

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 840 Session of 2015

INTRODUCED BY ARGALL, SCHWANK, TEPLITZ, WOZNIAK, FONTANA, SCAVELLO, COSTA, YUDICHAK, BLAKE AND LEACH, JUNE 8, 2015

SENATOR RAFFERTY, TRANSPORTATION, AS AMENDED, SEPTEMBER 29, 2015

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 a definition

<--

10 DEFINITIONS to read:

<--

11 § 102. Definitions.

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

17 \* \* \*

18 "ACTIVE WORK AREA." THE PORTION OF A WORK ZONE WHERE
19 CONSTRUCTION, MAINTENANCE OR UTILITY WORKERS ARE LOCATED ON THE

<--

1 ROADWAY, BERM OR SHOULDER AND WORKERS ARE ADJACENT TO AN ACTIVE  
2 TRAVEL LANE. FOR THE PURPOSES OF THIS DEFINITION, WORKERS SHALL  
3 ALSO BE CONSIDERED ADJACENT TO AN ACTIVE TRAVEL LANE WHERE  
4 WORKERS ARE PRESENT AND ARE PROTECTED BY A TRAFFIC BARRIER.

5 \* \* \*

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

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

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

12 \* \* \*

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

15 § 3368. Speed timing devices.--

16 \* \* \*

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

19 \* \* \*

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

23 \* \* \*

24 Section 3. Title 75 is amended by adding a section to read:

25 § 3368.1. Pilot program for automated speed enforcement  
26 systems.

27 (a) ~~General rule.~~ ESTABLISHMENT.--A pilot program is <--  
28 established to provide for automated speed enforcement systems  
29 on interstate highways within this Commonwealth IN ACTIVE WORK <--  
30 AREAS.

1 (b) Applicability.--This section shall apply only to active  
2 work ~~zones~~ AREAS on interstate highways under the jurisdiction <--  
3 of the department or INTERSTATE HIGHWAYS OR FREEWAYS UNDER THE <--  
4 JURISDICTION OF the Pennsylvania Turnpike Commission. An  
5 automated speed enforcement system shall not be used unless:

6 (1) At least two appropriate warning signs are  
7 conspicuously placed before the active work ~~zone~~ AREA <--  
8 notifying the public that an automated speed enforcement  
9 device is in use.

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

14 (c) Liability.--Driving in excess of the posted speed limit  
15 in an active work ~~zone~~ AREA by at least 11 miles per hour is a <--  
16 violation of this section.

17 (d) Notice of violation.--

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

28 (ii) The notice of violation must include written  
29 verification that the automated speed enforcement system  
30 was operating correctly at the time of the alleged

1 violation and the date of the most recent inspection that  
2 confirms it to be operating properly.

3 (iii) The following shall be attached to the notice  
4 of violation:

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

7 (B) The registration number and state of  
8 issuance of the vehicle registration.

9 (C) The date, time and place of the alleged  
10 violation.

11 (D) Notice that the violation charged is under  
12 this section.

13 (E) Instructions for return of the notice of  
14 violation.

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

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

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

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

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

12           (e) Penalty.--

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

18           (2) The fine is not authorized during:

19           (i) The continuous 24-hour period after the  
20           automated speed enforcement system is initially activated  
21           in a work ~~zone~~ AREA. <--

22           (ii) Times when the work ~~zone~~ AREA is not active. <--

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

24           (i) deemed a criminal conviction;

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

29           (iii) the subject of merit rating for insurance  
30           purposes; or

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

3           (f) Limitations.--

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

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

30           (3) Recorded images obtained through the use of

1 automated speed enforcement systems deployed as a means of  
2 promoting traffic safety in active work zones AREAS shall be <--  
3 destroyed within one year of final disposition of a notice of  
4 violation, except that images subject to a court order under  
5 paragraph (1) or (2) shall be destroyed within two years  
6 after the date of the order, unless further extended by court  
7 order.

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

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

17 (g) Defenses.--

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

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

25 (h) Authority and duties of department and Pennsylvania  
26 Turnpike Commission.--

27 (1) The department and Pennsylvania Turnpike Commission  
28 shall each establish a FIVE-YEAR pilot automated speed <--  
29 enforcement system program not later than 18 months following  
30 the effective date of this section.

1       (2) (i) The department and Pennsylvania Turnpike  
2       Commission may each promulgate regulations for the  
3       certification and the use of automated speed enforcement  
4       systems.

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

10       (A) Sections 201, 202 and 203 of the act of July  
11       31, 1968 (P.L.769, No.240), referred to as the  
12       Commonwealth Documents Law.

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

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

24       (ii) The system administrator shall prepare and  
25       issue notices of violation.

26       (iii) The system administrator shall remit fines  
27       administratively paid under this section, MINUS THE  
28       SYSTEM ADMINISTRATOR'S ACTUAL OPERATION AND MAINTENANCE  
29       COSTS REQUIRED UNDER THIS SECTION, ON A REASONABLE  
30       PAYMENT SCHEDULE FOR THE DURATION OF THE FIVE-YEAR PILOT

<--



1 PROGRAM to the department or Pennsylvania Turnpike  
2 Commission for deposit into the Motor License Fund to be  
3 used exclusively for work zone safety. AS FOLLOWS: <--

4 (A) NINETY PERCENT OF THE FINES OVER THE  
5 DURATION OF THE FIVE-YEAR PILOT PROGRAM FROM  
6 VIOLATIONS OCCURRING IN AN AUTOMATED SPEED  
7 ENFORCEMENT SYSTEM ON EITHER AN INTERSTATE HIGHWAY  
8 MANAGED BY THE DEPARTMENT OR AN INTERSTATE HIGHWAY OR  
9 FREEWAY UNDER THE JURISDICTION OF THE PENNSYLVANIA  
10 TURNPIKE COMMISSION SHALL BE DEPOSITED INTO A  
11 RESTRICTED ACCOUNT TO BE USED BY THE PENNSYLVANIA  
12 STATE POLICE AS FOLLOWS:

13 (I) FIFTY-FIVE PERCENT OF THE FUNDS SHALL BE  
14 DEDICATED FOR THE PURPOSE OF RECRUITING, TRAINING  
15 OR EQUIPPING PENNSYLVANIA STATE POLICE CADETS.

16 (II) FORTY-FIVE PERCENT OF THE FUNDS SHALL  
17 BE DEDICATED TO PAY FOR AN INCREASED PENNSYLVANIA  
18 STATE TROOPER PRESENCE IN WORK ZONES ON THE STATE  
19 ROAD SYSTEM MANAGED BY THE DEPARTMENT OR THE  
20 PENNSYLVANIA TURNPIKE COMMISSION THAT DO NOT  
21 UTILIZE CONCRETE BARRIERS. THE ASSIGNMENTS SHALL  
22 BE MADE ON AS-NECESSARY BASIS AS DETERMINED BY  
23 THE PENNSYLVANIA STATE POLICE. FUNDS UNDER THIS  
24 SUBCLAUSE SHALL BE IN ADDITION TO ANY CONTRACTUAL  
25 AGREEMENT BETWEEN THE DEPARTMENT OR THE  
26 PENNSYLVANIA TURNPIKE COMMISSION AND THE  
27 PENNSYLVANIA STATE POLICE FOR ENFORCEMENT IN WORK  
28 ZONES ON THE STATE ROAD SYSTEM MANAGED BY THE  
29 DEPARTMENT OR THE PENNSYLVANIA TURNPIKE  
30 COMMISSION.

1           (B) TEN PERCENT OF THE FINES OVER THE DURATION  
2           OF THE FIVE-YEAR PILOT PROGRAM FROM VIOLATIONS  
3           OCCURRING IN AN AUTOMATED SPEED ENFORCEMENT SYSTEM  
4           SHALL BE TRANSFERRED TO THE DEPARTMENT OR THE  
5           PENNSYLVANIA TURNPIKE COMMISSION, WHICHEVER STATE  
6           ROAD SYSTEM UTILIZED THE AUTOMATED SPEED ENFORCEMENT  
7           SYSTEM, FOR THE PURPOSE OF EDUCATING THE MOTORING  
8           PUBLIC ON WORK ZONE SAFETY.

9           (IV) IF THE AMOUNT OF FUNDS IN A FISCAL PERIOD IS  
10          LOWER THAN THE AMOUNT OF FUNDS FOR THE PREVIOUS FISCAL  
11          PERIOD, FUNDS FROM THE MOTOR LICENSE FUND MAY NOT BE USED  
12          TO SUPPLEMENT THE FUNDS FOR THE CURRENT FISCAL PERIOD.  
13          FUNDING PROVIDED FOR UNDER THIS SECTION SHALL BE  
14          SUPPLEMENTAL AND SHALL NOT PROHIBIT THE PENNSYLVANIA  
15          STATE POLICE FROM OBTAINING ADDITIONAL FUNDING FROM ANY  
16          OTHER MEANS.

17          (V) IF THE FIVE-YEAR PILOT PROGRAM IS NOT EXTENDED  
18          BY THE GENERAL ASSEMBLY, ANY FUNDS NOT DEPOSITED OR  
19          TRANSFERRED UNDER SUBPARAGRAPH (III) SHALL BE USED AS  
20          FOLLOWS:

21                (A) FIFTY PERCENT OF THE FUNDS SHALL BE  
22                TRANSFERRED TO THE DEPARTMENT FOR THE PURPOSE OF  
23                EDUCATING THE MOTORING PUBLIC ON WORK ZONE SAFETY.

24                (B) FIFTY PERCENT OF THE FUNDS SHALL BE  
25                TRANSFERRED TO THE PENNSYLVANIA TURNPIKE COMMISSION  
26                FOR THE PURPOSE OF EDUCATING THE MOTORING PUBLIC ON  
27                WORK ZONE SAFETY.

28          ~~(iv)~~ (VI) The system administrator shall provide an <--  
29          appropriate printed form by which owners may challenge a  
30          notice of violation and convenient hearing hours and

1 times in each of the following metropolitan areas for  
2 challenges to be heard as provided in this section: Erie,  
3 Harrisburg, Philadelphia, Pittsburgh and Scranton. the  
4 form may be included with or as part of the notice of  
5 violation.

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

14 (i) The number of vehicular accidents and related  
15 serious injuries and deaths in all work zones and in work <--  
16 zones ACTIVE WORK AREAS in which the program operated. <--

17 (ii) Speed data.

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

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

20 (v) Amounts paid under contracts authorized by this  
21 section.

22 (VI) THE NUMBER OF HOURS OF PENNSYLVANIA STATE <--  
23 POLICE PRESENCE THAT WERE PROVIDED AS A RESULT OF THE  
24 FUNDS UNDER PARAGRAPH (3) (III) (A) (II).

25 (i) Payment of fine.--

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

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

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

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

9       (j) Contest.--

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

16       (2) Upon receipt of a hearing request, the system  
17 administrator shall in a timely manner schedule the matter  
18 before a hearing officer designated by the department or  
19 Pennsylvania Turnpike Commission. Written notice of the date,  
20 time and place of hearing must be presented or sent by first  
21 class mail to the owner.

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

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

1 magisterial district judge shall hear and decide the matter  
2 de novo.

3 (k) Expiration.--This section shall expire five years from  
4 its THE effective date OF THIS SECTION. <--

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

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

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

13 (2) Section 4 and this section shall take effect  
14 immediately.

15 (3) The remainder of this act shall take effect in 60  
16 days.