

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in preliminary provisions, further providing for
3 definitions; and, in rules of the road in general, further
4 providing for speed timing devices and providing for pilot
5 program for automated speed enforcement systems.

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

8 Section 1. Section 102 of Title 75 of the Pennsylvania
9 Consolidated Statutes is amended by adding definitions to read:

10 § 102. Definitions.

11 Subject to additional definitions contained in subsequent
12 provisions of this title which are applicable to specific
13 provisions of this title, the following words and phrases when
14 used in this title shall have, unless the context clearly
15 indicates otherwise, the meanings given to them in this section:

16 * * *

17 "Active work area." The portion of a work zone where
18 construction, maintenance or utility workers are located on the
19 roadway, berm or shoulder and workers are adjacent to an active

1 travel lane. For the purposes of this definition, workers shall
2 also be considered adjacent to an active travel lane where
3 workers are present and are protected by a traffic barrier.

4 * * *

5 "Automated speed enforcement system." An electronic traffic
6 sensor system that:

7 (1) is able to automatically detect vehicles exceeding
8 the posted speed limit; and

9 (2) records the vehicle's image, front or rear, license
10 plate, location, date, time and speed.

11 * * *

12 Section 2. Section 3368(c) of Title 75 is amended by adding
13 a paragraph to read:

14 § 3368. Speed timing devices.--

15 * * *

16 (c) Mechanical, electrical and electronic devices
17 authorized.--

18 * * *

19 (5) Light detection and ranging devices, commonly
20 referred to as LIDAR, may be used as part of an automated
21 speed enforcement system.

22 * * *

23 Section 3. Title 75 is amended by adding a section to read:
24 § 3368.1. Pilot program for automated speed enforcement
25 systems.

26 (a) Establishment.--A pilot program is established to
27 provide for automated speed enforcement systems in active work
28 areas.

29 (b) Applicability.--This section shall apply only to active
30 work areas on interstate highways under the jurisdiction of the

department or interstate highways or freeways under the
jurisdiction of the Pennsylvania Turnpike Commission. An
automated speed enforcement system shall not be used unless:

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

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

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

(d) Notice of violation.--

(1) (i) An action to enforce this section shall be
initiated by an administrative notice of violation to the
registered owner of a vehicle identified by an automated
speed enforcement system as violating this section. A
notice of violation based upon inspection of recorded
images produced by an automated speed enforcement system
and sworn or affirmed by an authorized representative of
the department or the Pennsylvania Turnpike Commission
shall be prima facie evidence of the facts contained in
it.

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

1 (iii) The following shall be attached to the notice
2 of violation:

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

5 (B) The registration number and state of
6 issuance of the vehicle registration.

7 (C) The date, time and place of the alleged
8 violation.

9 (D) Notice that the violation charged is under
10 this section.

11 (E) Instructions for return of the notice of
12 violation.

13 (2) In the case of a violation involving a motor vehicle
14 registered under the laws of this Commonwealth, the notice of
15 violation shall be mailed within 30 days after the commission
16 of the violation or within 30 days after the discovery of the
17 identity of the registered owner, whichever is later, to the
18 address of the registered owner as listed in the records of
19 the department.

20 (3) In the case of a violation involving a motor vehicle
21 registered in a jurisdiction other than this Commonwealth,
22 the notice of violation shall be mailed within 30 days after
23 the discovery of the identity of the registered owner to the
24 address of the registered owner as listed in the records of
25 the official in the jurisdiction having charge of the
26 registration of the vehicle.

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

29 (5) The notice shall include the following text:

30 This notice shall be returned personally, by mail or by

1 an agent duly authorized in writing, within 30 days of
2 issuance. A hearing may be obtained upon the written
3 request of the registered owner.

4 (6) Notice of violation must be sent by first class
5 mail. A manual or automatic record of mailing prepared by the
6 system administrator in the ordinary course of business shall
7 be prima facie evidence of mailing and shall be admissible in
8 any judicial or administrative proceeding as to the facts
9 contained in it.

10 (e) Penalty.--

11 (1) The penalty of a violation under this section shall
12 be a fine of \$100, and the fine shall not be subject to 42
13 Pa.C.S. § 3571 (relating to Commonwealth portion of fines,
14 etc.) or 3573 (relating to municipal corporation portion of
15 fines, etc.).

16 (2) The fine is not authorized during:

17 (i) The continuous 24-hour period after the
18 automated speed enforcement system is initially activated
19 in a work area.

20 (ii) Times when the work area is not active.

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

22 (i) deemed a criminal conviction;

23 (ii) be made part of the operating record under
24 section 1535 (relating to schedule of convictions and
25 points) of the individual upon whom the penalty is
26 imposed;

27 (iii) the subject of merit rating for insurance
28 purposes; or

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

1 (f) Limitations.--

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

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

28 (3) Recorded images obtained through the use of
29 automated speed enforcement systems deployed as a means of
30 promoting traffic safety in active work areas shall be

1 destroyed within one year of final disposition of a notice of
2 violation, except that images subject to a court order under
3 paragraph (1) or (2) shall be destroyed within two years
4 after the date of the order, unless further extended by court
5 order.

6 (4) Notwithstanding any other provision of law,
7 registered vehicle owner information obtained as a result of
8 the operation of an automated speed enforcement system shall
9 be the exclusive property of the department or Pennsylvania
10 Turnpike Commission and may not be used for any purpose other
11 than prescribed in this section.

12 (5) A violation of this subsection shall constitute a
13 third-degree misdemeanor punishable by a \$500 fine. Each
14 violation shall constitute a separate and distinct offense.

15 (q) Defenses.--

16 (1) It shall be a defense to a violation under this
17 section that the vehicle was reported to a police department
18 as stolen prior to the time the violation occurred and was
19 not recovered prior to that time.

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

23 (h) Authority and duties of department and Pennsylvania
24 Turnpike Commission.--

25 (1) The department and Pennsylvania Turnpike Commission
26 shall each establish a five-year pilot automated speed
27 enforcement system program not later than 18 months following
28 the effective date of this section.

29 (2) (i) The department and Pennsylvania Turnpike
30 Commission may each promulgate regulations for the

1 certification and the use of automated speed enforcement
2 systems.

3 (ii) In order to facilitate the prompt
4 implementation of this section, regulations promulgated
5 by the department and Pennsylvania Turnpike Commission
6 under this section shall be deemed temporary regulations
7 and not subject to:

8 (A) Sections 201, 202 and 203 of the act of July
9 31, 1968 (P.L.769, No.240), referred to as the
10 Commonwealth Documents Law.

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

13 (3) (i) The department and Pennsylvania Turnpike
14 Commission shall each serve directly or through a
15 contracted private service as the system administrator of
16 the program. Compensation under a contract authorized by
17 this paragraph shall be based only upon the value of
18 equipment and services provided or rendered in support of
19 the automated speed enforcement system program and may
20 not be based in any part upon the quantity of notices of
21 violation issued or amount of fines imposed or generated.

22 (ii) The system administrator shall prepare and
23 issue notices of violation.

24 (iii) The system administrator shall remit fines
25 administratively paid under this section, minus the
26 system administrator's actual operation and maintenance
27 costs required under this section, on a reasonable
28 payment schedule for the duration of the five-year pilot
29 program to the department or Pennsylvania Turnpike
30 Commission for deposit into the Motor License Fund to be

1 used as follows:

2 (A) Ninety percent of the fines over the
3 duration of the five-year pilot program from
4 violations occurring in an automated speed
5 enforcement system on either an interstate highway
6 managed by the department or an interstate highway or
7 freeway under the jurisdiction of the Pennsylvania
8 Turnpike Commission shall be deposited into a
9 restricted account to be used by the Pennsylvania
10 State Police as follows:

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

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

29 (B) Ten percent of the fines over the duration
30 of the five-year pilot program from violations

1 occurring in an automated speed enforcement system
2 shall be transferred to the department or the
3 Pennsylvania Turnpike Commission, whichever State
4 road system utilized the automated speed enforcement
5 system, for the purpose of educating the motoring
6 public on work zone safety.

7 (iv) If the amount of funds in a fiscal period is
8 lower than the amount of funds for the previous fiscal
9 period, funds from the Motor License Fund may not be used
10 to supplement the funds for the current fiscal period.
11 Funding provided for under this section shall be
12 supplemental and shall not prohibit the Pennsylvania
13 State Police from obtaining additional funding from any
14 other means.

15 (v) If the five-year pilot program is not extended
16 by the General Assembly, any funds not deposited or
17 transferred under subparagraph (iii) shall be used as
18 follows:

19 (A) Fifty percent of the funds shall be
20 transferred to the department for the purpose of
21 educating the motoring public on work zone safety.

22 (B) Fifty percent of the funds shall be
23 transferred to the Pennsylvania Turnpike Commission
24 for the purpose of educating the motoring public on
25 work zone safety.

26 (vi) The system administrator shall provide an
27 appropriate printed form by which owners may challenge a
28 notice of violation and convenient hearing hours and
29 times in each of the following metropolitan areas for
30 challenges to be heard as provided in this section: Erie,

1 Harrisburg, Philadelphia, Pittsburgh and Scranton. the
2 form may be included with or as part of the notice of
3 violation.

4 (4) Not later than April 1 annually, the department and
5 Pennsylvania Turnpike Commission shall submit a report on the
6 program for the preceding calendar year to the chairperson
7 and minority chairperson of the Transportation Committee of
8 the Senate and the chairperson and minority chairperson of
9 the Transportation Committee of the House of Representatives.
10 The report shall be a public record under the Right-to-Know
11 Law and include:

12 (i) The number of vehicular accidents and related
13 serious injuries and deaths in all work zones and in
14 active work areas in which the program operated.

15 (ii) Speed data.

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

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

18 (v) Amounts paid under contracts authorized by this
19 section.

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

23 (i) Payment of fine.--

24 (1) An owner may admit responsibility for the violation
25 and pay the fine provided in the notice personally, through
26 an authorized agent, electronically or by mailing both
27 payment and the notice of violation to the system
28 administrator.

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

1 (3) Payment of the fine shall operate as a final
2 disposition of the case.

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

7 (j) Contest.--

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

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 designated by the department or
17 Pennsylvania Turnpike Commission. Written notice of the date,
18 time and place of hearing must be presented or sent by first
19 class mail to the owner.

20 (3) The hearing shall be informal and the rules of
21 evidence shall not apply. The decision of the hearing officer
22 shall be final, subject to the right of the owner to appeal
23 the decision.

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

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

3 Section 4. The Secretary of Transportation or the Chairman
4 of the Pennsylvania Turnpike Commission shall publish a notice
5 in the Pennsylvania Bulletin when an automated speed enforcement
6 system is operational in this Commonwealth.

7 Section 5. This act shall take effect as follows:

8 (1) The addition of 75 Pa.C.S. § 3368.1(e) shall take
9 effect 60 days after publication in the Pennsylvania Bulletin
10 of the notice under section 4.

11 (2) Section 4 and this section shall take effect
12 immediately.

13 (3) The remainder of this act shall take effect in 60
14 days.