

**ELECTRONIC SPEED TIMING DEVICES (NON RADAR)
STUDENT GUIDE**

CASE LAW REFERENCE TO VEHICLE CODE SECTION 3368

The following cases reference that no minimum distance is required in the use of speed-timing devices.

Commonwealth v Ness, 491 a.2d 234 (1985)

The Superior Court held that the current version of the Vehicle Code does not contain any distance requirements for speed-timing devices unless expressly stated therein. The **NESS** court was considering this because the former Vehicle Code had such a requirement. **NESS** involved the use of a certified stop watch.

Commonwealth v Vishneski, 552 a.2d 297 (1989)

The Superior Court held SPECIFICALLY that there is no requirement that VASCAR-PLUS be operated over any minimum distance to time the speed of vehicles.

Commonwealth v Muldoon, 2 D. & C. 4th 244 (1988)

The court of Common Pleas for Montgomery County held that there is no minimum distance requirements when using VASCAR-PLUS to follow a vehicle, (using it in the pace mode) and obtain a speed for it. As a consequence, the only apparent requirement for distance is contained in section 3368 (a) Vehicle Code that mandated certified speedometers be used for three tenths of a mile to obtain a speed.

**Commonwealth v DePasquale Supreme Court of Pennsylvania (11-21-84)
501 A.2d 629**

1. Local ordinance does not have to be passed for police to have authority to use the timing device.
2. The vehicle code does not require that additional warning be posted to alert motorist to the use of electronic or even radar devices.

3368 (c)(4)...

This sub-section dictates when officers can issue a traffic citation for a speed violation. Basically, you can not issue a citation for speeding to a driver until the drivers speed is over 10 mph above the posted speed limit in any speed zone under 55 mph. If the speed zone is posted 55 mph or higher, then you may issue a citation if the drivers speed is 6 or more miles over the posted speed limit. **This does not include school zones or active work zones.**

NOTE:

Most municipal departments use the 15 mph rule...issuing the citation when the driver's speed is 15 mph or more then the posted speed limit. This is a self-imposed rule that some departments follow. With the 15 mph rule and using average speed timing devices, the benefit of doubt and fairness weighs for the driver.