

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1187 Session of 2017

INTRODUCED BY TAYLOR, SCHLOSSBERG, BULLOCK, DRISCOLL, V. BROWN, W. KELLER, SOLOMON, O'BRIEN, A. HARRIS, MARSHALL, DALEY AND DONATUCCI, APRIL 12, 2017

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 24, 2017

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, IN GENERAL PROVISIONS, FURTHER PROVIDING FOR <--
3 DEFINITIONS; AND, in rules of the road in general, providing
4 for pilot program for automated speed enforcement system on a
5 designated highway.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 75 of the Pennsylvania Consolidated <--
9 Statutes is amended by adding a section to read:

10 SECTION 1. SECTION 102 OF TITLE 75 OF THE PENNSYLVANIA <--
11 CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:
12 § 102. DEFINITIONS.

13 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
14 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC
15 PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN
16 USED IN THIS TITLE SHALL HAVE, UNLESS THE CONTEXT CLEARLY
17 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

18 * * *

1 "AUTOMATED SPEED ENFORCEMENT SYSTEM." AN ELECTRONIC TRAFFIC
2 SENSOR SYSTEM THAT:

3 (1) IS ABLE TO AUTOMATICALLY DETECT VEHICLES EXCEEDING
4 THE POSTED SPEED LIMIT WITH A TYPE OF SPEED TIMING DEVICE;
5 AND

6 (2) RECORDS THE VEHICLE'S REAR LICENSE PLATE, LOCATION,
7 DATE, TIME AND SPEED.

8 * * *

9 SECTION 2. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:
10 § 3369. Pilot program for automated speed enforcement system on
11 designated highway.

12 (a) General rule.--A pilot program is established to provide
13 for an automated speed enforcement system on the designated
14 highway.

15 (1) A city of the first class, upon passage of an
16 ordinance, is authorized to enforce section 3362 (relating to
17 maximum speed limits) by recording violations using an
18 automated speed enforcement system approved by the
19 department.

20 (2) This section shall only be applicable in a city of
21 the first class in areas agreed upon by the system
22 administrator and the Secretary of Transportation using the
23 automated speed enforcement system on U.S. Route 1 (Roosevelt
24 Boulevard) between Ninth Street and the Philadelphia County
25 line shared with Bucks County.

26 (b) Owner liability.--For each violation under this section,
27 the owner of the vehicle shall be liable for the penalty imposed
28 unless the owner is convicted of the same violation under
29 another section of this title or has a defense under subsection
30 (g).

1 (c) Certificate as evidence.--A certificate, or a facsimile
2 of a certificate, based upon inspection of recorded images
3 produced by an automated speed enforcement system and sworn to
4 or affirmed by a police officer employed by the city of the
5 first class shall be prima facie evidence of the facts contained
6 in it. The city must include written documentation that the
7 automated speed enforcement system was operating correctly at
8 the time of the alleged violation. A recorded image evidencing a
9 violation of section 3362 shall be admissible in any judicial or
10 administrative proceeding to adjudicate the liability for the
11 violation.

12 (d) Penalty.--The following shall apply:

13 (1) The penalty for a violation under subsection (a)
14 shall be a fine of \$150 unless a lesser amount is set by
15 ordinance. The ordinance may create fines for first offense,
16 second offense and third and subsequent offenses, but no
17 single fine shall exceed \$150.

18 (2) A penalty is authorized only for a violation of this
19 section if each of the following apply:

20 (i) At least two appropriate warning signs are
21 conspicuously placed at the beginning and end and at two-
22 mile intervals of the designated highway notifying the
23 public that an automated speed enforcement device is in
24 use.

25 (ii) A notice identifying the location of the
26 automated speed enforcement system is posted on the
27 department's publicly accessible Internet website
28 throughout the period of use.

29 (3) A fine is not authorized during the first 30 days of
30 operation of an automated speed enforcement system.

1 (4) The system administrator may provide a written
2 warning to the registered owner of a vehicle determined to
3 have violated this section during the first ~~60~~ 30 days of <--
4 operation of the automated speed enforcement system.

5 (5) A penalty imposed under this section shall not be
6 deemed a criminal conviction and shall not be made part of
7 the operating record under section 1535 (relating to schedule
8 of convictions and points) of the individual upon whom the
9 penalty is imposed, nor may the imposition of the penalty be
10 subject to merit rating for insurance purposes.

11 (6) No surcharge points may be imposed in the provision
12 of motor vehicle insurance coverage. Penalties collected
13 under this section shall not be subject to 42 Pa.C.S. § 3571
14 (relating to Commonwealth portion of fines, etc.) or 3573
15 (relating to municipal corporation portion of fines, etc.).

16 (e) Liability.--Driving in excess of the posted speed limit
17 along the designated highway by 11 miles per hour or more is a
18 violation of this section.

19 (f) Limitations.--The following shall apply:

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

24 (2) Notwithstanding any other provision of law, camera
25 equipment deployed as part of an automated speed enforcement
26 system as provided in this section must be incapable of
27 automated or user-controlled remote surveillance by means of
28 recorded video images. Recorded images collected as part of
29 the automated speed enforcement system must only record
30 traffic violations and may not be used for any other

1 surveillance purposes, but may include video of the area
2 enforced when triggered by a violation. The restrictions set
3 forth in this paragraph shall not be deemed to preclude a
4 court of competent jurisdiction from issuing an order
5 directing that the information be provided to law enforcement
6 officials if the information is reasonably described and is
7 requested solely in connection with a criminal law
8 enforcement action.

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

1 enforcement action.

2 (4) Recorded images obtained through the use of
3 automated speed enforcement systems deployed as a means of
4 promoting traffic safety in a city of the first class shall
5 be destroyed within one year of final disposition of any
6 recorded event except that images subject to a court order
7 under paragraph (2) or (3) shall be destroyed within two
8 years after the date of the order, unless further extended by
9 court order. The city shall file notice with the Department
10 of State that the records have been destroyed in accordance
11 with this section.

12 (5) Notwithstanding any other provision of law,
13 registered vehicle owner information obtained as a result of
14 the operation of an automated speed enforcement system under
15 this section shall not be the property of the manufacturer or
16 vendor of the automated speed enforcement system and may not
17 be used for any purpose other than prescribed in this
18 section.

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

23 (g) Defenses.--The following shall apply:

24 (1) It shall be a defense to a violation under this
25 section that the person named in the notice of the violation
26 was not operating the vehicle at the time of the violation.
27 The owner may be required to submit evidence that the owner
28 was not the driver at the time of the alleged violation. The
29 city of the first class may not require the owner of the
30 vehicle to disclose the identity of the operator of the

1 vehicle at the time of the violation.

2 (2) If an owner receives a notice of violation pursuant
3 to this section of a time period during which the vehicle was
4 reported to a police department of any state or municipality
5 as having been stolen, it shall be a defense to a violation
6 under this section that the vehicle has been reported to a
7 police department as stolen prior to the time the violation
8 occurred and had not been recovered prior to that time.

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

12 (4) It shall be a defense to a violation under this
13 section that the device being used to determine speed was not
14 in compliance with section 3368 (relating to speed timing
15 devices) with respect to testing for accuracy, certification
16 or calibration.

17 ~~(h) Department approval. No automated speed enforcement~~ <--

18 ~~(H) DEPARTMENT APPROVAL.--~~ <--

19 (1) NO AUTOMATED SPEED ENFORCEMENT system may be used
20 without the approval of the department, which shall have the
21 authority to promulgate regulations for the certification and
22 use of the systems. WHICH REGULATIONS MAY INCLUDE THE USE OF <--
23 RADIO-MICROWAVE DEVICES, COMMONLY REFERRED TO AS ELECTRONIC
24 SPEED METERS OR RADAR, OR LIGHT DETECTION AND RANGING
25 DEVICES, COMMONLY REFERRED TO AS LIDAR, IN THEIR OPERATIONS.

26 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
27 DEVICES IDENTIFIED IN PARAGRAPH (1) SHALL BE TESTED FOR
28 ACCURACY AT REGULAR INTERVALS AS DESIGNATED BY REGULATION OF
29 THE DEPARTMENT.

30 (i) Duty of city.--If a city of the first class elects to

1 implement this section, the following provisions shall apply:

2 (1) The city may not use an automated speed enforcement
3 system unless there is posted an appropriate sign in a
4 conspicuous place before the area in which the automated
5 speed enforcement device is to be used notifying the public
6 that an automated speed enforcement device is in use
7 immediately ahead.

8 (2) The city shall designate or appoint the Philadelphia
9 Parking Authority as the system administrator to supervise
10 and coordinate the administration of notices of violation
11 issued under this section.

12 (3) The system administrator shall prepare a notice of
13 violation to the registered owner of a vehicle identified in
14 a recorded image produced by an automated speed enforcement
15 system as evidence of a violation of section 3362. The notice
16 of violation must be issued by a police officer employed by
17 the police department with primary jurisdiction over the area
18 where the violation occurred. The notice of violation shall
19 have the following attached to it:

20 (i) a copy of the recorded image showing the
21 vehicle;

22 (ii) the registration number and state of issuance
23 of the vehicle registration;

24 (iii) the date, time and place of the alleged
25 violation;

26 (iv) notice that the violation charged is under
27 section 3362; and

28 (v) instructions for return of the notice of
29 violation, which shall read:

30 This notice shall be returned personally, by mail or

1 by an agent duly authorized in writing, within 30
2 days of issuance. A hearing may be obtained upon the
3 written request of the registered owner.

4 (j) System administrator.--The following shall apply:

5 (1) The system administrator may hire and designate
6 personnel as necessary or contract for services to implement
7 this section.

8 (2) The system administrator shall process notices of
9 violation and penalties issued under this section.

10 (3) Not later than April 1 annually, the system
11 administrator shall submit an annual report to the
12 chairperson and the minority chairperson of the
13 Transportation Committee of the Senate and the chairperson
14 and minority chairperson of the Transportation Committee of
15 the House of Representatives. The report shall be considered
16 a public record under the Right-to-Know Law and include for
17 the prior year:

18 (i) The number of violations and fines issued and
19 data regarding the speeds of vehicles in the enforcement
20 area.

21 (ii) A compilation of penalties paid and
22 outstanding.

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

25 (iv) The number of vehicular accidents and related
26 serious injuries and deaths along the designated highway.

27 (k) Notice to owner.--In the case of a violation involving a
28 motor vehicle registered under the laws of this Commonwealth,
29 the notice of violation must be mailed within 30 days after the
30 commission of the violation or within 30 days after the

1 discovery of the identity of the registered owner, whichever is
2 later, and not thereafter to the address of the registered owner
3 as listed in the records of the department. In the case of motor
4 vehicles registered in jurisdictions other than this
5 Commonwealth, the notice of violation must be mailed within 30
6 days after the discovery of the identity of the registered owner
7 to the address of the registered owner as listed in the records
8 of the official in the jurisdiction having charge of the
9 registration of the vehicle. A notice of violation under this
10 section must be provided to an owner within 90 days of the
11 commission of the offense.

12 (l) Mailing of notice and records.--Notice of violation must
13 be sent by first class mail. A manual or automatic record of
14 mailing prepared by the system administrator in the ordinary
15 course of business shall be prima facie evidence of mailing and
16 shall be admissible in any judicial or administrative proceeding
17 as to the facts contained in it.

18 (m) Payment of fine.--The following shall apply:

19 (1) An owner to whom a notice of violation has been
20 issued may admit responsibility for the violation and pay the
21 fine provided in the notice.

22 (2) Payment must be made personally, through an
23 authorized agent, electronically or by mailing both payment
24 and the notice of violation to the system administrator.
25 Payment by mail must be made only by money order, credit card
26 or check made payable to the system administrator. The system
27 administrator shall remit the fine, less the system
28 administrator's operation and maintenance costs necessitated
29 by this section, to the department for deposit into a
30 restricted receipts account in the Motor License Fund. Fines

1 deposited in the fund under this paragraph shall be used by
2 the department for a Transportation Enhancement Grants
3 Program as established by section 3116 (relating to automated
4 red light enforcement systems in first class cities). The
5 department shall award transportation enhancement grants on a
6 competitive basis. The department may pay actual
7 administrative costs arising from the department's
8 administration of this section. The department may not
9 reserve, designate or set aside a specific level of funds or
10 percentage of funds to an applicant prior to the completion
11 of the application process, nor may the department designate
12 a set percentage of funds to an applicant. Grants shall be
13 awarded by the department based on the majority vote of a
14 selection committee consisting of four representatives of the
15 department appointed by the secretary and four members
16 appointed by the mayor of the city of the first class, with
17 the secretary or a designee of the secretary serving as
18 chairperson. Priority shall be given to applications seeking
19 grant funds for transportation enhancements in the
20 municipality where the automated speed camera system is
21 operated.

22 (3) Payment of the established fine and applicable
23 penalties shall operate as a final disposition of the case.

24 (n) Hearing.--The following shall apply:

25 (1) An owner to whom a notice of violation has been
26 issued may, within 30 days of the mailing of the notice,
27 request a hearing to contest the liability alleged in the
28 notice. A hearing request must be made by appearing before
29 the system administrator during regular office hours either
30 personally or by an authorized agent or by mailing a request

1 in writing.

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. The hearing officer shall be
5 designated by the city of the first class. Written notice of
6 the date, time and place of hearing must be sent by first
7 class mail to the owner.

8 (3) The hearing shall be conducted pursuant to 2 Pa.C.S.
9 Ch. 5 (relating to practice and procedure) and will be
10 subject to appeal pursuant to 2 Pa.C.S. Ch. 7 (relating to
11 judicial review).

12 (o) Compensation to manufacturer or vendor.--If a city of
13 the first class has established an automated speed enforcement
14 system deployed as a means of promoting traffic safety and the
15 enforcement of the traffic laws of this Commonwealth or the
16 city, the compensation paid to the manufacturer or vendor of the
17 automated speed enforcement system may not be based upon the
18 number of traffic citations issued or a portion or percentage of
19 the fine generated by the citations. The compensation paid to
20 the manufacturer or vendor of the equipment shall be based upon
21 the value of the equipment and the services provided or rendered
22 in support of the automated speed enforcement system.

23 (p) Revenue limitation.--A city of the first class may not
24 collect an amount equal to or greater than 2% of its annual
25 budget from the collection of revenue from the issuance and
26 payment of violations under this section.

27 (q) Expiration.--This section shall expire five years from
28 its effective date.

29 Section ~~2~~ 3. The Secretary of Transportation shall publish a <--
30 notice in the Pennsylvania Bulletin when the automated speed

1 enforcement system is operational along the designated highway
2 under 75 Pa.C.S. § 3369.

3 Section ~~3~~ 4. This act shall take effect as follows: <--

4 (1) Except as set forth in paragraph (2), the addition
5 of 75 Pa.C.S. § 3369 shall take effect in 60 days.

6 (2) The addition of 75 Pa.C.S. § 3369(e) shall take
7 effect 60 days after publication in the Pennsylvania Bulletin
8 of the notice under section ~~2~~ 3. <--

9 (3) The remainder of this act shall take effect
10 immediately.