



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**JOINT COMMITTEE HEARING

SENATE TRANSPORTATION COMMITTEE
AND
HOUSE TRANSPORTATION COMMITTEE**

**ON
SB 535 & SB 559**

**PRESENTED BY

ELAM M. HERR
ASSISTANT EXECUTIVE DIRECTOR**

**July 14, 2015
HARRISBURG, PA**

Chairman Rafferty, Chairman Taylor and members of the Senate and House Transportation Committees:

Good morning. My name is Elam M. Herr and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,454 townships in Pennsylvania represented by the Association and the opportunity to testify on this safety issue that is important to our members

Townships comprise 95 percent of the Commonwealth's land area and are home to 5.5 million Pennsylvanians — 44 percent of the state's population. These townships are diverse, ranging from rural communities with fewer than 200 residents to more populated communities with more than 60,000 residents.

Today our society is moving at a faster pace and more people seem to be speeding in an attempt to keep up with their busy lives. Township supervisors frequently hear complaints from their residents that cars are traveling at excessive speeds and causing dangerous conditions on township roads. Residents worry about the safety of their children, their pets, and themselves on roads where speeding is prevalent. In fact, speeding and traffic related conditions are the most frequent complaints received by the board of supervisors in many townships.

In 2013, which is the most recent data currently available from the National Highway Traffic Safety Administration's National Center for Statistics and Analysis, Pennsylvania ranked third amongst all states for speeding fatalities and had the second highest percentage of speeding fatalities to total fatalities at 48 percent, which is 19 percentage points over the national average. What is even more startling about these statistics is that only 13 percent of these fatalities occurred on interstates, freeways, and expressways where speed limits are enforced by the Pennsylvania State Police using radar. In other words, 87 percent of speeding fatalities in Pennsylvania occur on other roadways where municipal police are prohibited from enforcing speed limits with radar. Simply put, local radar would save lives.

Allowing municipal police to use radar would greatly increase the ability to enforce speed limits on local roads and therefore improve safety for our communities. While municipal police currently possess several tools to enforce speed limits, all are inferior in terms of cost and flexibility to radar which is one of the most commonly used tools by state police nationally and local police in the other 49 states. Yet, Pennsylvania continues to refuse to allow local police to use this critical safety tool.

SB 535 (PN 492) would permit all police officers in Pennsylvania to utilize radar. It would require municipal police to meet and adhere to the same standards as the Pennsylvania State Police when utilizing this equipment. Municipal police would be able to enforce speed limits in the same manner and with the same restrictions as the state police, and would not be afforded any additional powers. PSATS supports this proposal.

SB 559 (PN 536) would permit in a limited number of counties in Pennsylvania, full-time municipal police officers employed in either a municipal or regional full-service police department to utilize radar or LIDAR for speed enforcement. We must oppose this legislation as

it does not include all counties in the Commonwealth and it does not include all police officers. First, why limit to the use of radar to only first, second, second class A, and third class counties when requiring the police department to be a full-service police department in order to use radar? We do not understand why a full-service police department in a third class county is any different than one in a fourth class county. We also believe that all police officers, including part-time police officers, that have gone through and passed the Municipal Police Officer Education and Training Commission's (MPOETC) curriculum and have received the proper training on this equipment should be able to utilize radar as well. We have attached to this testimony suggested amendments to SB 559 to address these and other concerns we have with this legislation in its current form. We have also attached a marked up copy of the amendments to highlight these changes.

You will hear the myth that municipalities will use radar as a revenue tool to balance their budgets. We take exception to these comments since several statutes already make the reality of that happening virtually impossible. 42 Pa. C.S.A Section 3573(b) (2) stipulates that prosecution under Title 75 by local police results in the municipality retaining half of the fine money (*not the total ticket*). 75 Pa. C.S.A. Section 3362 establishes the minimum fines at \$35 for violating the limit of 55 miles per hour or less, and \$42.50 for exceeding a posted speed limit of 65 miles per hour. This would equate to \$17.50 and \$21.25 per ticket for a municipality, an amount that barely, if ever covers the cost to enforce the speed limit, do the paperwork, and attend hearings if the ticket is challenged, much less balance a municipal budget!

Also, Act 114 of 1981 stipulates that local governments and Commonwealth agencies cannot directly or indirectly instruct their officers to issue a number of traffic citations or tickets. If proven, the citation will be thrown out and fine money returned.

If radar is authorized for use by municipal police, we would argue that the existing standards in the Vehicle Code relevant to posted speed limits and the enforcement of those limits by all timing devices should remain the same. Current law allows a six mile per hour allowance for roads with speed limits of 55 miles per hour and a 10 mile per hour allowance for roads with speed limits less than 55 miles per hour. We believe the allowances for any timing device, including radar, should be uniform for all police enforcing speed limits. Plus it would be confusing to the motoring public if the system is not uniform on the same road since one could be stopped on a particular road traveling at the same speed on two different occasions by the same officer using two different speed enforcement devices and receive two different penalties.

We believe that authorizing the use of radar for municipal police would greatly enhance traffic safety in the commonwealth and give municipalities the tools they need to make the best use of their officers' valuable time.

Finally, Pennsylvania is the only state that prohibits municipal police from using radar. Municipal police should be given the ability to use radar to enforce speed limits. Traffic safety is increasingly cited as a major concern by township residents, and the currently authorized speed control devices are unwieldy and ineffective. Municipal police officers are professionals who receive substantial training and certification that is approved and provided by the Pennsylvania State Police and the Municipal Police Officers' Education and Training Commission and should

be permitted to use radar to improve the safety of their communities. Certification for local police for the use of radar by the PSP should eliminate concerns that municipal police officers using the equipment might not be competent in the use of radar. Radar is a tool that municipalities need to enforce speed limits, improve public safety, and save lives.

Thank you for the opportunity to appear before you today to comment on this issue. I'll be happy to answer any questions you may have at this time.



P E N N S Y L V A N I A S T A T E A S S O C I A T I O N O F T O W N S H I P S U P E R V I S O R S

Senate Bill 559

Printer's No. 536

Amend Section 2 (Section 3368), page 2, line 30, by striking “full-time”

Amend Section 2 (Section 3368), page 3, line 1, by striking “full-service”

Amend Section 2 (Section 3368), page 3, line 2, by striking “political subdivision” and inserting
local authority

Amend Section 2 (Section 3368), page 3, lines 3, by inserting after “department” a “period”

Amend Section 2 (Section 3368), page 3, lines 3 through 8, by striking on line 3 “situate in a county of the first class, second” and all of lines 4 through 8

Amend Section 2 (Section 3368), page 3, line 29, by striking “Full-service police department.” and inserting
Police department.

Amend Section 2 (Section 3368), page 4, lines 1 and 2, by striking on line 1 “political” and line 2 “subdivisions” and inserting
local authorities

Amend Section 2 (Section 3368), page 4, line 3, by striking “24-hour-a-day” and inserting
law enforcement,

Amend Section 2 (Section 3368), page 4, line 8, by striking “Full-time police officer” and inserting
Police officer

Amend Section 2 (Section 3368), page 4, lines 8 and 9, by striking on line 8 “political” and on line 9 “subdivision” and inserting
local authority

Amend Section 2 (Section 3368), page 4, lines 13 and 14, by striking in their entirety and inserting
(ii) Is empowered to enforce Federal and State laws and local ordinances.



P E N N S Y L V A N I A S T A T E A S S O C I A T I O N O F T O W N S H I P S U P E R V I S O R S

Amend Section 2 (Section 3368), page 4, lines 15 through 30, and page 5, lines 1 through 8, by striking in their entirety.

Amend Section 2, (Section 3368), page 5, line 9, by inserting before “The”
(iii)

Amend Section 2, (Section 3368), page 5, line 9, by striking “part-time”

Amend Section 2, (Section 3368), page 6, line 28, by striking “of a political subdivision”

Amend Section 2 (Section 3368), page 7, line 6, by striking “political subdivisions”

Amend Section 2 (Section 3368), page 7, line 8, by inserting after “body”
or bodies

Amend Section 2 (Section 3368), page 7, line 10, by inserting after “body” a “period”

Amend Section 2 (Section 3368), page 7, lines 10 through 14, by striking on line 10 “where a required” and all of lines 11 through 14 in their entirety

Amend Section 2 (Section 3368), page 7, lines 16 and 17, by striking on line 16 “of a political” and on line 17 “subdivision”

Amend Section 2 (Section 3368), page 7, lines 21 through 30, and page 8, lines 1 through 5, by striking in their entirety.

Amend Section 3 (Section 6109), page 8, lines 20 and 21 by striking on line 20 “full-time” and on line 21 “police officers employed by the full-service” and inserting
a

Amend Section 3 (Section 6109), page 8, line 22, by striking “political subdivision” and inserting
local authority



PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

PRINTER'S NO. 536

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 559 Session of
2015

INTRODUCED BY RAFFERTY, FONTANA, BLAKE, BROWNE, SCAVELLO,
EICHELBURGER, TEPLITZ, VULAKOVICH, BREWSTER, STEFANO, SMITH,
SCHWANK, SMUCKER, DINNIMAN AND MCGARRIGLE, FEBRUARY 25, 2015

REFERRED TO TRANSPORTATION, FEBRUARY 25, 2015

AN ACT

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in licensing of drivers, further providing for schedule of convictions and points; in rules of the road in general, further providing for speed timing devices; and in powers of department and local authorities, further providing for State and local powers.

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

Section 1. Section 1535(d) of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1535. Schedule of convictions and points.

* * *

(d) [Exception] Exceptions.--

(1) This section does not apply to a person who was operating a pedalcycle or an animal drawn vehicle.

(2) If a speeding offense under section 3362 (relating to maximum speed limits) is charged as a result of use of a device authorized by section 3368(c)(2)(ii) (relating to speed timing devices), no points shall be assigned under subsection (a) unless the speed recorded is 10 or more miles per hour in excess of the legal speed limit.

* * *

Section 2. Section 3368(a), (c), (d) and (e) of Title 75 are amended and the section is amended by adding subsections to read:

§ 3368. Speed timing devices.

(a) Speedometers authorized.--The rate of speed of any vehicle may be timed on any highway by a police officer using a motor vehicle equipped with a speedometer, except as provided in section 6109 (relating to specific powers of department and local authorities). In ascertaining the speed of a vehicle by the use of a speedometer, the speed shall be timed for a distance of not less than three-tenths of a mile.

* * *

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

(1) Except as otherwise provided in this section and in section 6109, the rate of speed of any vehicle may be timed on any highway by a police officer using a mechanical or electrical speed timing device.

(2) Except as otherwise provided in paragraph (3), electronic devices such as radio-microwave devices (commonly referred to as electronic speed meters or radar) or infrared laser light devices (commonly referred to as LIDAR) may be

Comment [EMH1]: If the bill allows for speed timing by radar, etc. on roads posted at 55 mph or over (§6109 (a)(11)), but only allows points after 10 mph in these zones, a conflict is created in that one would get points after 6 mph over 55 if the St. Police stops the individual, but not if stopped by local police.

used [only by]:

(i) By members of the Pennsylvania State Police.

(ii) Upon completion of a training course approved by the Pennsylvania State Police and the Municipal Police Officers' Education and Training Commission, by ~~full time~~ police officers employed by the ~~full service~~ police department of a ~~political subdivision~~ local authority or regional police department. ~~situate in a county of the first class, second class, second class A or third class if official warning signs indicating the use of these devices are erected within 500 feet of the border of the political subdivision on the main arteries entering that political subdivision.~~

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

(4) No person may be convicted upon evidence obtained through the use of devices authorized by paragraphs (2) and (3) unless the speed recorded is six or more miles per hour in excess of the legal speed limit. Furthermore, no person may be convicted upon evidence obtained through the use of devices authorized by paragraph (2)(ii) or (3) in an area where the legal speed limit is less than 55 miles per hour if the speed recorded is less than ten miles per hour in excess of the legal speed limit. This paragraph shall not apply to evidence obtained through the use of devices authorized by paragraph (2) or (3) within a school zone or an active work

Comment [EMH2]: Any local police officer that is properly certified by the MPETC and certified to use the equipment should be allowed to use it.

Comment [EMH3]: All police departments that provide law enforcement, patrol and investigative services should be allowed to use this equipment along with the other equipment they presently use.

Comment [EMH4]: "Local authorities" is the existing language of the Vehicle Code. Refer to §3368 and §6109.

Comment [EMH5]: There is no reason that the authority to use radar should be limited to certain counties. If the local officer meets the requirements of the law they should be authorized to use the equipment.

Comment [EMH6]: If this mandate is necessary for radar, than why isn't it necessary for other types of speed timing?

zone.

(5) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph:

~~"Full service police department~~ Police department." A local or regional police department which:

Comment [EMH7]: Same as EMH3 comment.

(i) is authorized by one or more ~~political subdivisions~~ local authorities;

Comment [EMH8]: Same as EMH4 comment.

(ii) provides ~~24 hour a day~~ law enforcement, patrol and investigative services; and

Comment [EMH9]: The requirement should be that local police are providing law enforcement, patrol and investigative services as the criteria to be able to use this device as they can use other devices.

(iii) reports its activities monthly to the Pennsylvania State Police in accordance with the Uniform Crime Reporting System.

~~"Full time police officer~~ Police officer." An employee of a ~~political subdivision~~ local authority or regional police department who complies with all of the following:

Comment [EMH10]: Same as EMH2 comment

Comment [EMH11]: Same as EMH4 comment.

(i) Is certified under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

~~(ii) Is empowered to enforce 18 Pa.C.S. (relating to crimes and offenses) and this title.~~

Comment [EMH12]: If the local officer is certified under the MPETC than he is empowered to enforce this title.

~~(ii) Is empowered to enforce Federal and State laws and local ordinances.~~

Comment [EMH13]: This just reinforces that the local officer enforces all laws, federal, state and local.

~~(iii) Is a regular full time police officer under the act of June 15, 1951 (P.L.586, No.144), entitled "An act regulating the suspension, removal, furloughing and reinstatement of police officers in boroughs and townships of the first class having police forces of less than three members, and in townships of the second class," or works a minimum of 200 days a year.~~

~~(iv) Is provided coverage by a police pension plan under:~~

~~(A) the act of May 24, 1893 (P.L.129, No.82),
entitled "An act to empower boroughs and cities to
establish a police pension fund, to take property in
trust therefor and regulating and providing for the
regulation of the same";~~

~~(B) the act of June 23, 1931 (P.L.932, No.317),
known as The Third Class City Code;~~

~~(C) the act of May 22, 1935 (P.L.233, No.99),
referred to as the Second Class City Policemen Relief
Law;~~

~~(D) the act of May 29, 1956 (1955 P.L.1804, No.
600), referred to as the Municipal Police Pension
Law; or~~

~~(E) the act of July 15, 1957 (P.L.901, No.399),
known as the Optional Third Class City Charter Law.~~

~~((iii) The term does not include auxiliary, part time or fire
police.~~

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

(1) The department may, by regulation, classify specific
devices as being mechanical, electrical or electronic.

(2) All mechanical, electrical or electronic devices
shall be of a type approved by the department, which shall
appoint stations for calibrating and testing the devices [and
may prescribe regulations as to the manner in which
calibrations and tests shall be made].

(3) All devices, including LIDAR laser devices and

Comment [EMH14]: These requirements are irrelevant to whether an officer can use this equipment and enforce the law. The local officer has to be certified as a police officer, be part of a full-time force and certified in using the equipment.

Comment [EMH15]: Just being consistent with the intent of definition.

Comment [EMH16]: Same as EMH7 comment.

electronic speed meters or radar, must have been tested for accuracy within a period of one year prior to the alleged violation in accordance with specifications prescribed by the National Highway Traffic Safety Administration (NHTSA).

(4) All electronic devices, such as LIDAR laser devices, and electronic speed devices, such as speed meters or radar, approved for use in this Commonwealth, must appear on the International Association of Chiefs of Police consumer products list, in conjunction with National Highway Traffic Safety Administration (NHTSA) standards.

(5) The certification and calibration of electronic devices under subsection (c)(3) shall also include the certification and calibration of all equipment, timing strips and other devices which are actually used with the particular electronic device being certified and calibrated.

(6) Electronic devices commonly referred to as electronic speed meters or radar shall have been tested for accuracy within a period of one year prior to the alleged violation. [Other devices shall have been tested for accuracy within a period of 60 days prior to the alleged violation.]

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

(e) Distance requirements for use of mechanical, electrical and electronic devices.--[Mechanical]

(1) Except as provided in paragraph (2), mechanical, electrical or electronic devices may not be used to time the

rate of speed of vehicles within 500 feet after a speed limit sign indicating a decrease of speed. This limitation on the use of speed timing devices shall not apply to speed limit signs indicating school zones, bridge and elevated structure speed limits, hazardous grade speed limits and work zone speed limits.

(2) Whenever radio-microwave speed timing devices or infrared laser light devices are used by a local or regional police officer ~~of a political subdivision~~ authorized under subsection (c), the police officer must locate the vehicle with the radio-microwave speed timing device or infrared laser light device in a location that is not intentionally concealed from the motoring public.

Comment [EMH17]: The term is not needed in this instance since local or regional police would be by definition employees of the political subdivision.

(f) Local ordinance required to enforce.--

(1) Prior to use of radio-microwave speed timing devices or infrared laser light devices used for speed timing by local or regional police officers ~~of political subdivisions~~ authorized under subsection (c), the appropriate governing body ~~or bodies~~ must adopt an ordinance authorizing the local or regional police department to employ such devices on roads within the boundaries of the governing body. ~~where a required engineering and traffic study has been conducted and in accordance with section 6109(a)(11) to address citizen complaints or demonstrable traffic safety concerns, such as high crash rates or fatalities.~~

Comment [EMH18]: Same as EMH17 comment.

Comment [EMH19]: Clarifies that more than one body may need to approve the use of this equipment.

(2) During the initial 90 days of speed enforcement by a local or regional police department ~~of a political subdivision~~ authorized under subsection (c) using radio-microwave speed timing devices or infrared laser light

Comment [EMH20]: This requirement would prevent local police from using this equipment on certain highways, even state highways that have a 55 mph or higher speed limit, but never had a traffic study done due to existing statute and regulations.

Comment [EMH21]: Same as EMH17 comment.

devices, persons may only be sanctioned for violations with a written warning.

~~(g) Excess revenues.~~

~~(1) The primary use of radar or LIDAR by local or regional police officers of political subdivisions authorized under subsection (c) is for traffic safety purposes.~~

~~(2) Each local or regional police department that uses radar or LIDAR shall report annually to the Pennsylvania State Police the municipal revenue generated from speed enforcement citations on such forms as may be prescribed by the Pennsylvania State Police.~~

~~(3) In the event the municipal share of revenue generated from speed enforcement citations exceeds 5% of the total municipal budget or 5% of the regional police department budget, all sums in excess thereof shall be remitted to the Pennsylvania State Police to be used for traffic safety purposes.~~

Section 3. Section 6109(a)(11) of Title 75 is amended to read:

§ 6109. Specific powers of department and local authorities.

(a) Enumeration of police powers.--The provisions of this title shall not be deemed to prevent the department on State-designated highways and local authorities on streets or highways within their physical boundaries from the reasonable exercise of their police powers. The following are presumed to be reasonable exercises of police power:

* * *

(11) Enforcement of speed restrictions authorized under Subchapter F of Chapter 33[, except that] in accordance with

Comment [EMH22]: Since a municipality gets a very small portion from the total cost of a ticket: \$18 and \$22.50 depending on the speed limit and the rate of speed timed, this isn't a money maker. It is not only the actual enforcement of the speed, but also the paperwork and other requirements necessary for the use of these devices that needs to be considered.

the following:

(i) Except as set forth in subparagraph (ii), speed restrictions may be enforced by [local police] full-time police officers employed by the full-service a police department of a political subdivision local authority or regional police department on a limited access or divided highway only if [it] this title authorizes such enforcement and the highway is patrolled by the local or regional police force under the terms of an agreement with the Pennsylvania State Police.

Comment [EMH23]: Same as EMH2 and 3 comments.

Comment [EMH24]: Same as EMH4 comment.

(ii) If this title authorizes speed restrictions to be enforced by a police department of a city of the first class, they may be enforced on limited access or divided highways within the police department's jurisdiction.

(iii) An agreement with the Pennsylvania State Police shall not be required under this paragraph.

* * *

Section 4. This act shall take effect in 120 days.