

AMENDMENTS TO SENATE BILL NO. 172

Sponsor: REPRESENTATIVE TAYLOR

Printer's No. 1067

1 Amend Bill, page 1, line 5, by striking out the period after
2 "systems" and inserting
3 and for pilot program for automated speed enforcement system on
4 a designated highway.

5 Amend Bill, page 3, line 3, by striking out "a section" and
6 inserting
7 sections

8 Amend Bill, page 13, by inserting between lines 28 and 29
9 \$ 3370. Pilot program for automated speed enforcement system on
10 designated highway.

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

14 (1) A city of the first class, upon passage of an
15 ordinance, is authorized to enforce section 3362 (relating to
16 maximum speed limits) by recording violations using an
17 automated speed enforcement system approved by the
18 department.

19 (2) This section shall only be applicable in a city of
20 the first class in areas agreed upon by the system
21 administrator and the Secretary of Transportation using the
22 automated speed enforcement system on U.S. Route 1 (Roosevelt
23 Boulevard) between Ninth Street and the Philadelphia County
24 line shared with Bucks County.

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

30 (c) Certificate as evidence.--A certificate, or a facsimile
31 of a certificate, based upon inspection of recorded images
32 produced by an automated speed enforcement system and sworn to
33 or affirmed by a police officer employed by the city of the
34 first class shall be prima facie evidence of the facts contained
35 in it. The city must include written documentation that the

1 automated speed enforcement system was operating correctly at
2 the time of the alleged violation. A recorded image evidencing a
3 violation of section 3362 shall be admissible in any judicial or
4 administrative proceeding to adjudicate the liability for the
5 violation.

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

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

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

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

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

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

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

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

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

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

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

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

48 (2) Notwithstanding any other provision of law, camera
49 equipment deployed as part of an automated speed enforcement
50 system as provided in this section must be incapable of
51 automated or user-controlled remote surveillance by means of

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

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

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

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

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

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

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

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

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

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

29 (h) Department approval.--

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

37 (2) Notwithstanding any other provision of law, the
38 devices identified in paragraph (1) shall be tested for
39 accuracy at regular intervals as designated by regulation of
40 the department.

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

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

49 (2) The city shall designate or appoint the Philadelphia
50 Parking Authority as the system administrator to supervise
51 and coordinate the administration of notices of violation

1 issued under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 (3) Payment of the established fine and applicable

penalties shall operate as a final disposition of the case.

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

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

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

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

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

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

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

Amend Bill, page 14, line 2, by inserting after "system"

under 75 Pa.C.S. § 3369

Amend Bill, page 14, by inserting between lines 2 and 3

Section 5. The Secretary of Transportation shall publish a notice in the Pennsylvania Bulletin when the automated speed enforcement system is operational along the designated highway under 75 Pa.C.S. § 3370.

Amend Bill, page 14, line 3, by striking out "5" and

inserting

1 Amend Bill, page 14, by inserting between lines 8 and 9

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

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

7 Amend Bill, page 14, line 9, by striking out "(3) Section 4"
8 and inserting

9 (5) Sections 4 and 5

10 Amend Bill, page 14, line 11, by striking out "(4)" and
11 inserting

12 (6)