

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 BROWNE, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 22, 2016

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 definitions to read:

10 § 102. Definitions.

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

16 * * *

17 "Active work area." ~~The portion of a work zone where~~ <--
18 ~~construction, maintenance or utility workers are located on the~~
19 ~~roadway, berm or shoulder and workers are adjacent to an active~~

1 ~~travel lane. For the purposes of this definition, workers shall~~
2 ~~also be considered adjacent to an active travel lane where~~
3 ~~workers are present and are protected by a traffic barrier.~~

4 * * *

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

7 (1) is able to automatically detect vehicles exceeding
8 the posted speed limit WITH A TYPE OF SPEED TIMING DEVICE; <--

9 and

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

12 "AUTOMATED SPEED ENFORCEMENT WORK AREA." THE PORTION OF A <--
13 WORK ZONE WHERE CONSTRUCTION, MAINTENANCE OR UTILITY WORKERS ARE
14 LOCATED ON THE ROADWAY, BERM OR SHOULDER AND WORKERS ARE
15 ADJACENT TO AN ACTIVE TRAVEL LANE AND WHERE AN AUTOMATED SPEED
16 ENFORCEMENT SYSTEM IS ACTIVE. FOR THE PURPOSES OF THIS
17 DEFINITION, WORKERS SHALL ALSO BE CONSIDERED ADJACENT TO AN
18 ACTIVE TRAVEL LANE WHERE WORKERS ARE PRESENT AND ARE PROTECTED
19 BY A TRAFFIC BARRIER.

20 * * *

21 Section 2. Section ~~3368(e)~~ 3368(C)(2) of Title 75 is amended <--

22 AND THE SUBSECTION IS AMENDED by adding a paragraph to read: <--

23 § 3368. Speed timing devices.--

24 * * *

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

27 * * *

28 (2) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (3),
29 ELECTRONIC DEVICES SUCH AS RADIO-MICROWAVE DEVICES [()],
30 COMMONLY REFERRED TO AS ELECTRONIC SPEED METERS OR RADAR[]],

1 MAY BE USED ONLY AS PART OF AN AUTOMATED SPEED ENFORCEMENT
2 SYSTEM OR BY MEMBERS OF THE PENNSYLVANIA STATE POLICE.

3 * * *

4 (5) Light detection and ranging devices, commonly
5 referred to as LIDAR, may be used ONLY as part of an <--
6 automated speed enforcement system.

7 * * *

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

9 § 3368.1. ~~Pilot program for automated~~ AUTOMATED speed <--
10 enforcement systems.

11 (a) Establishment.--A ~~pilot~~ program is established to <--
12 provide for automated speed enforcement systems in ~~active~~ <--
13 AUTOMATED SPEED ENFORCEMENT work areas. <--

14 (b) Applicability.--This section shall apply only to ~~active~~ <--
15 ~~work~~ AUTOMATED SPEED ENFORCEMENT WORK areas on interstate <--
16 highways under the jurisdiction of the department or interstate
17 highways or freeways under the jurisdiction of the Pennsylvania
18 Turnpike Commission. An automated speed enforcement system shall
19 not be used unless:

20 (1) At least two appropriate warning signs are
21 conspicuously placed before the ~~active~~ AUTOMATED SPEED <--
22 ENFORCEMENT work area notifying the public that an automated
23 speed enforcement device is in use.

24 (2) A notice identifying the location of the automated
25 speed enforcement system is posted on the department's or
26 Pennsylvania Turnpike Commission's publicly accessible
27 Internet website throughout the period of use.

28 (c) Liability.--Driving in excess of the posted speed limit
29 in an ~~active work~~ AUTOMATED SPEED ENFORCEMENT WORK area by at <--
30 least 11 miles per hour is a violation of this section.

1 (d) Notice of violation.--

2 (1) (i) An action to enforce this section shall be
3 initiated by an administrative notice of violation to the
4 registered owner of a vehicle identified by an automated
5 speed enforcement system as violating this section. A
6 notice of violation based upon inspection of recorded
7 images produced by an automated speed enforcement system
8 and sworn or affirmed by an authorized representative of
9 the department or the Pennsylvania Turnpike Commission
10 shall be prima facie evidence of the facts contained in
11 it.

12 (ii) The notice of violation must include written
13 verification that the automated speed enforcement system
14 was operating correctly at the time of the alleged
15 violation and the date of the most recent inspection that
16 confirms it to be operating properly.

17 (iii) The following shall be attached to the notice
18 of violation:

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

21 (B) The registration number and state of
22 issuance of the vehicle registration.

23 (C) The date, time and place of the alleged
24 violation.

25 (D) Notice that the violation charged is under
26 this section.

27 (E) Instructions for return of the notice of
28 violation.

29 (2) In the case of a violation involving a motor vehicle
30 registered under the laws of this Commonwealth, the notice of

1 violation shall be mailed within 30 days after the commission
2 of the violation or within 30 days after the discovery of the
3 identity of the registered owner, whichever is later, to the
4 address of the registered owner as listed in the records of
5 the department.

6 (3) In the case of a violation involving a motor vehicle
7 registered in a jurisdiction other than this Commonwealth,
8 the notice of violation shall be mailed within 30 days after
9 the discovery of the identity of the registered owner to the
10 address of the registered owner as listed in the records of
11 the official in the jurisdiction having charge of the
12 registration of the vehicle.

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

15 (5) The notice shall include the following text:

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

20 (6) Notice of violation must be sent by first class
21 mail. A manual or automatic record of mailing prepared by the
22 system administrator in the ordinary course of business shall
23 be prima facie evidence of mailing and shall be admissible in
24 any judicial or administrative proceeding as to the facts
25 contained in it.

26 (e) Penalty.--

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

1 finer, etc.).

2 (2) The fine is not authorized during: <--

3 (i) The continuous 24 hour period after the
4 automated speed enforcement system is initially activated
5 in a work area.

6 (ii) Times TIMES when the AUTOMATED SPEED <--
7 ENFORCEMENT work area is not active.

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

9 (i) deemed a criminal conviction;

10 (ii) be made part of the operating record under
11 section 1535 (relating to schedule of convictions and
12 points) of the individual upon whom the penalty is
13 imposed;

14 (iii) the subject of merit rating for insurance
15 purposes; or

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

18 (f) Limitations.--

19 (1) Recorded images collected as part of the automated
20 speed enforcement system may record only violations of this
21 section and may not be used for any other surveillance
22 purposes. The restrictions set forth in this paragraph shall
23 not preclude a court of competent jurisdiction from issuing
24 an order directing that the information be provided to law
25 enforcement officials, if the information is requested solely
26 in connection with a criminal law enforcement action and is
27 reasonably described.

28 (2) Notwithstanding any other provision of law,
29 information gathered and maintained under this section which
30 is kept by the Commonwealth, its authorized agents or its

1 employees, including recorded images, written records,
2 reports or facsimiles, names and addresses shall be for the
3 exclusive purpose of discharging its duties under this
4 section. The information shall not be deemed a public record
5 under the act of February 14, 2008 (P.L.6, No.3), known as
6 the Right-to-Know Law. The information shall not be
7 discoverable by court order or otherwise or be admissible as
8 evidence in any proceeding except to determine liability
9 under this section. The restrictions set forth in this
10 paragraph shall not preclude a court of competent
11 jurisdiction from issuing an order directing that the
12 information be provided to law enforcement officials, if the
13 information is requested solely in connection with a criminal
14 law enforcement action and is reasonably described.

15 (3) Recorded images obtained through the use of
16 automated speed enforcement systems deployed as a means of
17 promoting traffic safety in ~~active work~~ AUTOMATED SPEED <--
18 ENFORCEMENT WORK areas shall be destroyed within one year of
19 final disposition of a notice of violation, except that
20 images subject to a court order under paragraph (1) or (2)
21 shall be destroyed within two years after the date of the
22 order, unless further extended by court order.

23 (4) Notwithstanding any other provision of law,
24 registered vehicle owner information obtained as a result of
25 the operation of an automated speed enforcement system shall
26 be the exclusive property of the department or Pennsylvania
27 Turnpike Commission and may not be used for any purpose other
28 than prescribed in this section.

29 (5) A violation of this subsection shall constitute a
30 third-degree misdemeanor punishable by a \$500 fine. Each

1 violation shall constitute a separate and distinct offense.

2 (g) Defenses.--

3 (1) It shall be a defense to a violation under this
4 section that the vehicle was reported to a police department
5 as stolen prior to the time the violation occurred and was
6 not recovered prior to that time.

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

10 (h) Authority and duties of department and Pennsylvania
11 Turnpike Commission.--

12 (1) The department and Pennsylvania Turnpike Commission
13 shall each establish a five-year ~~pilot~~ automated speed <--
14 enforcement system program not later than 18 months following
15 the effective date of this section.

16 (2) (i) The department and Pennsylvania Turnpike
17 Commission may each promulgate regulations for the
18 certification and the use of automated speed enforcement
19 systems.

20 (ii) In order to facilitate the prompt
21 implementation of this section, regulations promulgated
22 by the department and Pennsylvania Turnpike Commission
23 under this section shall be deemed temporary regulations
24 and not subject to:

25 (A) Sections 201, 202 and 203 of the act of July
26 31, 1968 (P.L.769, No.240), referred to as the
27 Commonwealth Documents Law.

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

30 (3) (i) The department and Pennsylvania Turnpike

1 Commission shall each serve directly or through a
2 contracted private service as the system administrator of
3 the program. Compensation under a contract authorized by
4 this paragraph shall be based only upon the value of
5 equipment and services provided or rendered in support of
6 the automated speed enforcement system program and may
7 not be based in any part upon the quantity of notices of
8 violation issued or amount of fines imposed or generated.

9 (ii) The system administrator shall prepare and
10 issue notices of violation.

11 (iii) The system administrator shall remit fines
12 administratively paid under this section, minus the
13 system administrator's actual operation and maintenance
14 costs required under this section, on a reasonable
15 payment schedule for the duration of the five-year pilot <--
16 program to the department or Pennsylvania Turnpike
17 Commission for deposit into the Motor License Fund. to be <--
18 used as follows:

19 (A) Ninety percent of the fines over the
20 duration of the five year pilot program from
21 violations occurring in an automated speed
22 enforcement system on either an interstate highway
23 managed by the department or an interstate highway or
24 freeway under the jurisdiction of the Pennsylvania
25 Turnpike Commission shall be deposited into a
26 restricted account to be used by the Pennsylvania
27 State Police as follows:

28 (I) Fifty five percent of the funds shall be
29 dedicated for the purpose of recruiting, training
30 or equipping Pennsylvania State Police Cadets.

1 ~~(II) Forty five percent of the funds shall~~
2 ~~be dedicated to pay for an increased Pennsylvania~~
3 ~~State Trooper presence in work zones on the State~~
4 ~~road system managed by the department or the~~
5 ~~Pennsylvania Turnpike Commission that do not~~
6 ~~utilize concrete barriers. The assignments shall~~
7 ~~be made on as necessary basis as determined by~~
8 ~~the Pennsylvania State Police. Funds under this~~
9 ~~subelause shall be in addition to any contractual~~
10 ~~agreement between the department or the~~
11 ~~Pennsylvania Turnpike Commission and the~~
12 ~~Pennsylvania State Police for enforcement in work~~
13 ~~zones on the State road system managed by the~~
14 ~~department or the Pennsylvania Turnpike~~
15 ~~Commission.~~

16 ~~(B) Ten percent of the fines over the duration~~
17 ~~of the five year pilot program from violations~~
18 ~~occurring in an automated speed enforcement system~~
19 ~~shall be transferred to the department or the~~
20 ~~Pennsylvania Turnpike Commission, whichever State~~
21 ~~road system utilized the automated speed enforcement~~
22 ~~system, for the purpose of educating the motoring~~
23 ~~public on work zone safety.~~

24 ~~(iv) If the amount of funds in a fiscal period is~~
25 ~~lower than the amount of funds for the previous fiscal~~
26 ~~period, funds from the Motor License Fund may not be used~~
27 ~~to supplement the funds for the current fiscal period.~~
28 ~~Funding provided for under this section shall be~~
29 ~~supplemental and shall not prohibit the Pennsylvania~~
30 ~~State Police from obtaining additional funding from any~~

1 ~~other means.~~

2 ~~(v) If the five year pilot program is not extended~~
3 ~~by the General Assembly, any funds not deposited or~~
4 ~~transferred under subparagraph (iii) shall be used as~~
5 ~~follows:~~

6 ~~(A) Fifty percent of the funds shall be~~
7 ~~transferred to the department for the purpose of~~
8 ~~educating the motoring public on work zone safety.~~

9 ~~(B) Fifty percent of the funds shall be~~
10 ~~transferred to the Pennsylvania Turnpike Commission~~
11 ~~for the purpose of educating the motoring public on~~
12 ~~work zone safety.~~

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

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

29 ~~(i) The number of vehicular accidents and related~~
30 ~~serious injuries and deaths in all work zones and in~~

1 active work AUTOMATED SPEED ENFORCEMENT WORK areas in <--
2 which the program operated.

3 (ii) Speed data.

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

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

6 (v) Amounts paid under contracts authorized by this
7 section.

8 ~~(vi) The number of hours of Pennsylvania State~~ <--
9 ~~Police presence that were provided as a result of the~~
10 ~~funds under paragraph (3)(iii)(A)(II).~~

11 (i) Payment of fine.--

12 (1) An owner may admit responsibility for the violation
13 and pay the fine provided in the notice personally, through
14 an authorized agent, electronically or by mailing both
15 payment and the notice of violation to the system
16 administrator.

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

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

21 (4) If payment is not received within 90 days of
22 original notice, the department or Pennsylvania Turnpike
23 Commission may turn the matter over to applicable credit
24 collection agencies.

25 (j) Contest.--

26 (1) An owner may, within 30 days of the mailing of the
27 notice, request a hearing to contest liability by appearing
28 before the system administrator either personally or by an
29 authorized agent or by mailing a request in writing on the
30 prescribed form. Appearances in person shall be only at the

1 locations and times set by the system administrator.

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

8 (3) The hearing shall be informal and the rules of
9 evidence shall not apply. The decision of the hearing officer
10 shall be final, subject to the right of the owner to appeal
11 the decision.

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

19 (K) WORK ZONE SAFETY FUNDING.--EACH YEAR, THE GOVERNOR SHALL <--
20 RECOMMEND, PURSUANT TO HIS AUTHORITY UNDER SECTION 613 OF THE
21 ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
22 ADMINISTRATIVE CODE OF 1929, AN APPROPRIATION FROM THE MOTOR
23 LICENSE FUND FOR WORK ZONE SAFETY ACTIVITIES. THE RECOMMENDATION
24 MAY NOT EXCEED THE AMOUNT OF FINES REMITTED BY THE SYSTEM
25 ADMINISTRATOR TO THE DEPARTMENT OR THE PENNSYLVANIA TURNPIKE
26 COMMISSION IN THE PRIOR FISCAL YEAR FROM PENALTIES IMPOSED UNDER
27 SUBSECTION (E).

28 ~~(k)~~ (L) Expiration.--This section shall expire five years <--
29 from the effective date of this section.

30 Section 4. The Secretary of Transportation or the Chairman

1 of the Pennsylvania Turnpike Commission shall publish a notice
2 in the Pennsylvania Bulletin when ~~an~~ THE FIRST automated speed <--
3 enforcement system is operational in this Commonwealth.

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

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

8 (2) THE ADDITION OF 75 PA.C.S. § 3368.1(H)(2) SHALL TAKE <--
9 EFFECT IN 45 DAYS.

10 ~~(2)~~ (3) Section 4 and this section shall take effect <--
11 immediately.

12 ~~(3)~~ (4) The remainder of this act shall take effect in <--
13 60 days.