

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1748 Session of 2017

INTRODUCED BY MARSHALL, BERNSTINE, O'BRIEN, ROTHMAN,  
SCHLOSSBERG, WARD AND WHEELAND, AUGUST 30, 2017

REFERRED TO COMMITTEE ON TRANSPORTATION, AUGUST 30, 2017

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, in rules of the road in general, providing for  
3 pilot program for automated speed enforcement system in  
4 highway work zones.

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

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

9 § 3369. Pilot program for automated speed enforcement system in  
10 highway work zones.

11 (a) General rule.--A pilot program is established to provide  
12 for an automated speed enforcement system in work zones on State  
13 highways. The following apply:

14 (1) The department, following promulgation of  
15 regulations, is authorized to enforce section 3362 (relating  
16 to maximum speed limits) by recording violations using an  
17 automated speed enforcement system approved by the  
18 department.

19 (2) This section shall only be applicable on Federal aid

1 highways and the Pennsylvania Turnpike in areas agreed upon  
2 by the system administrator and the secretary using an  
3 automated speed enforcement system.

4 (b) Owner liability.--For each violation under this section,  
5 the owner of the vehicle shall be liable for the penalty imposed  
6 unless the owner is convicted of the same violation under  
7 another section of this title or has a defense under subsection  
8 (g).

9 (c) Certificate as evidence.--A certificate, or a facsimile  
10 of a certificate, based upon inspection of recorded images  
11 produced by an automated speed enforcement system and sworn to  
12 or affirmed by a police officer shall be prima facie evidence of  
13 the facts contained in it. The system administrator must include  
14 written documentation that the automated speed enforcement  
15 system was operating correctly at the time of the alleged  
16 violation. A recorded image evidencing a violation of section  
17 3362 shall be admissible in any judicial or administrative  
18 proceeding to adjudicate the liability for the violation.

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

20 (1) The penalty for a violation under subsection (a)  
21 shall be a fine of \$40.

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

24 (i) At least two appropriate warning signs are  
25 conspicuously placed at the beginning and end and at two-  
26 mile intervals of the designated highway work zone  
27 notifying the public that an automated speed enforcement  
28 device is in use.

29 (ii) A notice identifying the location of the  
30 automated speed enforcement system is posted on a

1 publicly accessible Internet website throughout the  
2 period of use.

3 (3) A fine is not authorized during the first 10 days of  
4 operation of an automated speed enforcement system in each  
5 separate highway work zone.

6 (4) The system administrator may provide a written  
7 warning to the registered owner of a vehicle determined to  
8 have violated this section during the first 10 days of  
9 operation of the automated speed enforcement system.

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

16 (6) No surcharge points may be imposed in the provision  
17 of motor vehicle insurance coverage. Penalties collected  
18 under 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 (e) Liability.--Driving in excess of the posted speed limit  
22 along the designated highway work zone by 11 miles per hour or  
23 more is a violation of this section.

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

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

29 (2) Notwithstanding any other provision of law, camera  
30 equipment deployed as part of an automated speed enforcement

1 system as provided in this section must be incapable of  
2 automated or user-controlled remote surveillance by means of  
3 recorded video images. Recorded images collected as part of  
4 the automated speed enforcement system must only record  
5 traffic violations and may not be used for any other  
6 surveillance purposes, but may include video of the area  
7 enforced when triggered by a violation. The restrictions set  
8 forth in this paragraph shall not be deemed to preclude a  
9 court of competent jurisdiction from issuing an order  
10 directing that the information be provided to law enforcement  
11 officials if the information is reasonably described and is  
12 requested solely in connection with a criminal law  
13 enforcement action.

14 (3) Notwithstanding any other provision of law,  
15 information prepared under this section and information  
16 relating to violations under this section which is kept by  
17 the department, Pennsylvania Turnpike Commission or system  
18 administrator or their authorized agents or employees,  
19 including recorded images, written records, reports or  
20 facsimiles, names, addresses and the number of violations  
21 under this section, shall be for the exclusive use of the  
22 department, Pennsylvania Turnpike Commission and system  
23 administrator, their authorized agents and employees and law  
24 enforcement officials for the purpose of discharging their  
25 duties under this section. The information shall not be  
26 deemed a public record under the act of February 14, 2008  
27 (P.L.6, No.3), known as the Right-to-Know Law. The  
28 information shall not be discoverable by court order or  
29 otherwise, nor shall it be offered in evidence in any action  
30 or proceeding which is not directly related to a violation of

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

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

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

24 (6) A violation of this subsection shall constitute a  
25 misdemeanor of the third-degree punishable by a \$500 fine.  
26 Each violation shall constitute a separate and distinct  
27 offense.

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

29 (1) It shall be a defense to a violation under this  
30 section that the person named in the notice of the violation

1 was not operating the vehicle at the time of the violation.  
2 The owner may be required to submit evidence that the owner  
3 was not the driver at the time of the alleged violation. The  
4 owner of the vehicle shall not be required to disclose the  
5 identity of the operator of the vehicle at the time of the  
6 violation.

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

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

17 (4) It shall be a defense to a violation under this  
18 section that the device being used to determine speed was not  
19 in compliance with section 3368 (relating to speed timing  
20 devices) with respect to testing for accuracy, certification  
21 or calibration.

22 (h) Department approval.--No automated speed enforcement  
23 system may be used without the approval of the department. The  
24 department shall have the authority to promulgate regulations  
25 for the certification and use of the systems, which may include  
26 the use of radio-microwave devices (commonly referred to as  
27 electronic speed meters or radar) or light detection and ranging  
28 devices (commonly referred to as LIDAR) in their operations.  
29 Notwithstanding any other provision of law, these devices shall  
30 be tested for accuracy at regular intervals as designated by

1 regulation of the department.

2 (i) Procedure.--The following shall apply:

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

9 (2) The department and the Pennsylvania Turnpike  
10 Commission shall designate or appoint a system administrator  
11 or system administrators to supervise and coordinate the  
12 administration of notices of violation issued under this  
13 section.

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

22 (i) a copy of the recorded image showing the  
23 vehicle;

24 (ii) the registration number and state of issuance  
25 of the vehicle registration;

26 (iii) the date, time and place of the alleged  
27 violation;

28 (iv) notice that the violation charged is under  
29 section 3362; and

30 (v) instructions for return of the notice of

1 violation, which shall read:

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

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

7 (1) A system administrator may hire and designate  
8 personnel as necessary or contract for services to implement  
9 this section.

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

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

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

23 (ii) A compilation of penalties paid and  
24 outstanding.

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

27 (iv) The number of vehicular accidents and related  
28 serious injuries and deaths along the designated highway  
29 work zones.

30 (k) Notice to owner.--In the case of a violation involving a



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

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

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

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

25 (2) Payment must be made personally, through an  
26 authorized agent, electronically or by mailing both payment  
27 and the notice of violation to the system administrator.  
28 Payment by mail must be made only by money order, credit card  
29 or check made payable to the system administrator. The system  
30 administrator shall remit the fine, less the system

1 administrator's operation and maintenance costs necessitated  
2 by this section, to the department for deposit into a  
3 restricted receipts account in the Motor License Fund. Fines  
4 deposited in the fund under this paragraph shall be used by  
5 the department for a Transportation Enhancement Grants  
6 Program as established by section 3116 (relating to automated  
7 red light enforcement systems in first class cities). The  
8 department shall award transportation enhancement grants on a  
9 competitive basis. The department may pay actual  
10 administrative costs arising from the department's  
11 administration of this section. The department may not  
12 reserve, designate or set aside a specific level of funds or  
13 percentage of funds to an applicant prior to the completion  
14 of the application process, nor may the department designate  
15 a set percentage of funds to an applicant.

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

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

19 (1) An owner to whom a notice of violation has been  
20 issued may, within 30 days of the mailing of the notice,  
21 request a hearing to contest the liability alleged in the  
22 notice. A hearing request must be made by appearing before  
23 the system administrator during regular office hours either  
24 personally or by an authorized agent or by mailing a request  
25 in writing. A hearing request form may be included with or as  
26 part of the notice of violation.

27 (2) Upon receipt of a hearing request, the system  
28 administrator shall in a timely manner schedule the matter  
29 before a hearing officer. The hearing officer shall be  
30 designated by the department. Written notice of the date,

1 time and place of hearing must be sent by first class mail to  
2 the owner. The system administrator shall establish  
3 convenient hearing hours and times in each of the following  
4 metropolitan areas for challenges to be heard as provided in  
5 this section: Erie, Harrisburg, Philadelphia, Pittsburgh and  
6 Scranton.

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

11 (o) Compensation to manufacturer or vendor.--Compensation  
12 paid to the manufacturer or vendor of the automated speed  
13 enforcement system may not be based upon the number of traffic  
14 citations issued or a portion or percentage of the fine  
15 generated by the citations. The compensation paid to the  
16 manufacturer or vendor of the equipment shall be based upon the  
17 value of the equipment and the services provided or rendered in  
18 support of the automated speed enforcement system.

19 (p) Expiration.--This section shall expire five years from  
20 its effective date.

21 Section 2. The Secretary of Transportation and the Chief  
22 Executive Officer of the Pennsylvania Turnpike Commission shall  
23 publish a notice in the Pennsylvania Bulletin when the automated  
24 speed enforcement system is operational along the designated  
25 highway work zones under 75 Pa.C.S. § 3369.

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

27 (1) Except as set forth in paragraph (2), the addition  
28 of 75 Pa.C.S. § 3369 shall take effect in 120 days.

29 (2) The addition of 75 Pa.C.S. § 3369(e) shall take  
30 effect 60 days after publication in the Pennsylvania Bulletin

1 of the notice under section 2.

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