

AMENDMENTS TO HOUSE BILL NO. 1646

Sponsor: SENATOR RAFFERTY

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

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

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

9 * * *

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

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

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

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

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

27 Section

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

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

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

1 § 3368. Speed timing devices.--

2 * * *

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

5 * * *

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

12 * * *

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

17 * * *

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

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

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

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

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

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

40 (d) Notice of violation.--

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

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

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

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

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

29 (C) shall be kept on file; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (e) Penalty.--

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

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

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

43 (i) be deemed a criminal conviction;

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

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

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

51 (f) Limitations.--

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

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

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

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

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

47 (g) Defenses.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (ii) Speed data.

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

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

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

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

37 (i) Payment of fine.--

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

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

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

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

51 (j) Contest.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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