

AUTOMATED SPEED ENFORCEMENT IN WORK ZONES

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House Bill 5750 (proposed substitute H-2)

Sponsor: Rep. Sara Cambensy

Committee: Judiciary

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Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5750 would amend the Michigan Vehicle Code to allow an automated speed enforcement system to be installed and used in a work zone on a highway or street under the jurisdiction of the Michigan Department of Transportation (MDOT). A citation could be issued based on an image from the system, and sanctions for exceeding a posted speed limit by 10 miles an hour or more when workers are present would range from a written warning to a maximum \$300 civil fine for repeat violations. The bill would create a rebuttable presumption that the vehicle's owner was the driver responsible for the violation.

Currently, although the use of an automated system based on recorded images to issue tickets for a traffic violation is not specifically prohibited under Michigan law, section 742 of the Michigan Vehicle Code generally requires a law enforcement officer to witness a violation of the traffic laws in order to issue a citation for a violation that is a civil infraction, such as speeding. A citation also may be issued as a result of an investigation of an accident or a complaint by a witness to a violation if approved by a local prosecutor or attorney for the local unit of government where the violation occurred.

House Bill 5750 would add section 627c to the code to specifically allow the Department of State Police (MSP) and MDOT, by agreement, to authorize the installation and use of an *automated speed enforcement system* in a work zone on a highway or street under the jurisdiction of MDOT. A sign would have to be placed at the approach to a work zone where an automated speed enforcement system is installed and used indicating that the work zone is monitored by an automated speed enforcement system.¹

Automated speed enforcement system would mean an electronic traffic sensor system that does both of the following:

- Automatically detects a vehicle exceeding the posted speed limit with a type of speed timing device.
- Produces a recorded image of the vehicle described above that shows all of the following:
 - A clear and legible identification of the vehicle's registration plate.
 - The location where the image was taken.
 - The date and time the image was taken.

A sworn statement of an *automated speed enforcement system operator* or a police officer from Michigan, based on inspecting a recorded image produced by an automated speed

¹ The term *work zone* is defined in section 79d of the code: <http://legislature.mi.gov/doc.aspx?mcl-257-79d>

enforcement system, would be prima facie evidence of the facts contained in the recorded image. A recorded image indicating a violation would have to be made available for inspection in any proceeding to adjudicate the responsibility for the violation and would have to be destroyed 90 days after final disposition of the citation.

Automated speed enforcement system operator would mean an individual trained by MSP to operate and monitor an automated speed enforcement system.

In a proceeding for a violation, prima facie evidence that the vehicle described in the citation was operated in violation of the bill, 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 was the individual who committed the violation. (For the purposes of this provision, the owner of a leased or rented vehicle would be required to provide the name and address of the individual to whom the vehicle was leased or rented at the time of the violation.) This presumption would be rebutted by any of the following actions:

- If the registered owner of the vehicle files an affidavit by regular mail with the clerk of the court that he or she was not the operator of the vehicle at the time of the alleged violation.
- If the registered owner of the vehicle testifies in open court under oath that he or she was not the operator of the vehicle at the time of the alleged violation.
- If a certified copy of a police report showing that the vehicle had been reported stolen before the time of the alleged violation is presented before the appearance date established on the citation.

Notwithstanding section 742 of the code, which pertains to the issuing of a citation for a civil infraction, a citation for a violation of the bill could be executed by mailing a copy by first-class mail to the address of the registered owner of the vehicle as shown on the records of the secretary of state. If the summoned individual fails to appear on the date of return set out in the citation, a copy would have to be sent by certified mail–return receipt requested. If the individual fails to appear on either of the dates of return set out in the copies of the citation, the citation would have to be executed by service of process. Further, the court could issue a warrant for the arrest of an individual who fails to appear within the time limit established on the citation if a sworn complaint is filed with the court for that purpose.

Sanctions

If an individual violates a posted speed limit by 10 miles per hour or more in a work zone while workers are *present*, based on a recorded image produced by an automated speed enforcement system, all of the following would apply:

- For a first violation (or a violation occurring more than three years after the individual's most recent previous violation): The individual would have to be issued a written warning using a form authorized by MSP.
- For a second violation occurring less than three years after a written warning is issued under the above: The individual would be responsible for a civil infraction and would have to be ordered to pay a civil fine of up to \$150.

- For a third or subsequent violation occurring less than three years after a second or subsequent violation: The individual would be responsible for a civil infraction and would have to be ordered to pay a civil fine of up to \$300.

Present would mean located in proximity to a roadway that is not protected by a guardrail or barrier.

A civil fine ordered under section 907 for the above violations would have to be paid to MDOT, which would have to deposit any civil fines collected in excess of the cost of installing and using automated speed enforcement systems under the bill into the Work Zone Safety Fund.

Automated speed enforcement system unit

The bill would create, subject to appropriation, an automated speed enforcement system unit within MSP, composed of individuals appointed by the MSP director, to do both of 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 as described above.

Report

Not later than five years after the bill's effective date, MSP would have to submit to the members of the House and Senate committees with jurisdiction over transportation a report on the use of automated speed enforcement systems in Michigan that includes at least both of the following:

- The number of citations given under the new section 627c.
- An accounting of both the costs of installing and using automated speed enforcement systems under section 627c and the revenue generated from their installation and use.

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 source into the fund, direct the investment of money in the fund, and credit to the fund interest and earnings from those investments. MDOT would be the administrator of the fund for audits of the fund.

MDOT would have to expend money from the fund, upon appropriation, only for the purpose of improving worker safety at work zones by doing both of the following:

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

MCL 257.907 and 257.909 and proposed MCL 257.2c, 257.627c, and 257.907b

FISCAL IMPACT:

House Bill 5750 would have significant fiscal implications for the Department of State Police, namely by introducing new costs for the Automated Speed Enforcement System Unit created within the department. The bill conditions the creation of the unit on an appropriation, but the bill does not include an appropriation for the unit, so it is unclear what fund sources would be utilized to support the costs of the unit. MSP projects that the unit would require 6 FTE positions at a cost of \$985,000 annually, though the actual number of FTEs would depend on the volume of citations and the scope of the program. MSP also indicated that each citation would cost approximately \$0.65, which does not include additional costs that would be incurred if notices were required to be sent via certified mail or if personal service is necessary. MSP would also incur one-time equipment and outfitting costs, which would include information technology expenses. Total costs for equipment and outfitting could be in the vicinity of \$20,000. Ongoing IT costs for lifecycle replacement and warranty fees for such an IT scenario would total approximately \$5,000.

House Bill 5750 would limit use of automated speed enforcement system to streets and highways under MDOT jurisdiction (that is, state trunkline highways) and only in work zones when workers are present. The bill would have no impact on local road agencies.

The bill earmarks civil fine revenue from violations of section 627c first to MDOT, by implication for the cost of installing and using automated speed enforcement systems. The bill directs MDOT to deposit civil fine revenue from violations of section 627c in excess of the costs of installing and using automated speed enforcement systems into the Work Zone Safety Fund, established in the bill as a restricted fund for the purpose of improving work zone safety.

The amount of civil fine revenue generated from violations of section 627c cannot be readily estimated at this time, or whether such fine revenue would be sufficient to cover the cost of installation and ongoing use of automated speed enforcement systems.

With regard to the potential violation of its provisions, House Bill 5750 would have an indeterminate fiscal impact on the state and on local units of government. Public and county law libraries would experience a decrease in the amount of funding allocated to them, the state's Justice System Fund would experience a decrease in the amount funding allocated to it, and local court units would experience an increase in costs.

Currently, under section 909(1) of the Michigan Vehicle Code, civil fine revenue is to be applied to the support of public and county law libraries. In addition, under section 907(13) of the Michigan Vehicle Code, for any civil fines ordered to be paid, the judge or district court magistrate is required to order the defendant to pay a justice system assessment of \$40 for each civil infraction determination, except for parking violations. Revenue deposited into the state's Justice System Fund supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System.

Under the bill, revenue paid from civil fines would be required to be paid to MDOT. The department would be required to deposit revenue in excess of the cost of installation and use of automated speed enforcement systems into the Work Zone Safety Fund.

The number of individuals who would be responsible for civil infractions is not known. There is no practical way to determine the number of violations that will occur under provisions of the bill, so there is not a way to estimate the amount of revenue that would be lost by libraries or by the state. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.