

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2599 Session of
2008

INTRODUCED BY McILVAINE SMITH, ADOLPH, BARRAR, BEYER, BOYD,
CREIGHTON, CUTLER, DALLY, FREEMAN, GABIG, GRELL, HARRIS,
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MYERS, ROAE, ROCK, ROSS, RUBLEY, SAYLOR, SCAVELLO, SIPTROTH,
K. SMITH, SOLOBAY, STEIL, SWANGER, VITALI AND J. WHITE,
JUNE 10, 2008

REFERRED TO COMMITTEE ON TRANSPORTATION, JUNE 10, 2008

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for conviction and point
3 schedules, for speed timing devices and for State and local
4 powers.

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

7 Section 1. Section 1535(d) of Title 75 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 1535. Schedule of convictions and points.

10 * * *

11 (d) [Exception] Exceptions.--

12 (1) This section does not apply to a person who was
13 operating a pedalcycle or an animal drawn vehicle.

14 (2) If a speeding offense under section 3362 (relating
15 to maximum speed limits) is charged as a result of use of a
16 device authorized by section 3368(c)(2)(ii) (relating to

1 speed timing devices), no points shall be assigned under
2 subsection (a) unless the speed recorded is ten or more miles
3 per hour in excess of the legal speed limit.

4 * * *

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

8 § 3368. Speed timing devices.

9 (a) Speedometers authorized.--The rate of speed of any
10 vehicle may be timed on any highway by a police officer using a
11 motor vehicle equipped with a speedometer, except as provided
12 under section 6109 (relating to specific powers of department
13 and local authorities). In ascertaining the speed of a vehicle
14 by the use of a speedometer, the speed shall be timed for a
15 distance of not less than three-tenths of a mile.

16 * * *

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

19 (1) Except as otherwise provided in this section and
20 under section 6109, the rate of speed of any vehicle may be
21 timed on any highway by a police officer using a mechanical
22 or electrical speed timing device.

23 (2) Except as otherwise provided in paragraph (3),
24 electronic devices such as radio-microwave devices (commonly
25 referred to as electronic speed meters or radar) or infrared
26 laser light devices (commonly referred to as LIDAR) may be
27 used [only by]:

28 (i) By members of the Pennsylvania State Police.

29 (ii) Upon completion of a training course approved
30 by the Pennsylvania State Police and the Municipal Police

1 Officers' Education and Training Commission, by full-time
2 police officers employed by the full-service police
3 department of a political subdivision or regional police
4 department if official warning signs indicating the use
5 of these devices are erected within 500 feet of the
6 border of the political subdivision on the main arteries
7 entering that political subdivision.

8 (3) Electronic devices which calculate speed by
9 measuring elapsed time between measured road surface points
10 by using two sensors and devices which measure and calculate
11 the average speed of a vehicle between any two points may be
12 used by any police officer.

13 (4) No person may be convicted upon evidence obtained
14 through the use of devices authorized by paragraphs (2) and
15 (3) unless the speed recorded is six or more miles per hour
16 in excess of the legal speed limit. Furthermore, no person
17 may be convicted upon evidence obtained through the use of
18 devices authorized by subparagraph (2)(ii) or paragraph (3)
19 in an area where the legal speed limit is less than 55 miles
20 per hour if the speed recorded is less than ten miles per
21 hour in excess of the legal speed limit. This paragraph shall
22 not apply to evidence obtained through the use of devices
23 authorized by paragraph (2) or (3) within a school zone or an
24 active work zone.

25 (5) As used in this subsection, the following words and
26 phrases shall have the meanings given to them in this
27 paragraph:

28 "Full-service police department." A local or regional
29 police department which:

30 (i) is authorized by one or more political

1 subdivisions;

2 (ii) provides 24-hour-a-day patrol and investigative
3 services; and

4 (iii) reports its activities monthly to the
5 Pennsylvania State Police in accordance with the Uniform
6 Crime Reporting System.

7 "Full-time police officer." An employee of a political
8 subdivision or regional police department who complies with
9 all of the following:

10 (i) Is certified under 53 Pa.C.S. Ch. 21 Subch. D
11 (relating to municipal police education and training).

12 (ii) Is empowered to enforce 18 Pa.C.S. (relating to
13 crimes and offenses) and this title.

14 (iii) Is a regular full-time police officer under
15 the act of June 15, 1951 (P.L.586, No.144), entitled "An
16 act regulating the suspension, removal, furloughing and
17 reinstatement of police officers in boroughs and
18 townships of the first class having police forces of less
19 than three members, and in townships of the second
20 class," or works a minimum of 200 days a year.

21 (iv) Is provided coverage by a police pension plan
22 under:

23 (A) the act of May 24, 1893 (P.L.129, No.82),
24 entitled "An act to empower boroughs and cities to
25 establish a police pension fund, to take property in
26 trust therefor and regulating and providing for the
27 regulation of the same";

28 (B) the act of June 23, 1931 (P.L.932, No.317),
29 known as The Third Class City Code;

30 (C) the act of May 22, 1935 (P.L.233, No.99),

1 referred to as the Second Class City Policemen Relief
2 Law;

3 (D) the act of May 29, 1956 (1955 P.L.1804,
4 No.600), referred to as the Municipal Police Pension
5 Law; or

6 (E) the act of July 15, 1957 (P.L.901, No.399),
7 known as the Optional Third Class City Charter Law.

8 The term does not include auxiliary, part-time or fire
9 police.

10 (d) Classification, approval and testing of mechanical,
11 electrical and electronic devices.--The department may, by
12 regulation, classify specific devices as being mechanical,
13 electrical or electronic. All mechanical, electrical or
14 electronic devices shall be of a type approved by the
15 department, which shall appoint stations for calibrating and
16 testing the devices [and may prescribe regulations as to the
17 manner in which calibrations and tests shall be made]. All
18 devices, including LIDAR laser devices and electronic speed
19 meters or radar, must have been tested for accuracy within a
20 period of one year prior to the alleged violation in accordance
21 with specifications prescribed by the National Highway Traffic
22 Safety Administration (NHTSA). All electronic devices, such as
23 LIDAR laser devices, and electronic speed devices, such as speed
24 meters or radar, approved for use in this Commonwealth, must
25 appear on the International Association of Chiefs of Police
26 consumer products list, in conjunction with National Highway
27 Traffic Safety Administration (NHTSA) standards. The
28 certification and calibration of electronic devices under
29 subsection (c)(3) shall also include the certification and
30 calibration of all equipment, timing strips and other devices

1 which are actually used with the particular electronic device
2 being certified and calibrated. [The devices shall have been
3 tested for accuracy within a period of 60 days prior to the
4 alleged violation.] A certificate from the station showing that
5 the calibration and test were made within the required period,
6 and that the device was accurate, shall be competent and prima
7 facie evidence of those facts in every proceeding in which a
8 violation of this title is charged.

9 (e) Distance requirements for use of mechanical, electrical
10 and electronic devices.--[Mechanical]

11 (1) Except as provided under paragraph (2), mechanical,
12 electrical or electronic devices may not be used to time the
13 rate of speed of vehicles within 500 feet after a speed limit
14 sign indicating a decrease of speed. This limitation on the
15 use of speed timing devices shall not apply to speed limit
16 signs indicating school zones, bridge and elevated structure
17 speed limits, hazardous grade speed limits and work zone
18 speed limits.

19 (2) Whenever radio-microwave speed timing devices or
20 infrared laser light devices are used by a local or regional
21 police officer, the police officer must locate the vehicle
22 with the radio-microwave speed timing device or infrared
23 laser light device in a location that is not intentionally
24 concealed from the motoring public.

25 (f) Local ordinance required to enforce.--

26 (1) Prior to use of radio-microwave speed timing devices
27 or infrared laser light devices used for speed timing by
28 local or regional police officers, the appropriate governing
29 body must adopt an ordinance authorizing the local or
30 regional police department to employ such devices on roads

1 within the boundaries of the governing body where a required
2 engineering and traffic study has been conducted and in
3 accordance with section 6109(a)(11) to address citizen
4 complaints or demonstrable traffic safety concerns, such as
5 high crash rates or fatalities.

6 (2) During the initial 90 days of speed enforcement by a
7 local or regional police department using radio-microwave
8 speed timing devices or infrared laser light devices, persons
9 may only be sanctioned for violations with a written warning.

10 (g) Excess revenues.--The primary use of radar or LIDAR by
11 local or regional police officers is for traffic safety
12 purposes. Each local or regional police department that uses
13 radar or LIDAR shall report annually to the Pennsylvania State
14 Police the municipal revenue generated from speed enforcement
15 citations on such forms as may be prescribed by the Pennsylvania
16 State Police. In the event the municipal share of revenue
17 generated from speed enforcement citations exceeds 5% of the
18 total municipal budget or 5% of the regional police department
19 budget, all sums in excess thereof shall be remitted to the
20 Pennsylvania State Police to be used for traffic safety
21 purposes. This subsection shall expire five years after it takes
22 effect.

23 Section 3. Section 6109(a)(11) of Title 75 is amended to
24 read:

25 § 6109. Specific powers of department and local authorities.

26 (a) Enumeration of police powers.--The provisions of this
27 title shall not be deemed to prevent the department on State-
28 designated highways and local authorities on streets or highways
29 within their physical boundaries from the reasonable exercise of
30 their police powers. The following are presumed to be reasonable

1 exercises of police power:

2 * * *

3 (11) Enforcement of speed restrictions authorized under
4 Subchapter F of Chapter 33[, except that] in accordance with
5 the following:

6 (i) Except as set forth under subparagraph (ii),
7 speed restrictions may be enforced by [local police]
8 full-time police officers employed by the full-service
9 police department of a political subdivision or regional
10 police department on a limited access or divided highway
11 only if [it] this title authorizes such enforcement and
12 the highway is patrolled by the local or regional police
13 force under the terms of an agreement with the
14 Pennsylvania State Police.

15 (ii) If this title authorizes speed restrictions to
16 be enforced by a police department of a city of the first
17 class, they may be enforced on limited access or divided
18 highways within the police department's jurisdiction. An
19 agreement with the Pennsylvania State Police is not
20 necessary under this subparagraph.

21 * * *

22 Section 4. This act shall take effect in 120 days.