



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4132 (Substitute H-4 as passed by the House)
House Bill 4133 (as passed by the House)
Sponsor: Representative Will Snyder (H.B. 4132)
Representative Mike Mueller (H.B. 4133)
House Committee: Transportation, Mobility and Infrastructure
Senate Committee: Transportation and Infrastructure

Date Completed: 11-6-23

CONTENT

House Bill 4132 (H-4) would amend the Michigan Vehicle Code to do the following:

- Allow the Department of State Police (MSP) and the Department of Transportation (MDOT) to authorize the installation and use of an automated speed enforcement system in a work zone.
- Require a sign to be placed one mile before the start of a work zone where an automated speed enforcement system was installed and used.
- Create an automated speed enforcement system unit within the MSP.
- Prescribe penalties, including written warnings and civil fines, for exceeding the posted speed limit in a work zone by 10 miles per hour, as evidenced by an automated speed enforcement system.
- Allow a recorded image and any other data collected by an automated speed enforcement system to be used as evidence in a proceeding for a violation.
- Prescribe privacy and confidentiality requirements for data collected by an automated speed enforcement system.
- Create the Work Zone Safety Fund in the State Treasury.
- Require civil fines collected under the bill to be used to cover the cost of installing and using automated speed enforcement systems and require any excess revenue to be paid into the Fund.

House Bill 4133 would amend the Revised Judicature Act to require a civil fine issued under House Bill 4132 (H-4) to be paid to MDOT and distributed as prescribed by House Bill 4132 (H-4).

The bills are tie-barred. House Bill 4132 is described in greater detail below.

House Bill 4132 (H-4)

The bill would allow the MSP and MDOT to authorize the installation and use of an automated speed enforcement system in a work zone that was not separated from traffic by barriers on a highway or street under the jurisdiction of MDOT. A sign would have to be placed one mile before the start of a work zone where an automated speed enforcement system was installed and in use indicating that the work zone was monitored by an automated speed enforcement system.

Under the bill, "automated speed enforcement system" would mean an electronic traffic sensor system that does the following:

- Automatically detects a vehicle exceeding the posted speed limit using a scanning lidar system.
- Produces a recorded image of a vehicle violating the speed limit that shows: 1) a clear and legible identification of the vehicle's registration plate; 2) the location where the recorded image was taken; and 3) the date and time when the recorded image was taken.

Subject to appropriation, the bill would create an automated speed enforcement system unit within the MSP composed of individuals appointed by the Director of the MSP, to do the following:

- Oversee the implementation and use of automated speed enforcement systems.
- Train automated speed enforcement system operators to operate and monitor automated speed enforcement systems and provide sworn statements (see Use as Evidence).

Penalties for Violations

Under the bill, if an individual exceeded a posted speed limit by 10 miles per hour or more in a work zone while workers were present, on the basis of a recorded image produced by an automated speed enforcement system, that individual would have to be issued a written warning using a form that was authorized by the MSP for either of the following violations:

- A first violation.
- A violation that occurred more than three years after that individual's most recent violation.

For a second violation that occurred less than three years after a written warning was issued, the individual would be responsible for a civil infraction and ordered to pay a civil fine of not more than \$150. For a third or subsequent violation that occurred less than three years after a second or subsequent violation, the individual would be responsible for a civil infraction and ordered to pay a civil fine of not more than \$300.

An individual operating a police vehicle, a fire department or fire patrol vehicle, or a public or private ambulance would be exempt from these penalties.

Use as Evidence

A sworn statement of an automated speed enforcement system operator or a Michigan police officer, based on inspecting a recorded image produced by an automated speed enforcement system, would be prima facie (accepted as correct until proven otherwise) evidence of the facts contained in the recorded image. A recorded image indicating a violation would have to be available for inspection in any proceeding to adjudicate the responsibility for a violation. A recorded image indicating a violation would have to be destroyed as soon as the period for contesting the violation had lapsed, including any period for appeals, or as soon as the individual paid the civil fine in full, whichever occurred first.

The following would apply to a recorded image and any other data collected by an automated speed enforcement system:

- The image and data could be used only for the purpose of adjudicating a violation of the bill.
- Except to the extent necessary to adjudicate a violation, the image and data would be confidential and exempt from disclosure under the Freedom of Information Act.
- The image and data could not be shared with or sold to any private or public third party not involved with installing and using the automated speed enforcement system.

In a proceeding, evidence that the vehicle described in the citation issued was operated in violation of the posted speed limit, together with proof that the individual who was issued the citation was at the time of the violation the registered owner of the vehicle, would create a rebuttable presumption that the registered owner of the vehicle was the individual who committed the violation.

The presumption would be rebutted if the registered owner of the vehicle filed an affidavit by regular mail with the clerk of the court stating that the registered owner was not the operator of the vehicle at the time of the alleged violation or testified in open court under oath that the registered owner was not the operator of the vehicle at the time of the alleged violation. The presumption also would be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen before the time of the alleged violation, was presented before the appearance date established on the citation. The owner of a leased or rented vehicle would have to provide the name and address of the individual to whom the vehicle was leased or rented at the time of the violation.

A citation for a violation could be executed by mailing by first-class mail a copy to the address of the registered owner of the vehicle as shown on the records of the Secretary of State (SOS). If the summoned individual failed to appear on the date of return set out in the citation previously mailed by first-class mail, a copy would have to be sent by certified mail-return receipt requested. If the summoned individual failed to appear on either of the dates of return set out in the copies of the citation mailed, the citation would have to be executed in the manner provided by law for personal service. The court could issue a warrant for the arrest of an individual who failed to appear within the time limit established on the citation if a sworn complaint were filed with the court for that purpose.

Reporting Requirements

By not later than March 1 of each year after the bill's effective date, the MSP would have to submit to the members of the House of Representatives and Senate Committees with jurisdiction over transportation, and make publicly available on the MSP website, a report on the use of automated speed enforcement systems in the State that included all the following:

- The number of citations given.
- The age, ethnicity, race, and sex of the individuals given citations.
- The locations where automated speed enforcement systems were installed and used, and where citations had been given.
- An accounting of the costs and revenues of the installed and used automated speed enforcement systems.

Work Zone Safety Fund

The bill would create the Work Zone Safety Fund in the State Treasury. The State Treasurer would have to deposit money and other assets received from any other source in the Fund. The State Treasurer also would have to direct the investment of money in the Fund and credit interest and earnings from the investments.

The Department of Transportation would be the administrator of the fund for auditing purposes. The Department would have to spend money from the Fund, on appropriation, only for the purpose of improving worker safety at work zones by doing the following:

- Coordinating with the MSP and local law enforcement agencies to increase police presence at work zones.
- Funding the use of traffic control devices at work zones that provided greater protection for workers.

A civil fine ordered for a violation of a posted speed limit in a work zone would have to be paid to MDOT. The Department would have to deposit any civil fines more than the cost of installing and using automated speed enforcement systems into the Fund.

MCL 257.907 et al. (H.B. 4132)
600.8379 (H.B. 4133)

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

House Bill 4123 is similar to Senate Bill 875 and House Bill 570 of the 2021-2022 Legislative Session. Senate Bill 875 passed the Senate but received no further action.

BACKGROUND

There are two types of automated speed enforcement systems: red-light cameras and speed cameras. Speed cameras use radar or lidar presence detectors embedded in the road to measure a vehicle's speed. Eighteen states and Washington, District of Columbia allow for their usage; however, several states restrict their use, and eight states prohibit them.¹ At least 10 states allow speed cameras to be used in highway work or construction zones.²

Legislative Analyst: Abby Schneider

FISCAL IMPACT

MDOT

The bills would allow for the use of automated electronic speed enforcement devices and limit the use of these devices to MDOT controlled roads. It would have no direct fiscal impact on local road agencies. The Department could recoup costs from the fines received. If the fines were less than the cost of implementation, the result would be a negative fiscal impact on MDOT.

Treasury

The bills would have no fiscal impact on the Department of Treasury. Based on the level of estimated revenue within the Fund, the ongoing costs associated with administering and investing the Fund would be less than \$100 and are within current appropriations.

MSP

The bills would have a considerable fiscal impact on the MSP by requiring the MSP to create an Automated Speed Enforcement System Unit. While they require the establishment of the unit only if funds were to be appropriated for this purpose – and the bill provides for no appropriation – the MSP claims that the establishment of the Unit could require six full-time equivalent positions at a cost of \$985,000 annually, depending on the ultimate scope of the program. The MSP also notes that each citation issued would cost it approximately 65 cents, plus other costs if notices were required to be sent via certified mail or if personal service were necessary. The MSP also states that they would require one-time costs for equipment,

¹ "Traffic Safety Review: State Speed and Red-Light Camera Laws and Programs", www.ncsl.org. Retrieved 11-3-23.

² According to NCSL, these 10 states are Colorado, Connecticut, Delaware, Illinois, Louisiana, Maryland, New York, Oregon, Pennsylvania, and Virginia.

outfitting costs, and information technology of approximately \$20,000, along with ongoing annual technology costs of approximately \$5,000.

Local

The bills state that the registered owner of the vehicle may dispute this fine through a written affidavit or through court testimony that the owner was not the driver when the fine was issued. In the extreme, everyone who received this fine could write an affidavit claiming to not have been the driver during the speeding incident, thus reducing fine revenue to zero unless the police were able to gain evidence that the registered owner was in fact the driver at the time of the speeding incident, which would cause additional costs to local police departments.

Any revenue collected by MDOT from these fines on top of the cost of implementation would go to the new Fund. Fines from traditional speeding tickets in work zones would be replaced by fines from the automated devices, directing any revenue from the traditional speeding ticket to MDOT instead. Fine revenues for speeding tickets issued for a violation of State speeding limits traditionally go to local government treasurers for distribution to local public libraries and county law libraries. In FY 2021-22, over \$20.0 million in fine revenue was collected and distributed to county treasurers for subsequent distribution to libraries. It is not clear how much of such revenue could be diverted to the new Fund under the bill.

Fiscal Analyst: Bobby Canell
Bruce R. Baker
Joe Carrasco, Jr.
Cory Savino, PhD
Michael Siracuse

SAS\S2324\s4132sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.