

## AUTOMATED SPEED ENFORCEMENT SYSTEMS

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<http://www.house.mi.gov/hfa>

**House Bill 4132 as introduced**  
**Sponsor: Rep. Will Snyder**

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

**House Bill 4133 as introduced**  
**Sponsor: Rep. Mike Mueller**

**Committee: Regulatory Reform**  
**Complete to 3-21-23**

### SUMMARY:

House Bill 4132 would amend the Michigan Vehicle Code to allow the Michigan State Police (MSP) and the Department of Transportation (MDOT) to install and use automated speed enforcement systems in work zones on highways or streets under the jurisdiction of MDOT, create a unit within MSP to oversee the use of these systems, create the Work Zone Safety Fund in the state treasury, and make other complementary changes. House Bill 4133 would make complementary changes to the Revised Judicature Act.

#### **Use of Automated Speed Enforcement Systems and Citations**

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 4132 would specifically allow the Department of State Police and the Department of Transportation, by agreement, to authorized the installation and use of an *automated speed enforcement system* in a work zone on a highway or street under the jurisdiction of the Department of Transportation. A sign indicating that an automated speed enforcement system is used would have to be posted at the approach to the work zone.

An *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 exceeding the speed limit that shows:
  - A clear and legible identification of the vehicle's registration plate.
  - The location where the recorded image was taken.
  - The date and time where the recorded image was taken.

If an individual were recorded in violation of the posted speed limit by 10 miles per hour or more in a work zone while workers are *present*, the following would apply:

- For a first violation, or a subsequent violation more than three years after the individual's most recent violation, a written warning would have to be issued on a form authorized by the Michigan State Police.

- For a second violation within three years of the individual's most recent violation, the individual would be responsible for a civil infraction and would have to pay a fine of up to \$150. (These fines would be distributed to MDOT.)
- For a third or subsequent violation within three years of the individual's most recent violation, the individual would be responsible for a civil infraction and would have to pay a fine of up to \$300. (These fines would be distributed to MDOT.)

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

Civil fines described above would be distributed to the Department of Transportation. (House Bill 4133 would make complementary changes to the Revised Judicature Act regarding this distribution of civil fine revenue.) The department would have to deposit any fines that exceed the cost of installing and using automated speed enforcement systems into the Work Zone Safety Fund described below.

Under the bill, a sworn statement from an automated speed enforcement system operator or a police officer, based on an inspection of a recorded image produced by the system, would be considered prima facie evidence of the facts contained in the image. A recorded image indicating a violation would have to be available for inspection in any proceeding to adjudicate the responsibility for a violation. Any such image would have to be destroyed 90 days after the final disposition of the citation.

In a proceeding for a violation of the bill, the prima facie evidence that the vehicle described in the citation was operated in violation of the bill, together with proof that the citation was issued to the registered owner of the vehicle, would create a rebuttable presumption that the vehicle's registered owner was the individual who committed the violation. This presumption would be rebutted if either of the following occurs:

- The registered owner files an affidavit by regular mail with the clerk of the court stating that they were not the operator of the vehicle at the time of the alleged violation.
- A certified copy of a police report showing the vehicle had been reported stolen before the alleged violation is presented before the appearance date on the citation.

Notwithstanding section 742, a citation for a violation under the bill could be executed by first-class mail to the address of the registered owner shown on the records of the secretary of state. If the summoned individual failed to appear on the date set out in that citation, a copy of the citation would have to be sent by certified mail—return receipt requested. If the summoned individual failed to appear on either date set out on the mailed citations, the citation would have to be executed in a manner provided by law for personal service. The court could issue a warrant for the arrest of an individual if they fail to appear within the time limit established on the citation and a sworn complaint is filed with the court for that purpose.

#### **Automated Speed Enforcement System Unit**

Subject to appropriation, House Bill 4132 would create the Automated Speed Enforcement System Unit within the Department of State Police. The unit would be composed of appointees of the department 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 the systems and provide sworn statements as required by the bill.

### **Creating the Work Zone Safety Fund**

House Bill 4132 would create the Work Zone Safety Fund in the state treasury. The state treasurer would direct the investment of money in the fund and would have to and be required to credit any interest and earnings from the investments to the fund. MDOT would be the administrator of the fund for audits of the fund.

As noted above, any civil fines paid to MDOT for a violation of the bill that exceed the cost of installing and using automated speed enforcement systems would be deposited into the fund. The department would have to expend money in the fund, upon appropriation, for the purpose of improving worker safety at work zones by doing both of the following:

- Coordinating with the Department of State Police 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.

### **Report to the Legislature**

House Bill 4132 would require the Department of State Police to submit a report on the use of automated speed enforcement systems within five years of the bill's effective date that includes, at a minimum, both of the following:

- The number of citations issued.
- An accounting of the costs of installing and using and the revenue generated by automated speed enforcement systems.

Neither bill will take effect unless both bills are enacted.

House Bill 4132: MCL 257.907 and 257.909 and proposed MCL 257.2c, 257.627c, and 257.907a

House Bill 4133: MCL 600.8379

### **FISCAL IMPACT:**

House Bill 4132 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 used to support the costs of the unit. MSP projects that the unit would require six 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 were 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.

The bill 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 4132 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(12) 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.