



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 172

PRINTERS NO. 1866

PRIME SPONSOR: Argall

COST / (SAVINGS)

FUND	FY 2017/18	FY 2018/19
Motor License Fund	\$0	See "Fiscal Impact"
Political Subdivision Funds	\$0	See "Fiscal Impact"

SUMMARY: Amends the Vehicle Code (Title 75) to create an automated speed enforcement system (ASES) 5-year pilot program for highway work zones; and two separate ASES pilot programs within the City of Philadelphia.

ANALYSIS: This legislation amends the Vehicle Code by adding a new Section 3369 in order to create a 5-year pilot program to test ASES cameras in work zones and a new Section 3370 in order to create two 5-year ASES programs in the City of Philadelphia.

WORK ZONE PILOT

This pilot will be conducted in active work zones protected by barriers, along interstate highways, PennDOT Federal-aid Highways and the Pennsylvania Turnpike. The cameras, operated by a vendor, will be equipped with either Radar, a radio-microwave device or LIDAR, a light detection and ranging device to determine speed timing of vehicles.

PennDOT and the Pennsylvania Turnpike Commission (PTC) shall choose the locations for camera installation, and the locations must be posted on the respective agencies' internet website. Each location will need to have a minimum of two warning signs notifying motorists that photo speed enforcement is in use. When first established, a 5-day warning period allows for the system operator to issue written warnings.

Enforcement: Tickets will only be issued in active work zones for vehicles exceeding the posted speed limit by 11 MPH or more. A \$40 fine is established for violations, and a notice of violation must be transmitted to the vehicle owner within 90 days of the offense. Penalties imposed will not be a criminal conviction if paid, will not reflect on an owner's driving record, and cannot be used for insurance purposes or to authorize imposition of surcharges on motor vehicle insurance coverage.

The ASES program will be run by a system administrator or administrators, hired by PennDOT and the PTC, and the violation notices can only be sent out to the registered owner of the vehicle by the systems administrator after review by a police officer with primary jurisdiction in the area where the violation occurred.

The violation notice must include:

- Written verification that the ASES was reviewed and issued by a police officer.
- A copy of the recorded image showing the vehicle.
- The registration number and state of issuance of the vehicle registration.
- The date, time and place of the alleged violation.
- Notice that the violation is charged under the appropriate section.
- Instructions for the return of the notice of violation.

The legislation requires a notice of a violation involving a PA registered vehicle to be mailed within 30 days after the violation or within 30 days after the discovery of the identity of the registered owner, whichever is later. A violation involving a vehicle registered outside of PA must be mailed within 30 days after the discovery of the identity of the registered owner. The notice shall be invalid unless provided to an owner within 90 days of the offense.

Limitations: The legislation prohibits recorded images collected as part of the ASES from being used for any other surveillance purposes unless a court issues an order directing that the information be provided to law enforcement officials if the information is requested solely in connection with a criminal law enforcement action. Information obtained through an ASES is not subject to the Right-to-Know Law and must be destroyed within 1 year of final disposition. A violation of the subsection pertaining to limitations on recorded images obtained through the use of an ASES constitutes a misdemeanor of the 3rd degree and is subject to a \$500 fine.

Use of Fines: Fines paid under ASES, minus the system administrator's actual operation/maintenance costs and PennDOT's administrative costs, shall be deposited into a restricted receipts account in the Motor License Fund and shall be used for a Transportation Enhancement Grants Program as established under the Automated Red Light Enforcement (ARLE) program.

The system administrator shall prepare an annual report, no later than April 1, on the program for the preceding calendar year to the Chairperson and Minority Chairperson of the House and Senate Transportation Committees. The report will provide the number of fines issued and penalties paid and outstanding. It will also report on the money paid to the vendor or manufacturer and the number of vehicle accidents and related serious injuries or deaths along the route of the ASES program.

Compensation under a contract shall only be based upon the value of equipment and services provided or rendered and not based in any part upon the quantity of notices of violations issued or amount of fines.

Defenses: The following are defenses to a violation under this section:

- The owner of the vehicle was not driving the vehicle at the time of the offense.
- The vehicle was reported to a police department as stolen prior to the time the violation occurred and was not recovered prior to that time.
- The person receiving the notice of violation was not the owner of the vehicle at the time of the offense.
- The device used to determine speed was not in compliance with PennDOT rules for being tested for accuracy, certification or calibration.

An owner may contest a violation under this section within 30 days. Standard administrative hearing procedures will apply to any dispute of a notice of violation. This will include the right to an on-the-record hearing and the right to submit evidence and testimony. Convenient hearing hours/times will be established for such challenges in delineated metropolitan areas throughout the Commonwealth.

Reference to Title 2, Chapter 7 (Judicial Review of Commonwealth Agency Action) assures the appellate rights of any party found liable at an administrative hearing. Because a record and findings of the hearing officer will be issued as part of the hearing process, the appeal to the Court of Common Pleas will be based upon that administrative record and dispense with the need for an entirely new evidentiary hearing.

CITY OF PHILADELPHIA PILOTS

The first of the 5-year ASES pilot programs will be conducted along the entire length of Roosevelt Boulevard (U.S. Route 1) between Ninth Street and the Bucks County line. The second pilot will be on Henry Avenue between Hunting Park Avenue and Port Royal. City Council must adopt an ordinance to begin a pilot program. The legislation designates the Philadelphia Parking Authority as the system operator and allows for radar and LIDAR to be used as part of an ASES.

Once begun, the following two conditions shall apply:

- At least 2 appropriate warning signs are conspicuously placed at the beginning and end and at two-mile intervals notifying the public that an ASES is in use.
- A notice identifying the location of the ASES is posted on PennDOT's website throughout the period of use.

Enforcement: Driving in excess of the posted speed limit by at least 11 miles per hour constitutes a violation of this section. A fine under this section shall be established by City ordinance and shall not exceed \$150. A penalty imposed under this section shall not be deemed a criminal conviction, impact a driver's schedule of convictions and points, be the subject of merit rating for insurance purposes nor authorize imposition of surcharge points in the provision of a motor vehicle insurance coverage. When first established, a 30-day warning period allows for the system operator to issue written warnings.

This legislation requires an action to enforce the speed limit to be initiated by an administrative notice of violation to the registered owner of the vehicle identified by an ASES and based upon inspection by a police officer.

The notice must include:

- Written verification that the ASES was operating correctly at the time of the alleged violation and the date of the most recent inspection that confirms it is operating properly.
- A copy of the recorded image showing the vehicle with its license plate visible.
- The registration number and state of issuance of the vehicle registration.
- The date, time and place of the alleged violation.
- Notice that the violation is charged under the appropriate section.
- Instructions for the return of the notice of violation.

The legislation requires a notice of a violation involving a PA registered vehicle to be mailed within 30 days after the violation or within 30 days after the discovery of the identity of the registered owner, whichever is later. A violation involving a vehicle registered outside of PA must be mailed within 30 days after the discovery of the identity of the registered owner. The notice shall be invalid unless provided to an owner within 90 days of the offense.

Limitations: The legislation prohibits recorded images collected as part of the ASES from being used for any other surveillance purposes unless a court issues an order directing that the information be provided to law enforcement officials if the information is requested solely in connection with a criminal law enforcement action. Information obtained through an ASES is not subject to the Right-to-Know Law and must be destroyed within 1 year of final disposition.

A violation of the subsection pertaining to limitations on recorded images obtained through the use of an ASES constitutes a misdemeanor of the 3rd degree and is subject to a \$500 fine.

Use of Fines: Fines paid under ASES, minus the system administrator's actual operation/maintenance costs and PennDOT's administrative costs, shall be remitted to PennDOT for deposit into a restricted receipts account in the Motor License Fund and shall be used for a Transportation Enhancement Grants Program that was established under the Automated Red Light Enforcement (ARLE) program.

The system administrator shall prepare an annual report, no later than April 1, on the program for the preceding calendar year to the chairs of the House and Senate Transportation Committees providing the number of fines issued and penalties paid and outstanding. It will also report on the money paid to the vendor or manufacturer and the number of vehicle accidents/related serious injuries or deaths along the route of pilot.

Compensation under a contract shall only be based upon the value of equipment and services provided or rendered and not based in any part upon the quantity of notices of violations issued or amount of fines.

Defenses: The following are defenses to a violation under this section:

- The owner of the vehicle was not driving the vehicle at the time of the offense, or
- The vehicle was reported to a police department as stolen prior to the time the violation occurred and was not recovered prior to that time; or,
- The person receiving the notice of violation was not the owner of the vehicle at the time of the offense.
- The device used to determine speed was not in compliance with PennDOT rules for being tested for accuracy, certification or calibration.

An owner may contest a violation under this section within 30 days. Standard administrative hearing procedures will apply to any dispute of a notice of violation. This will include the right to an on-the-record hearing and the right to submit evidence and testimony.

Reference to Title 2, Chapter 7 (Judicial Review of Commonwealth Agency Action) assures the appellate rights of any party found liable at an administrative hearing. Because a record and findings of the hearing officer will be issued as part of the hearing process, the appeal to the Court of Common Pleas will be based upon that administrative record and dispense with the need for an entirely new evidentiary hearing.

SUNSET DATES

- New pilot program Sections 3369 and 3370 shall expire 5 years from the effective date.

EFFECTIVE DATES

The legislation would take effect as follows:

- The addition of section 3369(e)(relating to liability) and 3370(e)(relating to liability) takes effect 60 days after publication in the PA Bulletin.
- The remainder of section 3369 takes effect in 120 days.
- The remainder of section 3370 takes effect in 60 days.
- The remainder of the act takes effect immediately.

FISCAL IMPACT: According to information provided by the PTC, estimates suggest that \$42.1 million in net income in year 1 and \$45.3 million in net income over 5 years will be realized from the ASES pilot program. The following page (see Automated Work Zone Enforcement Program Revenue and Expenses) provides a fiscal analysis over a 5-year period that details revenue and expenses by agency. The PA State Police indicate that they will need additional enlisted and administrative staff to review the notices of violations and attend appeals hearings at the MDJ level. Those costs are indeterminable at this point. Any costs from the pilot programs within the City of Philadelphia to the Philadelphia Parking Authority will be offset by fine revenues. Any net income from the any of the pilot programs will be utilized for a Transportation Enhancement Grants Program where all municipalities are eligible to apply for assistance.

Automated Work Zone Enforcement Program Revenue and Expenses

Turnpike Commission		(in 000's)				
Revenue	Year 1	Year 2	Year 3	Year 4	Year 5	5-Year Totals
Gross Violation Revenue	29,321	8,896	8,985	9,075	9,165	65,442
Credit Card Surcharge Revenue	962	292	295	298	301	2,148
Less: Uncollectible Revenue	<u>5,278</u>	<u>1,601</u>	<u>1,617</u>	<u>1,633</u>	<u>1,650</u>	<u>11,779</u>
Total Revenue:	25,005	7,587	7,663	7,740	7,816	55,811
Expenses:						
Pilot Study	100	-	-	-	-	-
Vendor Costs	3,775	3,888	4,005	4,125	4,249	20,042
Administrative Cost	1,848	1,904	1,961	2,020	2,080	9,813
Credit Card Processing Fees	<u>962</u>	<u>292</u>	<u>295</u>	<u>298</u>	<u>301</u>	<u>2,148</u>
Total Expenses:	6,685	6,084	6,261	6,443	6,630	32,103
Net Income:	18,320	1,503	1,402	1,297	1,186	23,708
PennDOT		(in 000's)				
Revenue	Year 1	Year 2	Year 3	Year 4	Year 5	5-Year Totals
Gross Violation Revenue	41,515	12,655	12,725	12,797	12,871	92,563
Credit Card Surcharge Revenue	1,362	415	417	420	422	3,036
Less: Uncollectible Revenue	<u>7,473</u>	<u>2,278</u>	<u>2,291</u>	<u>2,303</u>	<u>2,317</u>	<u>16,662</u>
Total Revenue:	35,404	10,792	10,851	10,914	10,976	78,937
Expenses:						
Vendor Costs	7,644	7,873	8,110	8,353	8,603	40,583
Administrative Cost	2,588	2,665	2,745	2,828	2,912	13,738
Credit Card Processing Fees	<u>1,362</u>	<u>415</u>	<u>417</u>	<u>420</u>	<u>422</u>	<u>3,036</u>
Total Expenses:	11,594	10,953	11,272	11,601	11,937	57,357
Net Income:	23,810	-161	-421	-687	-961	21,580
Total Combined		(in 000's)				
Revenue	Year 1	Year 2	Year 3	Year 4	Year 5	5-Year Totals
Gross Violation Revenue	70,836	21,551	21,710	21,872	22,036	158,005
Credit Card Surcharge Revenue	2,324	707	712	718	723	5,184
Less: Uncollectible Revenue	<u>12,751</u>	<u>3,879</u>	<u>3,908</u>	<u>3,936</u>	<u>3,967</u>	<u>28,441</u>
Total Revenue:	60,409	18,379	18,514	18,654	18,792	134,748
Expenses:						
Pilot Study	100	-	-	-	-	-
Vendor Costs	11,419	11,761	12,115	12,478	12,852	60,625
Administrative Cost	4,436	4,569	4,706	4,848	4,992	23,551
Credit Card Processing Fees	<u>2,324</u>	<u>707</u>	<u>712</u>	<u>718</u>	<u>723</u>	<u>5,184</u>
Total Expenses:	18,279	17,037	17,533	18,044	18,567	89,460
Net Income:	42,130	1,342	981	610	225	45,288

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: June 12, 2018

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.