32 by this section, to the department for deposit into a
33 restricted receipts account in the Motor License Fund. Fines
34 deposited in the fund under this paragraph shall be used by
35 the department for a Transportation Enhancement Grants
36 Program as established by section 3116 (relating to automated
37 red light enforcement systems in first class cities). The
38 department shall award transportation enhancement grants on a
39 competitive basis. The department may pay actual
40 administrative costs arising from the department's
41 administration of this section. The department may not
42 reserve, designate or set aside a specific level of funds or
43 percentage of funds to an applicant prior to the completion
44 of the application process, nor may the department designate
45 a set percentage of funds to an applicant. Grants shall be
46 awarded by the department based on the majority vote of a
47 selection committee consisting of four representatives of the
48 department appointed by the secretary and four members
49 appointed by the mayor of the city of the first class, with
50 the secretary or a designee of the secretary serving as
51 chairperson. Priority shall be given to applications seeking

1 grant funds for transportation enhancements in the
2 municipality where the automated speed camera system is
3 operated.

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

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

7 (1) An owner to whom a notice of violation has been
8 issued may, within 30 days of the mailing of the notice,
9 request a hearing to contest the liability alleged in the
10 notice. A hearing request must be made by appearing before
11 the system administrator during regular office hours either
12 personally or by an authorized agent or by mailing a request
13 in writing.

14 (2) Upon receipt of a hearing request, the system
15 administrator shall in a timely manner schedule the matter
16 before a hearing officer. The hearing officer shall be
17 designated by the city of the first class. Written notice of
18 the date, time and place of hearing must be sent by first
19 class mail to the owner.

20 (3) The hearing shall be conducted pursuant to 2 Pa.C.S.
21 Ch. 5 (relating to practice and procedure) and will be
22 subject to appeal pursuant to 2 Pa.C.S. Ch. 7 (relating to
23 judicial review).

24 (o) Compensation to manufacturer or vendor.--If a city of
25 the first class has established an automated speed enforcement
26 system deployed as a means of promoting traffic safety and the
27 enforcement of the traffic laws of this Commonwealth or the
28 city, the compensation paid to the manufacturer or vendor of the
29 automated speed enforcement system may not be based upon the
30 number of traffic citations issued or a portion or percentage of
31 the fine generated by the citations. The compensation paid to
32 the manufacturer or vendor of the equipment shall be based upon
33 the value of the equipment and the services provided or rendered
34 in support of the automated speed enforcement system.

35 (p) Revenue limitation.--A city of the first class may not
36 collect an amount equal to or greater than 2% of its annual
37 budget from the collection of revenue from the issuance and
38 payment of violations under this section.

39 (q) Expiration.--This section shall expire five years from
40 its effective date.

41 Section 4. The Secretary of Transportation and the Chief
42 Executive Officer of the Pennsylvania Turnpike Commission shall
43 transmit a notice to the Legislative Reference Bureau for
44 publication in the Pennsylvania Bulletin when the automated
45 speed enforcement system is operational along the designated
46 highway work zones under 75 Pa.C.S. § 3369.

47 Section 5. The Secretary of Transportation shall transmit a
48 notice to the Legislative Reference Bureau for publication in
49 the Pennsylvania Bulletin when the automated speed enforcement
50 system is operational along the designated highway under 75
51 Pa.C.S. § 3370.

1 Section 6. This act shall take effect as follows:

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

4 (2) The addition of 75 Pa.C.S. § 3369(c) shall take
5 effect 60 days after publication in the Pennsylvania Bulletin
6 of the notice under section 4.

7 (3) Except as set forth in paragraph (4), the addition
8 of 75 Pa.C.S. § 3370 shall take effect in 60 days.

9 (4) The addition of 75 Pa.C.S. § 3370(e) shall take
10 effect 60 days after publication in the Pennsylvania Bulletin
11 of the notice under section 5.

12 (5) The following provisions shall take shall take
13 effect immediately:

14 (i) This section.

15 (ii) The remainder of this act.