

Legislative Analysis



AUTOMATED SPEED ENFORCEMENT IN WORK ZONES

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

House Bill 5272 as introduced
Sponsor: Rep. Gary R. Eisen
Committee: Judiciary
Complete to 11-30-21

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

SUMMARY:

House Bill 5272 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. Exceeding a posted speed limit when workers are present would be a civil infraction, and a citation could be issued based on an image from the system. Sanctions would range from a written warning to a maximum \$250 civil fine for repeat violations. The bill would create a rebuttal 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 5272 would amend the Michigan Vehicle Code to specifically allow the Department of State Police (MSP) or the Michigan Department of Transportation (MDOT); a county board of commissioners, board of county road commissioners, or county sheriff; or other local authority having jurisdiction over a highway or street to authorize the installation and use of an **automated speed enforcement system** in a work zone on a highway or street under its respective jurisdiction. A sign would have to be placed at the approach to the work zone 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 meets all of the following conditions:

- It automatically detects a vehicle exceeding the posted speed limit with a type of speed timing device.
- It is interoperable with the MSP license plate data management systems.
- It produces a recorded image of the vehicle described above that shows all of the following:
 - A clear and legible identification of the vehicle's license plate.
 - The location where the image was taken.
 - The date and time the image was taken.

A sworn statement of a police officer from the state or local authority with jurisdiction over the highway or street where the work zone is located, based on inspecting a recorded image

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

produced by an automated speed 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.

In a prosecution 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 defendant 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 the provisions of section 742, 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 registered owner 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

An individual who violates a speed limit posted for a work zone while workers are present, based on a recorded image produced by an automated speed enforcement system, would be subject to the following sanctions:

- First violation: The individual could be issued a written warning only or the individual could be responsible for a civil infraction and would have to be ordered to pay a civil fine of up to \$100.
- Second violation: The individual would be responsible for a civil infraction and would have to be ordered to pay a civil fine of up to \$100.
- Third 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 \$250.

MCL 257.907 and proposed MCL 257.2c and 257.627c

FISCAL IMPACT:

House Bill 5272 would *authorize* the installation and use of an automated speed enforcement system in a work zone on a highway or street under conditions established in the bill. Because the bill is permissive only, and does not mandate the use of automated speed enforcement systems, there is no direct cost impact on the state of Michigan or on local units of government.

Currently, additional work zone signage may be included as a pay item in road construction projects. In those cases, the cost of the signage is borne by the contractor, who is then reimbursed by the road agency through contract payments, specifically payments under the signage pay item established in the contract.

Traffic zone enforcement by police agencies may be performed and funded in different ways. It may be performed simply as part of normal assigned police duties. In some instances, the road agency or contractor may request additional enforcement. In some cases, the road agency may enter into an agreement with the police agency for additional enforcement activities. These agreements may provide for additional funding to the police agency.

With regard to the potential violation of its provisions, House Bill 5272 would have an indeterminate fiscal impact on the state and on local units of government. The number of individuals who would be responsible for civil infractions under the bill is not known. Under section 909(1) of the Michigan Vehicle Code, civil fine revenue would 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. 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 additional revenue that would be collected. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs.

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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.