

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1539 Session of
2009

INTRODUCED BY LENTZ, VEREB, R. TAYLOR, SOLOBAY, SCAVELLO,
McILVAINE SMITH, ADOLPH, BARRAR, BEAR, BOYD, BRADFORD,
BRENNAN, BRIGGS, BROWN, CARROLL, CLYMER, CONKLIN, CREIGHTON,
CUTLER, DALLY, EVERETT, FARRY, FREEMAN, GRELL, HARPER,
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MURPHY, MURT, MUSTIO, O'NEILL, PETRI, QUINN, READSHAW, ROSS,
SANTARSIERO, SAYLOR, SHAPIRO, SIPTROTH, STABACK, STURLA,
SWANGER, VULAKOVICH, WATSON, YOUNGBLOOD AND YUDICHAK,
MAY 26, 2009

REFERRED TO COMMITTEE ON TRANSPORTATION, MAY 26, 2009

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 75
2 (Vehicles) of the Pennsylvania Consolidated Statutes, further
3 providing for municipal corporation portion of fines;
4 establishing the Municipal Law Enforcement Accreditation
5 Fund; and further providing for speed timing devices and for
6 State and local powers.

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

9 Section 1. Section 3573(b) of Title 42 of the Pennsylvania
10 Consolidated Statutes is amended to read:

11 § 3573. Municipal corporation portion of fines, etc.

12 * * *

13 (b) Vehicle offenses.--

14 (1) When prosecution under the provisions of Title 75
15 (relating to vehicles) for parking is the result of local
16 police action, all fines, forfeited recognizances and other

1 forfeitures imposed, lost or forfeited shall be payable to
2 the municipal corporation under which the local police are
3 organized.

4 (2) Except as provided in [paragraph] paragraphs (3) and
5 (4), when prosecution under any other provision of Title 75
6 (except Chapter 77 (relating to snowmobiles)) is the result
7 of local police action, one-half of all fines, forfeited
8 recognizances and other forfeitures imposed, lost or
9 forfeited shall be payable to the municipal corporation under
10 which the local police are organized.

11 (3) When prosecution under 75 Pa.C.S. § 3802 (relating
12 to driving under influence of alcohol or controlled
13 substance) is the result of local police action, 50% of all
14 fines, forfeited recognizances and other forfeitures imposed,
15 lost or forfeited shall be payable to the municipal
16 corporation under which the local police are organized, and
17 50% shall be payable to the county which shall be further
18 divided as follows:

19 (i) Fifty percent of the moneys received shall be
20 allocated to the appropriate county authority which
21 implements the county drug and alcohol program to be used
22 solely for the purposes of aiding programs promoting drug
23 abuse and alcoholism prevention, education, treatment and
24 research.

25 (ii) Fifty percent of the moneys received shall be
26 used for expenditures incurred for county jails, prisons,
27 workhouses and detention centers.

28 (4) When prosecution under 75 Pa.C.S. § 3362 (relating
29 to maximum speed limits) is the result of local police action
30 using devices authorized under 75 Pa.C.S. § 3368(c)(2)(ii)

1 (relating to speed timing devices):

2 (i) One-half of all fines, forfeited recognizances
3 and other forfeitures imposed, lost or forfeited, minus
4 \$1, shall be payable to the municipal corporation under
5 which the local police are organized.

6 (ii) One dollar shall be remitted to the Municipal
7 Law Enforcement Accreditation Fund.

8 * * *

9 Section 2. Title 42 is amended by adding a section to read:
10 § 3576. Municipal Law Enforcement Accreditation Fund.

11 (a) Establishment.--There is established within the State
12 Treasury a nonlapsing, restricted receipt account to be known as
13 the Municipal Law Enforcement Accreditation Fund. The account
14 shall be comprised of fines statutorily designated by section
15 3573 (relating to municipal corporation portion of fines, etc.)
16 to the account.

17 (b) Distribution from account.--The money in the account is
18 appropriated to the Pennsylvania Commission on Crime and
19 Delinquency to carry out the provisions of subsection (c).

20 (c) Law enforcement accreditation grants.--

21 (1) The Pennsylvania Commission on Crime and Delinquency
22 shall create and maintain a grant program for distributing
23 moneys from the fund to any Pennsylvania-based nonprofit
24 corporation comprised solely of Pennsylvania municipal police
25 department administrators which accredits law enforcement
26 agencies throughout this Commonwealth.

27 (2) An eligible nonprofit corporation that receives
28 funds under paragraph (1) shall use these funds solely for
29 the purpose of administering and operating the law
30 enforcement accreditation program.

Section 3. Section 3368(a), (c) and (d) of Title 75, amended November 26, 2008 (P.L.1658, No.133), are amended and the section is amended by adding subsection to read:

§ 3368. Speed timing devices.

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

* * *

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

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

(2) Except as otherwise provided in paragraph (3), electronic devices such as radio-microwave devices (commonly referred to as electronic speed meters or radar) may be used [only by]:

(i) By members of the Pennsylvania State Police.

(ii) Upon completion of a training course approved by the Pennsylvania State Police and the Municipal Police Officers' Education and Training Commission, by full-time police officers employed by the full-service police department of a political subdivision or regional police department.

(3) Electronic devices which calculate speed by

1 measuring elapsed time between measured road surface points
2 by using two sensors and devices which measure and calculate
3 the average speed of a vehicle between any two points may be
4 used by any police officer.

5 (4) No person may be convicted upon evidence obtained
6 through the use of devices authorized by paragraphs [(2)]
7 (2)(i) and (3) unless the speed recorded is six or more miles
8 per hour in excess of the legal speed limit. Furthermore, no
9 person may be convicted upon evidence obtained through the
10 use of devices authorized by paragraph (3) in an area where
11 the legal speed limit is less than 55 miles per hour if the
12 speed recorded is less than ten miles per hour in excess of
13 the legal speed limit. This paragraph shall not apply to
14 evidence obtained through the use of devices authorized by
15 paragraph (2) or (3) within a school zone or an active work
16 zone.

17 (4.1) No person may be convicted upon evidence obtained
18 through the use of devices authorized by paragraph (2)(ii)
19 unless the speed recorded is ten or more miles per hour in
20 excess of the legal speed limit.

21 (5) As used in this subsection, the following words and
22 phrases shall have the meanings given to them in this
23 paragraph:

24 "Full-service police department." A local or regional
25 police department which:

26 (i) is authorized by one or more political
27 subdivisions;

28 (ii) provides 24-hour-a-day patrol and investigative
29 services; and

30 (iii) reports its activities monthly to the

Pennsylvania State Police in accordance with the Uniform
Crime Reporting System.

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

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

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

(iii) Is a regular full-time police officer under
the act of June 15, 1951 (P.L.586, No.144), entitled "An
act regulating the suspension, removal, furloughing and
reinstatement of police officers in boroughs and
townships of the first class having police forces of less
than three members, and in townships of the second class.

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

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

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

(C) the act of May 22, 1935 (P.L.233, No.99),
referred to as the Second Class City Policemen Relief
Law;

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

1 (E) the act of July 15, 1957 (P.L.901, No.399),
2 known as the Optional Third Class City Charter Law.
3 The term does not include auxiliary, part-time or fire
4 police.

5 (d) Classification, approval and testing of mechanical,
6 electrical and electronic devices.--The department may, by
7 regulation, classify specific devices as being mechanical,
8 electrical or electronic. All mechanical, electrical or
9 electronic devices shall be of a type approved by the
10 department, which shall appoint stations for calibrating and
11 testing the devices and may prescribe regulations as to the
12 manner in which calibrations and tests shall be made. The
13 certification and calibration of electronic devices under
14 subsection (c) (3) shall also include the certification and
15 calibration of all equipment, timing strips and other devices
16 which are actually used with the particular electronic device
17 being certified and calibrated. Electronic devices commonly
18 referred to as electronic speed meters or radar shall have been
19 tested for accuracy within a period of one year prior to the
20 alleged violation. Other devices shall have been tested for
21 accuracy within a period of [60 days] one year prior to the
22 alleged violation. A certificate from the station showing that
23 the calibration and test were made within the required period
24 and that the device was accurate shall be competent and prima
25 facie evidence of those facts in every proceeding in which a
26 violation of this title is charged.

27 * * *

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

29 (1) Prior to use of radio-microwave speed timing devices
30 used for speed timing by local or regional police officers of

1 political subdivisions authorized under subsection (c), the
2 appropriate governing body must adopt an ordinance
3 authorizing the local or regional police department to employ
4 such devices on roads within the boundaries of the governing
5 body where speed limits have been posted according to the
6 results of a required engineering and traffic study and in
7 accordance with section 6109(a)(11).

8 (2) During the initial 120 days of speed enforcement by
9 a local or regional police department of a political
10 subdivision authorized under subsection (c) using radio-
11 microwave speed timing devices, persons may only be
12 sanctioned for violations with a written warning.

13 Section 4. Section 6109(a)(11) of Title 75 is amended to
14 read:

15 § 6109. Specific powers of department and local authorities.

16 (a) Enumeration of police powers.--The provisions of this
17 title shall not be deemed to prevent the department on State-
18 designated highways and local authorities on streets or highways
19 within their physical boundaries from the reasonable exercise of
20 their police powers. The following are presumed to be reasonable
21 exercises of police power:

22 * * *

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

26 (i) Except as set forth in subparagraph (ii), speed
27 restrictions may be enforced by [local police] full-time
28 police officers employed by the full-service police
29 department of a political subdivision or regional police
30 department on a limited access or divided highway only if

1 [it] this title authorizes such enforcement and the
2 highway is patrolled by the local or regional police
3 force under the terms of an agreement with the
4 Pennsylvania State Police.

5 (ii) If this title authorizes speed restrictions to
6 be enforced by a police department of a city of the first
7 class, they may be enforced on limited access or divided
8 highways within the police department's jurisdiction. An
9 agreement with the Pennsylvania State Police is not
10 necessary under this subparagraph.

11 * * *

12 Section 5. This act shall take effect in 120 days.