
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1211 Session of
2013

INTRODUCED BY STACK, DECEMBER 9, 2013

REFERRED TO TRANSPORTATION, DECEMBER 9, 2013

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in rules of the road in general, further providing
3 for speed timing devices.

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

6 Section 1. Section 3368(c), (d) and (e) of Title 75 of the
7 Pennsylvania Consolidated Statutes are amended and the section
8 is amended by adding subsections to read:

9 § 3368. Speed timing devices.

10 * * *

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

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

17 (2) Except as otherwise provided in [paragraph (3)]
18 paragraphs (3) and (3.1), electronic devices such as radio-
19 microwave devices (commonly referred to as electronic speed

1 meters or radar) may be used only by members of the
2 Pennsylvania State Police.

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

8 (3.1) Upon passage of an ordinance, a city may install
9 and operate automated speed enforcement systems incorporating
10 electronic devices for the purposes of measuring and
11 calculating the rate of speed of vehicles on highways under
12 its respective jurisdiction as provided in subsection (k) and
13 for providing documentation of speed violations to certify
14 that the electronic device was operating correctly at the
15 time of the violation. The person certifying the electronic
16 device shall not be required to be present or to witness the
17 violation.

18 (4) No person may be convicted upon evidence obtained
19 through the use of devices authorized by paragraphs (2) and
20 (3) unless the speed recorded is six or more miles per hour
21 in excess of the legal speed limit. Furthermore, no person
22 may be convicted upon evidence obtained through the use of
23 devices authorized by paragraph (3) in an area where the
24 legal speed limit is less than 55 miles per hour if the speed
25 recorded is less than ten miles per hour in excess of the
26 legal speed limit. This paragraph shall not apply to evidence
27 obtained through the use of devices authorized by paragraph
28 (2) or (3) within a school zone or an active work zone. No
29 person may be convicted by evidence obtained through the use
30 of systems authorized by paragraph (3.1) in any work zone

1 when the speed recorded is less than six miles per hour in
2 excess of the legal speed limit.

3 (d) Classification, approval and testing of mechanical,
4 electrical and electronic devices.--

5 (1) The department may, by regulation, classify specific
6 devices as being mechanical, electrical or electronic. All
7 mechanical, electrical or electronic devices shall be of a
8 type approved by the department[, which].

9 (2) The department shall appoint stations for
10 calibrating and testing the devices and may prescribe
11 regulations as to the manner in which calibrations and tests
12 shall be made. The certification and calibration of
13 electronic devices under subsection (c) (3), including those
14 utilized in an automated speed enforcement system under
15 subsection (c) (3.1), shall also include the certification and
16 calibration of all equipment, timing strips and other devices
17 which are actually used with the particular electronic device
18 being certified and calibrated.

19 (3) Electronic devices commonly referred to as
20 electronic speed meters or radar shall have been tested for
21 accuracy within a period of one year prior to the alleged
22 violation. Other devices shall have been tested for accuracy
23 within a period of 60 days prior to the alleged violation.

24 (4) A certificate from the station showing that the
25 calibration and test were made within the required period and
26 that the device was accurate shall be competent and prima
27 facie evidence of those facts in every proceeding in which a
28 violation of this title is charged.

29 (5) Automated speed enforcement systems shall undergo an
30 annual calibration check to be performed by the manufacturer

1 or vendor. The annual calibration check shall be kept on file
2 and shall be admissible as evidence in any court proceeding
3 as prima facie evidence.

4 (e) Distance requirements for use of mechanical, electrical
5 and electronic devices.--Mechanical, electrical or electronic
6 devices may not be used to time the rate of speed of vehicles
7 within 500 feet after a speed limit sign indicating a decrease
8 of speed. This limitation on the use of speed timing devices
9 shall not apply to speed limit signs indicating school zones,
10 bridge and elevated structure speed limits, hazardous grade
11 speed limits and work zone speed limits. This paragraph shall
12 not apply to the use of systems under subsection (c)(3.1).

13 (f) Owner liability.--For each speed violation determined
14 through the use of an automated speed enforcement system under
15 subsection (c)(3.1), the owner of the vehicle shall be liable
16 for the penalty imposed unless the owner is convicted of the
17 same violation under another section of this title or has a
18 defense under subsection (j).

19 (g) Certificate as evidence.--A certificate, or a facsimile
20 of a certificate, based upon inspection of measurements recorded
21 by a device operated under subsection (c)(3.1) and sworn to or
22 electronically affirmed by a police officer employed by the city
23 of the first class shall be prima facie evidence of the facts
24 contained in it. The certificate must include written
25 documentation that the electronic device was operating correctly
26 at the time of the alleged violation. A recorded image
27 evidencing a speed violation determined through the use of an
28 automated speed enforcement system under subsection (c)(3.1)
29 shall be admissible in any judicial or administrative proceeding
30 to adjudicate the liability for the violation.

1 (h) Civil penalty.--The penalty for a speed violation
2 determined through the use of an automated speed enforcement
3 system under subsection (c) (3.1) shall be a fine of \$100. This
4 penalty shall be imposed for violations occurring in all work
5 zones, whether active or not at the time of the violation. In
6 addition, the penalty under this subsection:

7 (1) Shall apply in place of the penalty imposed for
8 violation of section 3365(c.1) (relating to special speed
9 limitations).

10 (2) Shall not be deemed a criminal conviction and shall
11 not be made part of the operating record under section 1535
12 (relating to schedule of convictions and points) of the
13 individual upon whom the penalty is imposed, nor may the
14 imposition of the penalty be subject to merit rating for
15 insurance purposes.

16 (3) Shall not impose surcharge points in the provision
17 of motor vehicle insurance coverage. Fines collected under
18 this section shall not be subject to 42 Pa.C.S. § 3571
19 (relating to Commonwealth portion of fines, etc.) or 3573
20 (relating to municipal corporation portion of fines, etc.).

21 (i) Limitations.--The following limitations shall apply:

22 (1) No automated speed enforcement system shall be
23 utilized in such a manner as to take a frontal view recorded
24 image of the vehicle as evidence of having committed a
25 violation.

26 (2) Notwithstanding any other provision of law, camera
27 equipment deployed as part of the automated speed enforcement
28 system under this section must be incapable of automated or
29 user-controlled remote work zone surveillance by means of
30 recorded video images. Recorded images collected as part of

1 the automated speed enforcement system must only record
2 traffic violations and may not be used for any other
3 surveillance purposes. The restrictions set forth in this
4 paragraph shall not be deemed to preclude a court of
5 competent jurisdiction from issuing an order directing the
6 information to be provided to law enforcement officials if
7 the information is reasonably described and is requested
8 solely in connection with a criminal law enforcement action.

9 (3) Notwithstanding any other provision of law,
10 information prepared under subsection (c) (3.1) and
11 information related to violations under this section which
12 are kept by the department, the city, or its authorized
13 contractors, agents or employees, including recorded images,
14 written records, reports or facsimiles, names, addresses, and
15 the number of violations under this section, shall be for the
16 exclusive use of the department, the city, or their
17 authorized contractors, agents or employees, and law
18 enforcement officials for the purpose of discharging their
19 duties under this section. The information shall not be
20 deemed a public record under the act of February 14, 2008
21 (P.L.6, No.3), known as the Right-to-Know Law. The
22 information shall not be discoverable by court order or
23 otherwise, nor shall it be offered in evidence in any action
24 or proceeding which is not directly related to a violation of
25 this section. The restrictions set forth in this paragraph
26 shall not be deemed to preclude a court of competent
27 jurisdiction from issuing an order directing that the
28 information be provided to law enforcement officials if the
29 information is reasonably described and is requested solely
30 in connection with a criminal law enforcement action.

1 (4) Recorded images obtained through the use of
2 automated speed enforcement systems deployed as a means of
3 promoting traffic safety shall be destroyed within one year
4 of final disposition of any recorded event. The department
5 and the city shall file notice with the Department of State
6 that the records have been destroyed in accordance with this
7 section.

8 (5) 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 under
11 this section shall not be the property of the manufacturer or
12 vendor of the automated speed enforcement system and may not
13 be used for any purpose other than prescribed in this
14 section.

15 (j) Defenses to violations determined through the use of
16 automated speed enforcement systems.--The following are defenses
17 to a speeding violation determined through the use of an
18 automated speed enforcement system under subsection (c) (3.1):

19 (1) The person named in the notice of the violation was
20 not operating the vehicle at the time of the violation. The
21 owner must submit evidence that the owner was not the driver
22 at the time of the alleged violation. To invoke this defense,
23 the owner of the vehicle shall be required to disclose the
24 identity of the operator of the vehicle at the time of the
25 violation and the operator's address. Upon disclosure of the
26 identity of the operator and the operator's address, notice
27 of a speed violation shall be given to the operator in
28 accordance with subsections (n) and (o), and the operator
29 shall have the options of paying the fine, in accordance with
30 subsection (p), or requesting a hearing, in accordance with

1 subsection (r).

2 (2) The vehicle was reported to a police department as
3 stolen prior to the time the violation occurred and had not
4 been recovered prior to that time, and a copy of the report
5 of the theft is produced and authenticated.

6 (3) The person receiving the notice of violation was not
7 the owner of the vehicle at the time of the offense.

8 (k) Department approval and duty.--The following shall
9 apply:

10 (1) The city shall designate or appoint a system
11 administrator to supervise and coordinate the administration
12 of the automated speed enforcement system on highways under
13 their respective jurisdictions and notices of speed
14 violations determined through the use of an automated speed
15 enforcement system under subsection (c)(3.1).

16 (2) No automated speed enforcement system may be used
17 without the approval of the department, which shall have the
18 authority to promulgate regulations for the certification and
19 use of such systems.

20 (3) No automated speed enforcement system may be used
21 unless appropriate signs are provided before the area in
22 which an automated speed enforcement system is to be used
23 notifying the public that an automated speed enforcement
24 system is in use immediately ahead.

25 (4) The system administrator shall prepare a notice of a
26 speed violation determined through the use of an automated
27 speed enforcement system under subsection (c)(3.1) to the
28 registered owner of a vehicle identified in a recorded image
29 produced by the automated speed enforcement system as
30 evidence of such violation. The issuance of this notice of

1 violation must be done by a police officer employed by the
2 police department with primary jurisdiction over the area
3 where the violation occurred. The notice of violation shall
4 have attached to it a copy of the recorded image showing the
5 vehicle, the registration number and state of issuance of the
6 vehicle registration, the date, time and place of the alleged
7 violation, a statement that the violation charged is based on
8 the use of an automated speed enforcement system under
9 subsection (c) (3.1) and instructions for return of the notice
10 of violation. The text of the notice must be as follows:

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

15 (5) A city may install automated speed enforcement
16 devices on U.S. Route 1 from the Bucks County line to the
17 interchange with Interstate 76.

18 (1) System administrator.--The system administrator:

19 (1) May hire and designate personnel as necessary or
20 contract for services to implement an automated speed
21 enforcement program.

22 (2) Shall process fines issued pursuant to an automated
23 speed enforcement program.

24 (3) Shall submit an annual report to the chairman and
25 minority chairman of the Transportation Committee of the
26 Senate and the chairman and minority chairman of the
27 Transportation Committee of the House of Representatives. The
28 report shall include all of the following for the prior year:

29 (i) The number of violations and fines issued.

30 (ii) A compilation of fines paid and outstanding.

1 (iii) The amount of money paid under this section to
2 a vendor or manufacturer.

3 (m) Notice to owner for a violation under subsection (c)
4 (3.1).--In the case of a speed violation determined through the
5 use of an automated speed enforcement system under subsection
6 (c) (3.1), notice must be mailed in one of the following manners:

7 (1) When the violation involves a motor vehicle
8 registered under the laws of this Commonwealth, the notice of
9 violation must be mailed to the address of the registered
10 owner as listed in the records of the department by the later
11 of the following:

12 (i) Within 30 days after the discovery of the
13 identity of the registered owner.

14 (ii) Within 90 days after the commission of the
15 violation.

16 (2) When the violation involves a motor vehicle
17 registered in a jurisdiction other than this Commonwealth,
18 the notice of violation must be mailed to the address of the
19 registered owner as listed in the records of the official in
20 the jurisdiction having charge of the registration of the
21 vehicle by the later of the following:

22 (i) Within 30 days after the discovery of the
23 identity of the registered owner.

24 (ii) Within 90 days from the commission of the
25 violation.

26 (n) Notice to operator other than owner.--Where the operator
27 of the motor vehicle at the time of the violation is identified
28 as someone other than the owner, the notice of violation must be
29 mailed within 30 days after the disclosure to the department or
30 the city of the identity of the operator.

1 (o) Mailing of notice and records.--Notice under subsection
2 (m) must be sent by first class mail. A manual or automatic
3 record of mailing prepared in the ordinary course of business
4 shall be prima facie evidence of mailing and shall be admissible
5 in any judicial or administrative proceeding as to the facts
6 contained in it.

7 (p) Payment of fine.--The following shall apply:

8 (1) An owner to whom a notice under subsection (m) has
9 been issued may admit responsibility for the violation and
10 pay the fine provided in the notice.

11 (2) Payment made for a speed violation determined
12 through the use of an automated speed enforcement
13 system under subsection (c)(3.1) must be made personally,
14 through an authorized agent, electronically or by mailing
15 both payment and the notice of violation to the system
16 administrator. Payment by mail must be made only by money
17 order, credit card or check made payable to the system
18 administrator. For speed violations occurring in work zones
19 on highways under the jurisdiction of the department, the
20 system administrator shall remit the fine, less the system
21 administrator's operation and maintenance costs necessitated
22 by this section, to the department for deposit into a
23 restricted revenue account within the Motor License Fund as
24 provided in subsection (s)(2). For speed violations occurring
25 in work zones on highways under the jurisdiction of the city,
26 the system administrator shall remit the fine, less the
27 system administrator's operation and maintenance costs
28 necessitated by this section, to the city for deposit into
29 its treasury as provided in subsection (s)(3).

30 (3) Payment of the established fine and applicable

1 penalties shall operate as a final disposition of the case.

2 (g) Enforcement.--

3 (1) If a violation has not been contested and the
4 assessed penalty has not been paid, the manufacturer, vendor
5 or system administrator shall send to the person who is the
6 owner of the motor vehicle a final notice of any unpaid civil
7 fine authorized by this section, except in cases where there
8 is an adjudication that no violation occurred or there is
9 otherwise a lawful determination that no civil penalty will
10 be imposed. The notice shall inform the registered owner of
11 the following:

12 (i) The manufacturer, vendor or system administrator
13 will send a referral to the department if the assessed
14 penalty is not paid within 30 days after the final notice
15 was mailed.

16 (ii) The referral will result in the nonrenewal of
17 the registration of the motor vehicle, shall cause title
18 of the vehicle involved in the violation to not be
19 transferred in this Commonwealth and shall cause the
20 person held responsible for the violation to be
21 ineligible to obtain or renew a Pennsylvania driver's
22 license if the assessed penalty is not paid.

23 (2) The manufacturer, vendor or system administrator
24 shall send a referral to the department not sooner than 30
25 days after the final notice required under paragraph (1) was
26 mailed if a violation of an ordinance or resolution adopted
27 under this section has not been contested and the assessed
28 penalty has not been paid. The referral to the department
29 shall include the following:

30 (i) Any information known or available to the

1 manufacturer, vendor or system administrator concerning
2 the license plate number and year of registration and the
3 name of the owner of the motor vehicle.

4 (ii) The date when the violation occurred.

5 (iii) The date when the notice required under this
6 section was mailed.

7 (iv) The seal, logo, emblem or electronic seal of
8 the city.

9 (3) After the department receives a referral under
10 paragraph (2), the department shall enter the referral into
11 the motor vehicle database within five days of receipt, shall
12 refuse to renew the registration of the motor vehicle, shall
13 cause title of the vehicle involved in the violation to not
14 be transferred in this Commonwealth and shall cause the
15 person held responsible for the violation to be ineligible to
16 obtain or renew a Pennsylvania driver's license, unless and
17 until the civil fine plus any late fee is paid. The
18 department shall mail a notice to the person in whose name
19 the vehicle is registered that informs the person that:

20 (i) The registration of the vehicle involved in the
21 violation may not be renewed.

22 (ii) The title of the vehicle involved in the
23 violation may not be transferred.

24 (iii) The person held responsible for the violation
25 will be ineligible to obtain or renew a Pennsylvania
26 driver's license.

27 (iv) The penalties in subparagraphs (i), (ii) and
28 (iii) are being imposed due to the failure to pay the
29 civil fine for an ordinance violation adopted under the
30 authority of this section.

1 (v) The procedure that the person may follow to
2 remove the penalties.

3 (4) The department shall remove the penalties on a
4 vehicle and vehicle owner if any person presents the
5 department with adequate proof that the penalty and any
6 imposed reinstatement fee, if applicable, have been paid.

7 (5) Any State official charged with issuance or transfer
8 of vehicle licenses or titles, or issuance of driver's
9 licenses, shall not issue or renew the driver's license of
10 the responsible person so long as the official has notice
11 that a civil fine authorized by this section is unpaid. If
12 the system administrator has given a notice of nonpayment to
13 the appropriate licensing official and thereafter the civil
14 fine is paid, the system administrator shall transmit notice
15 of the payment to the appropriate licensing official.

16 (r) Hearing.--The following shall apply:

17 (1) An owner to whom a notice under subsection (m) has
18 been issued may, within 30 days of the mailing of the notice,
19 request a hearing to contest the liability alleged in the
20 notice. A hearing request must be made by appearing before
21 the system administrator during regular office hours either
22 personally or by an authorized agent or by mailing a request
23 in writing.

24 (2) Upon receipt of a hearing request, the system
25 administrator shall in a timely manner schedule the matter
26 before a hearing officer. The hearing officer shall be
27 designated by the department or the city, depending upon the
28 entity with jurisdiction over the highway where the violation
29 occurred. Written notice of the date, time and place of
30 hearing must be sent by first class mail to the owner.

1 (3) The hearing shall be informal, the rules of evidence
2 shall not apply and the decision of the hearing officer shall
3 be final, subject to the right of the owner to appeal the
4 decision to the traffic court, in cities of the first class,
5 or the magisterial district judge.

6 (4) If the owner requests in writing that the decision
7 of the hearing officer be appealed to the traffic court, in
8 cities of the first class, or the magisterial district judge,
9 the system administrator shall file the notice of violation
10 and supporting documents with the traffic court, in cities of
11 the first class, or the magisterial district judge, who shall
12 hear and decide the matter de novo.

13 (s) Revenue.--The following shall apply:

14 (1) The department and the commission are each
15 authorized to use revenue generated from the automated speed
16 enforcement program to cover the respective costs incurred by
17 each of them in operating and administering the program.

18 (2) After deducting its operational and administrative
19 costs, including any costs incurred by the system
20 administrator under subsection (p)(2), the department shall
21 deposit all remaining revenue into a restricted revenue
22 account within the Motor License Fund under the control of
23 the secretary, to be used exclusively for safety-related
24 initiatives.

25 (3) After deducting its operational and administrative
26 costs, including any costs incurred by the system
27 administrator under subsection (p)(2), the city shall deposit
28 all remaining revenue into a restricted receipts account
29 within its treasury, to be used exclusively for safety-
30 related initiatives.

1 (t) Definitions.---The following words and phrases when used
2 in this section shall have the meanings given to them in this
3 subsection unless the context clearly indicates otherwise:

4 "Automated speed enforcement program." The activities
5 involved in the deployment, use, operation and administration of
6 an automated speed enforcement system by a city, including, but
7 not limited to, enforcement activities and collection of fines,
8 and otherwise in furtherance of the powers and duties of a city
9 under this section.

10 "Automated speed enforcement system." A system incorporating
11 an electronic device that evaluates a vehicle's speed and
12 automatically provides a documented rear vehicle image while a
13 driver is violating posted speed limits in work zones. The
14 system also documents a vehicle image, location identification,
15 date, time, speed limit, vehicle violation speed and owner
16 identification information.

17 "City." A city of the first class.

18 Section 2. This act shall take effect in 60 days.