

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 172 Session of 2017

INTRODUCED BY ARGALL, SCHWANK, VULAKOVICH, SCAVELLO, BREWSTER, TARTAGLIONE, COSTA, YUDICHAK, RAFFERTY, BARTOLOTTA, BROWNE, REGAN AND BLAKE, JANUARY 23, 2017

SENATOR BROWNE, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 30, 2017

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

1 (1) is able to automatically detect vehicles exceeding
2 the posted speed limit with a type of speed timing device;
3 and

4 (2) records the vehicle's rear license plate, location,
5 date, time and speed.

6 "Automated speed enforcement work area." The portion of an
7 active work zone where construction, maintenance or utility
8 workers are located on the roadway, berm or shoulder and workers
9 are adjacent to an active travel lane and where an automated
10 speed enforcement system is active. For the purposes of this
11 definition, workers shall also be considered adjacent to an
12 active travel lane where workers are present and are protected
13 by a traffic barrier.

14 * * *

15 Section 2. Section 3368(c)(2) of Title 75 is amended and the
16 subsection is amended by adding a paragraph to read:

17 § 3368. Speed timing devices.--

18 * * *

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

21 * * *

22 (2) Except as otherwise provided in paragraph (3),
23 electronic devices such as radio-microwave devices
24 [(], commonly referred to as electronic speed meters or
25 radar[]], may be used only as part of an automated speed
26 enforcement system or by members of the Pennsylvania State
27 Police.

28 * * *

29 (5) Light detection and ranging devices, commonly
30 referred to as LIDAR, may be used only as part of an

1 automated speed enforcement system.

2 * * *

3 Section 3. Title 75 is amended by adding a section to read:
4 § 3369. Automated speed enforcement systems.

5 (a) Establishment.--A program is established to provide for
6 automated speed enforcement systems in active work areas.

7 (b) Applicability.--This section shall apply only to
8 automated speed enforcement work areas on interstate highways
9 under the jurisdiction of the department or interstate highways
10 or freeways under the jurisdiction of the Pennsylvania Turnpike
11 Commission. An automated speed enforcement system shall not be
12 used unless:

13 (1) At least two appropriate warning signs are
14 conspicuously placed before the active work area notifying
15 the public that an automated speed enforcement device is in
16 use.

17 (2) A notice identifying the location of the automated
18 speed enforcement system is posted on the department's or
19 Pennsylvania Turnpike Commission's publicly accessible
20 Internet website throughout the period of use.

21 (c) Liability.--Driving in excess of the posted speed limit
22 in an automated speed enforcement work area by at least 11 miles
23 per hour is a violation of this section.

24 (d) Notice of violation.--

25 (1) (i) An action to enforce this section shall be
26 initiated by an administrative notice of violation to the
27 registered owner of a vehicle identified by an automated
28 speed enforcement system as violating this section. A
29 notice of violation based upon inspection of recorded
30 images produced by an automated speed enforcement system

1 and sworn or affirmed by an authorized employee of the
2 department or the Pennsylvania Turnpike Commission shall
3 be prima facie evidence of the facts contained in the
4 notice. The authorized employee of the department or the
5 Pennsylvania Turnpike Commission must be under contract
6 to the department or the Pennsylvania Turnpike
7 Commission.

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

14 (iii) The following shall be attached to the notice
15 of violation:

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

18 (B) The registration number and state of
19 issuance of the vehicle registration.

20 (C) The date, time and place of the alleged
21 violation.

22 (D) Notice that the violation charged is under
23 this section.

24 (E) Instructions for return of the notice of
25 violation.

26 (2) In the case of a violation involving a motor vehicle
27 registered under the laws of this Commonwealth, the notice of
28 violation shall be mailed within 30 days after the commission
29 of the violation or within 30 days after the discovery of the
30 identity of the registered owner, whichever is later, to the

1 address of the registered owner as listed in the records of
2 the department.

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

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

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

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

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

23 (e) Penalty.--

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

29 (2) The fine is not authorized during times when the
30 automated speed enforcement work area is not active.

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

2 (i) be deemed a criminal conviction;

3 (ii) be made part of the operating record of the
4 individual upon whom the penalty is imposed under section
5 1535 (relating to schedule of convictions and points);

6 (iii) be the subject of merit rating for insurance
7 purposes; or

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

10 (f) Limitations.--

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

20 (2) Notwithstanding any other provision of law,
21 information gathered and maintained under this section that
22 is kept by the Commonwealth, its authorized agents or its
23 employees, including recorded images, written records,
24 reports or facsimiles, names and addresses, shall be for the
25 exclusive purpose of discharging its duties under this
26 section. The information shall not be deemed a public record
27 under the act of February 14, 2008 (P.L.6, No.3), known as
28 the Right-to-Know Law. The information shall not be
29 discoverable by court order or otherwise or be admissible as
30 evidence in a proceeding except to determine liability under

1 this section. The restrictions provided in this paragraph
2 shall not preclude a court of competent jurisdiction from
3 issuing an order directing that the information be provided
4 to law enforcement officials, if the information is requested
5 solely in connection with a criminal law enforcement action
6 and is reasonably described.

7 (3) Recorded images obtained through the use of
8 automated speed enforcement systems deployed as a means of
9 promoting traffic safety in automated speed enforcement work
10 areas shall be destroyed within one year of final disposition
11 of a notice of violation, except that images subject to a
12 court order under paragraph (1) or (2) shall be destroyed
13 within two years after the date of the order, unless further
14 extended by court order.

15 (4) Notwithstanding any other provision of law,
16 registered vehicle owner information obtained as a result of
17 the operation of an automated speed enforcement system shall
18 be the exclusive property of the department or Pennsylvania
19 Turnpike Commission and may not be used for a purpose other
20 than prescribed in this section.

21 (5) A violation of this subsection shall constitute a
22 misdemeanor of the third degree punishable by a \$500 fine.
23 Each violation shall constitute a separate and distinct
24 offense.

25 (g) Defenses.--

26 (1) It shall be a defense to a violation under this
27 section that the vehicle was reported to a police department
28 as stolen prior to the time the violation occurred and was
29 not recovered prior to that time.

30 (2) It shall be a defense to a violation under this

1 section that the person receiving the notice of violation was
2 not the owner of the vehicle at the time of the offense.

3 (h) Authority and duties of department and Pennsylvania
4 Turnpike Commission.--

5 (1) The department and Pennsylvania Turnpike Commission
6 shall each establish a ~~five year~~ THREE-YEAR automated speed <--
7 enforcement system program not later than 18 months following
8 the effective date of this section.

9 (2) (i) The department and Pennsylvania Turnpike
10 Commission may each promulgate regulations for the
11 certification and the use of automated speed enforcement
12 systems.

13 (ii) In order to facilitate the prompt
14 implementation of this section, regulations promulgated
15 by the department and Pennsylvania Turnpike Commission
16 under this section shall be deemed temporary regulations
17 and not subject to:

18 (A) Sections 201, 202 and 203 of the act of July
19 31, 1968 (P.L.769, No.240), referred to as the
20 Commonwealth Documents Law.

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

23 (3) (i) The department and Pennsylvania Turnpike
24 Commission shall each serve directly or through a
25 contracted private service as the system administrator of
26 the program. Compensation under a contract authorized by
27 this paragraph shall be based only upon the value of
28 equipment and services provided or rendered in support of
29 the automated speed enforcement system program and may
30 not be based on the quantity of notices of violation

1 issued or amount of fines imposed or generated.

2 (ii) The system administrator shall prepare and
3 issue notices of violation.

4 (iii) Two restricted accounts are established in the
5 State Treasury for fines remitted under this section to
6 the department and Pennsylvania Turnpike Commission,
7 respectively. The system administrator of the department
8 or Pennsylvania Turnpike Commission, if any, shall send
9 an invoice to the department or Pennsylvania Turnpike
10 Commission based, respectively, on the services under
11 subparagraph (i). The department and Pennsylvania
12 Turnpike Commission shall use the appropriate restricted
13 account to pay for the administration of the pilot
14 program and the system administrator's invoice costs.
15 Remaining fines shall be allocated by the department or
16 Pennsylvania Turnpike Commission as follows:

17 (A) ~~Seventy-five~~ FORTY-FIVE percent of the fines <--
18 over the duration of the ~~five-year~~ THREE-YEAR program <--
19 from violations occurring in an automated speed
20 enforcement system on either an interstate highway
21 managed by the department or an interstate highway or
22 freeway under the jurisdiction of the Pennsylvania
23 Turnpike Commission shall be deposited into a
24 restricted account in the State Treasury on a
25 quarterly basis. The Department of Revenue shall,
26 within 90 days of the date of deposit, transfer to
27 the Pennsylvania State Police an amount equivalent to
28 the previous quarterly deposit to be used by the
29 Pennsylvania State Police as follows:

30 (I) Fifty-five percent of the funds shall be

1 dedicated and used for the purpose of recruiting,
2 training or equipping Pennsylvania State Police
3 Cadets.

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

19 (B) ~~Twenty-five~~ FIFTEEN percent of the fines <--
20 over the duration of the ~~five-year~~ THREE-YEAR program <--
21 from violations occurring in an automated speed
22 enforcement system shall be transferred to the
23 department or the Pennsylvania Turnpike Commission,
24 whichever State road system utilized the automated
25 speed enforcement system, for the purpose of work
26 zone safety, traffic safety and educating the
27 motoring public on work zone safety, at the
28 discretion of the department or Pennsylvania Turnpike
29 Commission.

30 (C) FORTY PERCENT OF THE FINES OVER THE DURATION <--

1 OF THE THREE-YEAR PROGRAM FROM VIOLATIONS OCCURRING
2 IN AN AUTOMATED SPEED ENFORCEMENT SYSTEM SHALL BE
3 DEPOSITED IN THE MOTOR LICENSE FUND AND SHALL BE
4 APPROPRIATED BY THE GENERAL ASSEMBLY.

5 (iv) If the amount of funds under subparagraph (iii)
6 (A) is lower than the amount of funds under subparagraph
7 (iii)(A) for the previous fiscal year, funds from the
8 Motor License Fund may not be used to supplement the
9 funds for the current fiscal year. Funding provided for
10 under subparagraph (iii)(A) shall be supplemental and
11 shall not prohibit the Pennsylvania State Police from
12 obtaining additional funding from any other means.

13 (v) If the ~~five-year~~ THREE-YEAR program is not <--
14 extended by the General Assembly, any remaining fines
15 remitted to the department or Pennsylvania Turnpike
16 Commission shall remain with the department or
17 Pennsylvania Turnpike Commission for the purpose of work
18 zone safety, traffic safety and educating the motoring
19 public on work zone safety, at the discretion of the
20 department or Pennsylvania Turnpike Commission.

21 (vi) The system administrator shall provide an
22 appropriate printed form by which owners may challenge a
23 notice of violation and convenient hearing hours and
24 times in each of the following metropolitan areas for
25 challenges to be heard as provided in this section: Erie,
26 Harrisburg, Philadelphia, Pittsburgh and Scranton. the
27 form may be included with or as part of the notice of
28 violation.

29 (4) Not later than April 1 annually, the department and
30 Pennsylvania Turnpike Commission shall submit a report on the

1 program for the preceding calendar year to the chairperson
2 and minority chairperson of the Transportation Committee of
3 the Senate and the chairperson and minority chairperson of
4 the Transportation Committee of the House of Representatives.
5 The report shall be a public record under the Right-to-Know
6 Law and include:

7 (i) The number of vehicular accidents and related
8 serious injuries and deaths in all work zones and in
9 automated speed enforcement work areas where the program
10 operated.

11 (ii) Speed data.

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

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

14 (v) Amounts paid under contracts authorized by this
15 section.

16 (vi) The number of hours of Pennsylvania State
17 Police presence that were provided as a result of the
18 funds under paragraph (3)(iii)(A)(II).

19 (i) Payment of fine.--

20 (1) An owner may admit responsibility for the violation
21 and pay the fine provided in the notice personally, through
22 an authorized agent, electronically or by mailing both
23 payment and the notice of violation to the system
24 administrator.

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

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

29 (4) If payment is not received within 90 days of
30 original notice, the department or Pennsylvania Turnpike

1 Commission may turn the matter over to applicable credit
2 collection agencies.

3 (j) Contest.--

4 (1) An owner may, within 30 days of the mailing of the
5 notice, request a hearing to contest liability by appearing
6 before the system administrator either personally or by an
7 authorized agent or by mailing a request in writing on the
8 prescribed form. Appearances in person shall be only at the
9 locations and times set by the system administrator.

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

16 (3) The hearing shall be informal and the rules of
17 evidence shall not apply. The decision of the hearing officer
18 shall be final, subject to the right of the owner to appeal
19 the decision.

20 (4) If the owner requests in writing that the decision
21 of the hearing officer be appealed, the system administrator
22 shall file the notice of violation and supporting documents
23 with the office of the magisterial district judge for the
24 magisterial district where the violation occurred, and the
25 magisterial district judge shall hear and decide the matter
26 de novo.

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

29 Section 4. The Secretary of Transportation or the Chairman
30 of the Pennsylvania Turnpike Commission shall publish a notice

1 in the Pennsylvania Bulletin when an automated speed enforcement
2 system is operational in this Commonwealth.

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

4 (1) The addition of 75 Pa.C.S. § 3369(e) shall take
5 effect 60 days after publication in the Pennsylvania Bulletin
6 of the notice under section 4.

7 (2) The addition of 75 Pa.C.S. § 3369(h)(2) shall take
8 effect in 45 days.

9 (3) Section 4 and this section shall take effect
10 immediately.

11 (4) The remainder of this act shall take effect in 60
12 days.