

1 SB534
2 140499-2
3 By Senator Blackwell (N & P)
4 RFD: Local Legislation No. 2
5 First Read: 19-APR-12

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3
4 With Notice and Proof

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6 ENGROSSED

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8
9 A BILL

10 TO BE ENTITLED

11 AN ACT

12
13 Relating to the City of Irondale, Alabama;
14 authorizing automated traffic camera enforcement in the city
15 limits of Irondale as a civil violation by the adoption of a
16 municipal ordinance consistent with this act; providing
17 certain procedures to be followed by Irondale; providing that
18 the owner of the vehicle involved in violation of a traffic
19 law is presumptively liable for a civil violation and the
20 payment of a civil fine, but providing procedures to contest
21 liability; providing for jurisdiction in the municipal court
22 of Irondale over the civil violations and allowing appeals to
23 the Jefferson County Circuit Court for trial de novo; creating
24 a cause of action for any person held responsible for payment
25 of the civil fine against the person who was actually
26 operating a vehicle during the violation of a traffic law; and

1 prohibiting the tampering with a photographic traffic signal
2 enforcement system, except by authorized persons.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Part I. Red Light Enforcement.

5 The City of Irondale, may, by ordinance, adopt the
6 procedures set out in this act.

7 Section 2. The Legislature finds and declares the
8 following:

9 (1) Accident data establishes that vehicles running
10 red lights have been and are a dangerous problem in Irondale,
11 Alabama.

12 (2) Studies have found that automated traffic camera
13 enforcement in a municipal area is a highly accurate method
14 for detecting red light violations and is very effective in
15 reducing the number of red light violations and decreasing the
16 number of traffic accidents, deaths, and injuries.

17 (3) Current Alabama law provides that failing to
18 stop and remain stopped at a traffic-control signal which is
19 emitting a steady red signal is a criminal misdemeanor. Under
20 Alabama law one who commits such a misdemeanor is subject to
21 prosecution only if the misdemeanor was witnessed by either a
22 duly empowered police officer or other witness who makes a
23 verified complaint to a magistrate.

24 (4) Many jurisdictions have adopted laws that allow
25 use of automated photographic traffic enforcement, and the
26 Legislature finds that it should adopt legislation that would

1 implement a program for automated photographic enforcement of
2 traffic signal violations, which the Legislature finds is
3 consistent with this act.

4 (5) By allowing a program for use of automated
5 traffic cameras in traffic signal enforcement by Irondale, the
6 Legislature hopes to both decrease the rate of traffic signal
7 violations and learn more about the effectiveness and fairness
8 involved in the use of the automated systems.

9 Section 3. As used in Part 1 of this act, the
10 following terms shall have the following meanings:

11 (1) CITY. The City of Irondale in Jefferson County,
12 Alabama.

13 (2) CIVIL FINE. The monetary amount assessed by the
14 city pursuant to this act for an adjudication of civil
15 liability for a traffic signal violation, including municipal
16 court costs associated with the infraction.

17 (3) CIVIL VIOLATION. There is hereby created a
18 non-criminal category of state law called a civil violation
19 created and existing for the sole purpose of carrying out the
20 terms of this act. The penalty for violation of a civil
21 violation shall be the payment of a civil fine, the
22 enforceability of which shall be accomplished through civil
23 action. The prosecution of a civil violation created hereby
24 shall carry reduced evidentiary requirements and burden of
25 proof as set out in Section 6, and in no event shall an

1 adjudication of liability for a civil violation be punishable
2 by a criminal fine or imprisonment.

3 (4) COUNTY. Jefferson County in Alabama.

4 (5) MUNICIPAL COURT. The Irondale Municipal Court.

5 (6) OWNER. The owner of a motor vehicle as shown on
6 the motor vehicle registration records of the Alabama
7 Department of Revenue or the analogous department or agency of
8 another state or country. The term shall not include a motor
9 vehicle rental or leasing company. When a motor vehicle
10 registered by the company is rented or leased by the
11 registered owner or its affiliate to another person and a
12 certification by a duly authorized representative of the
13 renting or leasing entity is provided to the appropriate
14 governmental entity by the renting or leasing entity in
15 accordance with subdivision (2) of subsection (k) of Section
16 6, then in such event, the term "owner" shall mean the person
17 to whom the vehicle is rented or, leased. Nor shall the term
18 include motor vehicles displaying dealer license plates, in
19 which event "owner" shall mean the person to whom the vehicle
20 is assigned for use; nor shall the term include the owner of
21 any stolen motor vehicle, "owner" shall mean the person who is
22 guilty of stealing the motor vehicle.

23 (7) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM.

24 A camera system which is designed and installed to work in
25 conjunction with an electrically operated traffic-control
26 device using vehicle sensors synchronized to automatically

1 record, either by conventional film or digital imaging,
2 sequenced photographs or full motion video of the rear of a
3 motor vehicle while proceeding through a signalized
4 intersection.

5 The device shall be capable of producing at least
6 two recorded images, at least one of which is capable of
7 clearly depicting the license plate of a motor vehicle that is
8 not operated in compliance with the instructions of the
9 traffic-control signal.

10 (8) TRAFFIC-CONTROL SIGNAL. Any device, whether
11 manually, electrically, or mechanically operated, by which
12 traffic is alternately directed to stop and permitted to
13 proceed as defined in Section 32-1-1.1, Code of Alabama 1975.

14 (9) TRAFFIC SIGNAL VIOLATION. Any violation of
15 Section 32-5A-31, Section 32-5A-32, or Section 32-5A-5, Code
16 of Alabama 1975, or of any combination thereof, wherein a
17 vehicle proceeds into a signalized intersection at a time
18 while the traffic-control signal for that vehicle's lane of
19 travel is emitting a steady red signal. A traffic signal
20 violation shall be a civil violation as defined in this act.

21 (10) TRAINED TECHNICIAN. A law enforcement officer
22 employed by the city who alternatively:

23 a. Is a professional engineer in the field of civil
24 engineering.

25 b. Has received instruction and training in the
26 proper use of the photographic traffic signal enforcement

1 system to be used by the city by the city's traffic engineer
2 or his or her designee.

3 c. Has been trained by the vendor installing the
4 equipment. Under no circumstances shall the salary or other
5 compensation of the trained technician be related to the
6 number of notices of violations issued or amount of fines
7 collected.

8 Section 4. (a) The city is authorized to adopt an
9 ordinance to utilize an automated photographic traffic signal
10 enforcement system to detect and record traffic signal
11 violations, to issue notices of civil violations by mail, and
12 to prosecute civil violations for the recorded traffic signal
13 violations which may occur within the corporate limits of the
14 city as provided in this act. A civil fine assessed under this
15 act shall not exceed one hundred dollars (\$100), and municipal
16 court costs shall be assessed in the same manner and in the
17 same amounts prescribed for a municipal criminal
18 traffic-control device violation prosecuted as a misdemeanor
19 under Sections 32-5A-31, 32-5A-32, 32-5A-35, or any
20 combination thereof. Court costs collected by any city
21 pursuant to this act shall be distributed in the same manner
22 as prescribed by law for the distribution of municipal court
23 costs for misdemeanor violations. An additional fee of ten
24 dollars (\$10) shall be collected by the municipal court in
25 connection with notices issued under this act to be paid to
26 the Alabama Criminal Justice Information Center and deposited

1 in the State Treasury to the credit of the Criminal Justice
2 Information System Automation Fund as compensation for record
3 keeping and transaction processing with respect to violation
4 notices issued under this act.

5 (b) The city shall post a sign at each of a minimum
6 of 10 roadway entry points to the city, or all roadway entry
7 points to the city if there are less than 10, to provide
8 motorists with notice that photographic traffic signal
9 enforcement systems are in use. The sign will comply with this
10 requirement if it states substantially the following: "TRAFFIC
11 LAWS ENFORCED BY AUTOMATED CAMERAS," or if it otherwise gives
12 sufficient notice.

13 (c) Prior to operating a photographic traffic signal
14 enforcement system, the city shall make a public announcement
15 and conduct a public awareness campaign of the use of a
16 photographic traffic signal enforcement system a minimum of 30
17 days before using the devices. The city may place photographic
18 traffic signal enforcement systems at locations without public
19 notice of the specific location, may change locations without
20 public notice.

21 (d) The city shall post signs warning of the use of
22 automated enforcement cameras. Each sign must be in compliance
23 with all federal Manual Uniforms Traffic Control Devices
24 (MUTCD) standards, including but not limited to the MUTCD
25 standards for size, location, and visibility.

1 Section 5. (a) Prior to imposing a civil penalty
2 under this act, the city shall first mail a notice of
3 violation by first class U.S. mail to the owner of the motor
4 vehicle which is recorded by the photographic traffic signal
5 enforcement system while committing a traffic signal
6 violation.

7 The notice shall be sent not later than the 30th day
8 after the date the traffic signal violation is recorded
9 initially to:

10 (1) The owner's address as shown on the registration
11 records of the Alabama Department of Revenue.

12 (2) If the vehicle is registered in another state or
13 country, to the owner's address as shown on the motor vehicle
14 registration records of the department or agency of the other
15 state or country analogous to the Alabama Department of
16 Revenue.

17 (3) If the vehicle is rented or leased at the time
18 of the violation, to the person whose name and address is
19 listed in the certification filed in accordance with
20 subdivision (2) of subsection (k) of Section 6.

21 (b) A notice of violation issued under this act
22 shall contain the following:

23 (1) Description of the violation alleged.

24 (2) The date, time, and location of the violation.

25 (3) A copy of recorded images of the vehicle
26 involved in the violation.

1 (4) The amount of the civil penalty to be imposed
2 for the violation.

3 (5) The date by which the civil penalty must be
4 paid.

5 (6) A statement that the person named in the notice
6 of violation may pay the civil penalty in lieu of appearing at
7 an administrative adjudication hearing.

8 (7) Information that informs the person named in the
9 notice of violation:

10 a. Of the right to contest the imposition of the
11 civil penalty in an administrative adjudication.

12 b. Of the manner and time in which to contest the
13 imposition of the civil penalty.

14 c. That failure to pay the civil penalty or to
15 contest liability is an admission of liability.

16 (8) A statement that a recorded image is evidence in
17 a proceeding for the imposition of a civil penalty.

18 (9) A statement that failure to pay the civil
19 penalty within the time allowed shall result in the imposition
20 of a late penalty not exceeding twenty-five dollars (\$25).

21 (10) Any other information deemed necessary by the
22 department or the city.

23 (c) A notice of violation under this act is presumed
24 to have been received on the 10th day after the date the
25 notice of violation is placed in the United States Mail.

1 (d) The civil penalty imposed shall be paid within
2 30 days of the 10th day after the date the notice of violation
3 is mailed.

4 (e) It shall be within the discretion of the trained
5 technician to determine which of the recorded traffic signal
6 violations are prosecuted based upon the quality and
7 legibility of the recorded image. In lieu of issuing a notice
8 of violation, the city may mail a warning notice to the owner.

9 Section 6. (a) The municipal court is vested with
10 the power and jurisdiction to hear and adjudicate the civil
11 violations provided for in this act, and to issue orders
12 imposing the civil fines and costs set out in this act.

13 (b) A person who receives a notice of violation may
14 contest the imposition of the civil fine by submitting a
15 request for a hearing on the adjudication of the civil
16 violation, in writing, within 15 days of the 10th day after
17 the date the notice of violation is mailed. Upon receipt of a
18 timely request, the city shall notify the person of the date
19 and time of the adjudicative hearing by first class U.S. mail.

20 (c) Failure to pay a civil penalty or to contest
21 liability in a timely manner is an admission of liability in
22 the full amount of the civil fine assessed in the notice of
23 violation.

24 (d) The civil fine shall not be assessed if, after a
25 hearing, the municipal court judge enters a finding of no
26 liability.

1 (e) If an adjudicative hearing is requested, the
2 city shall have the burden of proving the traffic signal
3 violation by a preponderance of the evidence. The reliability
4 of the photographic traffic signal enforcement system used to
5 produce the recorded image of the violation may be attested to
6 by affidavit of a trained technician. An affidavit of a
7 trained technician that alleges a violation based on an
8 inspection of the pertinent recorded image is admissible in a
9 proceeding under this act and is evidence of the facts
10 contained in the affidavit.

11 (f) The notice of violation, the recorded and
12 reproduced images of the traffic signal violation, regardless
13 of the media on which they are recorded, accompanied by a
14 certification of authenticity of a trained technician, and
15 evidence of ownership of a vehicle as shown by copies or
16 summaries of official records shall be admissible into
17 evidence without foundation unless the municipal court finds
18 there is an indication of untrustworthiness, in which case the
19 city shall be given a reasonable opportunity to lay an
20 evidentiary foundation.

21 (g) All other matters of evidence and procedure not
22 specifically addressed in this act shall be subject to the
23 rules of evidence and the rules of procedure as they apply in
24 the small claims courts of this state, except that on any
25 appeal to Jefferson County Circuit Court for trial de novo the

1 evidence and procedures shall be as for any civil case in the
2 circuit court except as otherwise provided in this act.

3 (h) A person who is found liable for the civil
4 violation after an adjudicative hearing or who requests an
5 adjudicative hearing and thereafter fails to appear at the
6 time and place of the hearing is liable for court costs and
7 fees set out herein in addition to the amount of the civil
8 fine assessed for the violation. A person who is found liable
9 for a civil violation after an adjudicative hearing shall pay
10 the civil fine and costs within 10 days of the hearing.

11 (i) Whenever payment of a civil fine is owed to the
12 city, the amount of the civil fine as set by ordinance may not
13 be increased, decreased, or remitted by the municipal court,
14 and the liability may be satisfied only by payment.

15 (j) It shall be an affirmative defense to the
16 imposition of civil liability under this act, to be proven by
17 a preponderance of the evidence, that:

18 (1) The traffic-control signal was not in proper
19 position and sufficiently visible to an ordinarily observant
20 person.

21 (2) The operator of the motor vehicle was acting in
22 compliance with the lawful order or direction of a police
23 officer.

24 (3) The operator of the motor vehicle violated the
25 instructions of the traffic-control signal so as to yield the

1 right-of-way to an immediately approaching authorized
2 emergency vehicle.

3 (4) The motor vehicle was being operated as an
4 authorized emergency vehicle under Sections 32-5A-7 and
5 32-5-213 of the Code of Alabama 1975, and that the operator
6 was acting in compliance with that chapter.

7 (5) The motor vehicle was stolen or being operated
8 by a person other than the owner of the vehicle without the
9 effective consent of the owner.

10 (6) The license plate depicted in the recorded image
11 of the violation was a stolen plate and being displayed on a
12 motor vehicle other than the motor vehicle for which the plate
13 had been issued.

14 (7) The presence of ice, snow, unusual amounts of
15 rain, or other unusually hazardous road conditions existed
16 that would make compliance with this act more dangerous under
17 the circumstances than non compliance.

18 (8) The person who received the notice of violation
19 was not the owner of the motor vehicle at the time of the
20 violation.

21 (9) There was no sign installed as required by this
22 act near the red light at which the violation allegedly
23 occurred warning that an automated red light camera device was
24 being used.

25 (10) The motor vehicle, at the time of the
26 violation, was rented or leased by another person.

1 (k) (1) To demonstrate that at the time of the
2 violation the motor vehicle was a stolen vehicle or the
3 license plate displayed on the motor vehicle was stolen plate,
4 the owner must submit proof acceptable to the municipal court
5 judge that the theft of the vehicle or license plate, prior to
6 the time of the violation, had been timely reported to the
7 appropriate law enforcement agency.

8 (2) Notwithstanding anything in this act to the
9 contrary, a person who fails to pay the amount of a civil fine
10 or to contest liability in a timely manner is entitled to an
11 adjudicative hearing on the violation if:

12 a. The person files an affidavit with the municipal
13 court stating that he/she did not receive the notice of the
14 violation by the 10th day after the notice was mailed or that
15 the notice otherwise fails to comply with Section 5 of this
16 act.

17 b. Within the 15 days of the date of actual receipt,
18 the person requests an administrative adjudicative hearing.

19 (3) To demonstrate that at the time of the violation
20 the motor vehicle was rented or leased, the owner of the motor
21 vehicle or its affiliate, within 30 days after the date of
22 issuance, shall furnish to the appropriate governmental entity
23 a certification setting forth the following information
24 supporting the affirmative defense provided in subdivision
25 (10) of subsection (j) of Section 6: The name, address, date
26 of birth, and, if known, the driver's license number of the

1 person who leased, rented, or otherwise had care, custody, or
2 control of the motor vehicle at the time of the alleged
3 violation. The certification is admissible in court and shall
4 create a rebuttable presumption that the person identified in
5 the certification rented or leased the motor vehicle.

6 Section 7. (a) Following an adjudicative hearing,
7 the municipal court judge shall issue an order stating:

8 (1) Whether the person charged with the civil
9 violation is liable for the violation; and, if so,

10 (2) The amount of the civil fine assessed against
11 the person, along with the fees and costs of court provided
12 for herein.

13 (b) The orders issued under this section may be
14 filed in the office of the Probate Judge of Jefferson County,
15 Alabama, and shall operate as a judicial lien in the same
16 manner and with the same weight and effect as any other civil
17 judgment filed therein.

18 (c) A person who is found liable after an
19 adjudicative hearing may appeal that finding of civil
20 liability to the Circuit Court of Jefferson County, Alabama,
21 by filing a notice of appeal with the clerk of the municipal
22 court. The notice of appeal must be filed not later than the
23 14th day after the date on which the municipal court judge
24 entered the finding of civil liability. The filing of a notice
25 of appeal shall stay the enforcement of the civil fine

1 penalty. An appeal shall be determined by the circuit court by
2 trial de novo.

3 Section 8. (a) The circuit court hearing an appeal
4 shall use the procedures that apply to criminal convictions in
5 municipal court with the following qualifications:

6 (1) The proceedings shall retain their civil nature
7 on appeal with the circuit court applying the preponderance of
8 the evidence standard.

9 (2) If the person is adjudicated by the circuit
10 court to be responsible for payment of the civil fine, circuit
11 court costs shall be owed by the person adjudicated
12 responsible, with 100 percent of those court costs retained by
13 the circuit court. Court costs in the circuit court shall be
14 calculated as are court costs for criminal appeals from the
15 municipal court, and in the event the circuit court finds the
16 person appealing to not be responsible, no municipal court
17 costs shall be owed to the city.

18 (3) Regardless of the civil nature of the
19 proceedings, the circuit court, in its discretion and for its
20 administrative convenience, may assign case numbers as for
21 criminal appeals and place the appeals on criminal dockets in
22 the same manner as criminal appeals from municipal court.

23 (4) The circuit court shall sit as trier of both
24 fact and law in the civil proceedings in the circuit court.

1 (5) The city shall be responsible for providing an
2 attorney to represent the city and to prosecute the civil
3 proceedings in the circuit court.

4 Section 9. In the event the evidence produced by a
5 photographic traffic signal enforcement system does not
6 produce an image of the license plate with sufficient clarity
7 for a trained technician to determine the identity of the
8 owner, and if the identity cannot otherwise be reliably
9 established, then no notice of violation may be issued
10 pursuant to this act. If, however, a notice of violation is
11 issued, to the degree constitutionally allowed, those issues
12 related to the identity of the vehicle or its owner shall
13 affect the weight to be accorded the evidence and shall not
14 affect its admissibility.

15 Section 10. The city may provide by ordinance that a
16 late fee not exceeding twenty-five dollars (\$25) shall attach
17 to untimely paid civil fines that are authorized in this act.
18 No person may be arrested or incarcerated for nonpayment of a
19 civil fine or late fee. No record of an adjudication of civil
20 violation made under this act shall be listed, entered, or
21 reported on any criminal record or driving record, whether the
22 record is maintained by the city or an outside agency. An
23 adjudication of civil violation provided for in this act shall
24 not be considered a conviction for any purpose, shall not be
25 used to increase or enhance punishment for any subsequent
26 offense of a criminal nature, shall not be considered a moving

1 violation, and shall not be used by any insurance company to
2 determine or affect premiums or rates unless an accident
3 occurred due to the violation. The fact that a person is held
4 liable or responsible for a civil fine for a red light
5 violation shall not be used as evidence that the person was
6 guilty of negligence or other culpable conduct, and any
7 evidence generated by a photographic traffic signal
8 enforcement system may only be used as evidence in other
9 proceedings if it is or becomes admissible under the rules of
10 evidence applicable therein.

11 Section 11. A city, shall adopt by ordinance the
12 procedures authorized by this act, and shall keep statistical
13 data regarding the effectiveness of photographic traffic
14 signal enforcement systems in reducing traffic-control device
15 violations and intersectional collisions and shall communicate
16 the data on an annual basis to the Alabama Department of
17 Transportation and the Alabama Criminal Justice Information
18 Center.

19 Section 12. The placement of control devices and
20 timing of yellow lights and red light clearance intervals,
21 adopted by the city, shall conform to the most recent edition
22 of the Traffic Engineering Handbook. It shall be presumed that
23 the city is in compliance with this section unless the
24 contrary is shown by a preponderance of the evidence.

25 Section 13. No civil penalty may be imposed and no
26 adjudication of liability for a civil violation may be made

1 under this act if the operator of the vehicle was arrested or
2 was issued a citation and notice to appear by a police officer
3 for a criminal violation of any portion of Article II, Chapter
4 5A, Title 32 including, but not limited to, Sections 32-5A-31,
5 32-5A-34, and 32-5A-35 of the Code of Alabama 1975, or any
6 other municipal ordinance which embraces and incorporates the
7 statutes contained in that article, and which occurred
8 simultaneously with and under the same set of circumstances
9 which were recorded by the photographic traffic signal
10 enforcement system.

11 Section 14. Any person that is adjudicated liable
12 for a civil violation under this Act, or an ordinance passed
13 pursuant to this Act, and who pays the civil fine imposed as a
14 result of that adjudication, shall have a cause of action
15 against the person who was operating the vehicle at the time
16 of the violation for the amount of the civil fine paid plus
17 any consequential damages and a reasonable attorney fee,
18 without regard to the rules regarding joint and several
19 liability, contribution, or indemnity. As a condition
20 precedent to bringing a civil action, the person held
21 responsible for payment of the civil fine must first make
22 written demand on the operator, renter, or lessor of the
23 vehicle for reimbursement of the civil fine, within 60 days of
24 the demand. If reimbursement is fully made within the 60-day
25 period, the cause of action shall be extinguished and no
26 attorney fees or other damages shall attach to the

1 reimbursement. Any cause of action brought pursuant to this
2 section must be commenced within two years from the date of
3 the payment of the civil fine.

4 Part II. Speeding Enforcement.

5 Section 15. The City of Irondale may, by ordinance,
6 adopt the procedures set out in this act.

7 Section 16. The Legislature finds and declares the
8 following:

9 (1) There has been a high incidence of drivers
10 disregarding speed limits on streets and at street
11 intersections.

12 (2) Exceeding the speed limit endangers vehicle
13 operators and pedestrians alike by decreasing the efficiency
14 of traffic control and homogeneous traffic flow and by
15 increasing the number of serious traffic crashes to which
16 public safety agencies must respond at the expense of the
17 taxpayers.

18 (3) A reduction in the number of drivers exceeding
19 speed limits through a program utilizing photographic evidence
20 and enforcement through the imposition of civil penalties will
21 help promote and protect the health, safety, and welfare of
22 the citizens of Irondale.

23 (4) Many jurisdictions have adopted laws that allow
24 use of automated photographic traffic enforcement, and the
25 Legislature finds that it should adopt legislation that would
26 implement a program for automated photographic enforcement of

1 speeding violations, which the Legislature finds is consistent
2 with this act.

3 (5) By allowing a program for use of automated
4 traffic cameras in speed limit enforcement by the city, the
5 Legislature hopes to both decrease the rate of speeding
6 violations and learn more about the effectiveness and fairness
7 involved in the use of the automated systems.

8 Section 17. As used in Part II of this act, the
9 following terms shall have the following meanings:

10 (1) CITY. The City of Irondale located in Jefferson
11 County, Alabama.

12 (2) CIVIL FINE. The monetary amount assessed by the
13 city pursuant to this act for an adjudication of civil
14 liability for a traffic signal violation, including municipal
15 court costs associated with the infraction.

16 (3) CIVIL VIOLATION. There is hereby created a
17 non-criminal category of state law called a civil violation
18 created and existing for the sole purpose of carrying out the
19 terms of this act. The penalty for violation of a civil
20 violation shall be the payment of a civil fine, the
21 enforceability of which shall be accomplished through civil
22 action. The prosecution of a civil violation created hereby
23 shall carry reduced evidentiary requirements and burden of
24 proof as set out in Section 6, and in no event shall an
25 adjudication of liability for a civil violation be punishable
26 by a criminal fine or imprisonment.

1 (4) COUNTY. Jefferson County in Alabama.

2 (5) MUNICIPAL COURT. The Irondale Municipal Court.

3 (6) OWNER. The owner of a motor vehicle as shown on
4 the motor vehicle registration records of the Alabama
5 Department of Revenue or the analogous department or agency of
6 another state or country. When a motor vehicle registered by
7 the company is rented or leased to another person under a
8 rental or lease agreement with the company, and a
9 certification is provided to the appropriate governmental
10 entity in accordance with subdivision (2) of subsection (k) of
11 Section 20, the term "owner" shall mean the person to whom the
12 vehicle is rented or leased; nor shall the term include motor
13 vehicles displaying dealer license plates, in which event
14 "owner" shall mean the person to whom the vehicle is assigned
15 for use; nor shall the term include the owner of any stolen
16 motor vehicle, in which event "owner" shall mean the person
17 who is guilty of stealing the motor vehicle.

18 (7) PHOTOGRAPHIC VEHICLE SPEED ENFORCEMENT SYSTEM OR
19 SYSTEMS. A system meeting the following requirements:

20 a. The system has a mobile or fixed electronic speed
21 enforcement system, or both, which is certified and in
22 compliance with the Federal Communications Commission, if
23 applicable.

24 b. The system is capable of producing at least two
25 recorded images depicting the license plate attached to the

1 rear of a vehicle being operated at a speed in excess of the
2 speed limit.

3 The device shall be capable of producing at least
4 two recorded images, at least one of which is capable of
5 clearly depicting the license plate of a motor vehicle that is
6 not operated in compliance with the posted speed limit.

7 (8) SPEED LIMIT. The established maximum speed limit
8 on a given roadway prescribed by law.

9 (9) SYSTEM LOCATION. The approach to an intersection
10 toward which a photographic traffic vehicle speed enforcement
11 system is directed and in operation or a segment of roadway on
12 which a vehicle speed enforcement system is in operation.

13 (10) TRAINED TECHNICIAN. A law enforcement officer
14 employed by the city who alternatively:

15 a. Is a professional engineer in the field of civil
16 engineering.

17 b. Has received instruction and training in the
18 proper use of the photographic vehicle speed enforcement
19 system to be used by the city by the city's traffic engineer
20 or his or her designee.

21 c. Has been trained by the vendor installing the
22 equipment. Under no circumstances shall the salary or other
23 compensation of the trained technician be related to the
24 number of notices of violation issued or amount of fines
25 collected.

1 Section 18. (a) The city is authorized to adopt an
2 ordinance to utilize an automated photographic vehicle speed
3 enforcement system to detect and record speeding violations,
4 to issue notices of civil violations by mail, and to prosecute
5 civil violations for the recorded speeding violations which
6 may occur within the corporate limits of the city as provided
7 in this act. The following civil penalties shall apply to the
8 owner when captured by the system where the vehicle was re-
9 corded as traveling at the following speeds over the speed
10 limit:

| 11 Speed Over Speed Limit | Civil Penalty |
|---|---------------|
| 12 5 through 10 mph | \$50 |
| 13 Greater than 10 mph through 15 mph | \$100 |
| 14 Greater than 15 mph through 20 mph | \$125 |
| 15 Greater than 20 mph | \$150 |

16 (b) Court costs collected by the city pursuant to
17 this act shall be distributed in the same manner as prescribed
18 by law for the distribution of municipal court costs for
19 misdemeanor violations. An additional fee of ten dollars (\$10)
20 shall be collected by the municipal court in connection with
21 notices issued under this act to be paid to the Alabama
22 Criminal Justice Information Center and deposited in the State
23 Treasury to the credit of the Criminal Justice Information

1 System Automation Fund as compensation for record keeping and
2 transaction processing with respect to violation notices
3 issued under this act.

4 (c) The civil penalty for "speed over speed limit"
5 as stated above shall double for violations of this act when
6 that violation occurs and was electronically recorded within a
7 segment of the roadway or intersection designated with signage
8 or signals as a school zone only during school hours when
9 school is in session and one hour before and after school
10 hours.

11 (d) Prior to operating a photographic vehicle speed
12 enforcement system, the city shall make a public announcement
13 and conduct a public awareness campaign of the use of a
14 photographic vehicle speed enforcement system a minimum of 30
15 days before using the devices.

16 (e) After the 30 day public awareness campaign has
17 been completed, the city may place photographic vehicle speed
18 enforcement systems at locations without public notice of the
19 specific location, and the city may change locations without
20 public notice.

21 Section 19. (a) Prior to imposing a civil penalty
22 under this act, the city shall first mail a notice of
23 violation by first class U.S. mail to the owner of the motor
24 vehicle which is recorded by the photographic enforcement
25 system while committing a violation. The notice shall be sent

1 not later than the 30th day after the date the speeding
2 violation is recorded initially to:

3 (1) The owner's address as shown on the registration
4 records of the Alabama Department of Revenue.

5 (2) If the vehicle is registered in another state or
6 country, to the owner's address as shown on the motor vehicle
7 registration records of the department or agency of the other
8 state or country analogous to the Alabama Department of
9 Revenue.

10 (3) If the vehicle is rented or leased at the time
11 of the violation, to the person whose name and address is
12 listed in the certification filed in accordance with
13 subdivision (2) of subsection (k) of Section 20.

14 (b) A notice of violation issued under this act
15 shall contain the following:

16 (1) Description of the violation alleged.

17 (2) The date, time, and location of the violation.

18 (3) A copy of recorded images of the vehicle
19 involved in the violation.

20 (4) The amount of the civil penalty to be imposed
21 for the violation.

22 (5) The date by which the civil penalty must be
23 paid.

24 (6) A statement that the person named in the notice
25 of violation may pay the civil penalty in lieu of appearing at
26 an administrative adjudication hearing.

1 (7) Information that informs the person named in the
2 notice of violation:

3 a. Of the right to contest the imposition of the
4 civil penalty in an administrative adjudication.

5 b. Of the manner and time in which to contest the
6 imposition of the civil penalty.

7 c. That failure to pay the civil penalty or to
8 contest liability is an admission of liability.

9 (8) A statement that a recorded image is evidence in
10 a proceeding for the imposition of a civil penalty.

11 (9) A statement that failure to pay the civil
12 penalty within the time allowed shall result in the imposition
13 of a late penalty not exceeding twenty-five dollars (\$25).

14 (10) Any other information deemed necessary by the
15 department or the city.

16 (c) A notice of violation under this act is presumed
17 to have been received on the 10th day after the date the
18 notice of violation is placed in the United States Mail.

19 (d) The civil penalty imposed shall be paid within
20 30 days of the 10th day after the date the notice of violation
21 is mailed.

22 (e) It shall be within the discretion of the trained
23 technician to determine which of the recorded speeding
24 violations are prosecuted based upon the quality and
25 legibility of the recorded image. In lieu of issuing a notice
26 of violation, the city may mail a warning notice to the owner.

1 Section 20. (a) The municipal court is vested with
2 the power and jurisdiction to hear and adjudicate the civil
3 violations provided for in this act, and to issue orders
4 imposing the civil fines and costs set out in this act.

5 (b) A person who receives a notice of violation may
6 contest the imposition of the civil fine by submitting a
7 request for a hearing on the adjudication of the civil
8 violation, in writing, within 15 days of the 10th day after
9 the date the notice of violation is mailed. Upon receipt of a
10 timely request, the city shall notify the person of the date
11 and time of the adjudicative hearing by first class U.S. mail.

12 (c) Failure to pay a civil penalty or to contest
13 liability in a timely manner is an admission of liability in
14 the full amount of the civil fine assessed in the notice of
15 violation.

16 (d) The civil fine shall not be assessed if, after a
17 hearing, the municipal judge enters a finding of no liability.

18 (e) If an adjudicative hearing is requested, the
19 city shall have the burden of proving the violation by a
20 preponderance of the evidence. The reliability of the
21 photographic enforcement system used to produce the recorded
22 image of the violation may be attested to by affidavit of a
23 trained technician. An affidavit of a trained technician that
24 alleges a violation based on an inspection of the pertinent
25 recorded image is admissible in a proceeding under this act
26 and is evidence of the facts contained in the affidavit.

1 (f) The notice of violation, the recorded and
2 reproduced images of the violation, regardless of the media on
3 which they are recorded, accompanied by a certification of
4 authenticity of a trained technician, and evidence of
5 ownership of a vehicle as shown by copies or summaries of
6 official records shall be admissible into evidence without
7 foundation unless the municipal court finds there is an
8 indication of untrustworthiness, in which case the city shall
9 be given a reasonable opportunity to lay an evidentiary
10 foundation.

11 (g) All other matters of evidence and procedure not
12 specifically addressed in this act shall be subject to the
13 rules of evidence and the rules of procedure as they apply in
14 the small claims courts of this state, except that on any
15 appeal to Jefferson County Circuit Court for trial de novo the
16 evidence and procedures shall be as for any civil case in the
17 circuit court except as otherwise provided in this act.

18 (h) A person who is found liable for the civil
19 violation after an adjudicative hearing or who requests an
20 adjudicative hearing and thereafter fails to appear at the
21 time and place of the hearing is liable for court costs and
22 fees set out herein in addition to the amount of the civil
23 fine assessed for the violation. A person who is found liable
24 for a civil violation after an adjudicative hearing shall pay
25 the civil fine and costs within 10 days of the hearing.

1 (i) Whenever payment of a civil fine is owed to the
2 city, the amount of the civil fine as set by ordinance may not
3 be increased, decreased, or remitted by the municipal court,
4 and the liability may be satisfied only by payment.

5 (j) It shall be an affirmative defense to the
6 imposition of civil liability under this act, to be proven by
7 a preponderance of the evidence, that:

8 (1) The operator of the motor vehicle was acting in
9 compliance with the lawful order or direction of a police
10 officer.

11 (2) The operator of the vehicle violated the speed
12 limit so as to move out of the way of an immediately
13 approaching authorized emergency vehicle.

14 (3) The motor vehicle was being operated as an
15 authorized emergency vehicle under Sections 32-5A-7 and
16 32-5-213 of the Code of Alabama 1975, and that the operator
17 was acting in compliance with that chapter.

18 (4) The motor vehicle was stolen or being operated
19 by a person other than the owner of the vehicle without the
20 effective consent of the owner.

21 (5) The license plate depicted in the recorded image
22 of the violation was a stolen plate and being displayed on a
23 motor vehicle other than the motor vehicle for which the plate
24 had been issued.

1 (6) The person who received the notice of violation
2 was not the owner of the motor vehicle at the time of the
3 violation.

4 (7) The motor vehicle, at the time of the violation,
5 was rented or leased by another person.

6 (k) (1) To demonstrate that at the time of the
7 violation the motor vehicle was a stolen vehicle or the
8 license plate displayed on the motor vehicle was stolen plate,
9 the owner must submit proof acceptable to the municipal court
10 judge that the theft of the vehicle or license plate, prior to
11 the time of the violation, had been timely reported to the
12 appropriate law enforcement agency.

13 (2) Notwithstanding anything in this act to the
14 contrary, a person who fails to pay the amount of a civil fine
15 or to contest liability in a timely manner is entitled to an
16 adjudicative hearing on the violation if:

17 a. The person files an affidavit with the municipal
18 court stating that he/she did not receive the notice of the
19 violation by the 10th day after the notice was mailed or that
20 the notice otherwise fails to comply with Section 19 of this
21 act.

22 b. Within the 15 days of the date of actual receipt,
23 the person requests an administrative adjudicative hearing.

24 (3) To demonstrate that at the time of the violation
25 the motor vehicle was rented or leased, the owner of the motor
26 vehicle or its affiliate, within 30 days after the date of

1 issuance, shall furnish to the appropriate governmental entity
2 a certification setting forth the following information
3 supporting the affirmative defense provided in subdivision
4 (10) of subsection (j) of Section 6: The name, address, date
5 of birth, and, if known, the driver's license number of the
6 person who leased, rented, or otherwise had care, custody, or
7 control of the motor vehicle at the time of the alleged
8 violation. The certification is admissible in court and shall
9 create a rebuttable presumption that the person identified in
10 the certification rented or leased the motor vehicle.

11 Section 21. (a) Following an adjudicative hearing,
12 the municipal court judge shall issue an order stating:

13 (1) Whether the person charged with the civil
14 violation is liable for the violation; and, if so,

15 (2) The amount of the civil fine assessed against
16 the person, along with the fees and costs of court provided
17 for herein.

18 (b) The orders issued under this section may be
19 filed in the office of the Probate Judge of Jefferson County,
20 Alabama, and shall operate as a judicial lien in the same
21 manner and with the same weight and effect as any other civil
22 judgment filed therein.

23 (c) A person who is found liable after an
24 adjudicative hearing may appeal that finding of civil
25 liability to the Circuit Court of Jefferson County, Alabama,
26 by filing a notice of appeal with the clerk of the municipal

1 court. The notice of appeal must be filed not later than the
2 14th day after the date on which the municipal court judge
3 entered the finding of civil liability. The filing of a notice
4 of appeal shall stay the enforcement of the civil fine
5 penalty. An appeal shall be determined by the circuit court by
6 trial de novo.

7 Section 22. (a) The circuit court hearing an appeal
8 shall use the procedures that apply to criminal convictions in
9 municipal court with the following qualifications:

10 (1) The proceedings shall retain their civil nature
11 on appeal with the circuit court applying the preponderance of
12 the evidence standard.

13 (2) If the person is adjudicated by the circuit
14 court to be responsible for payment of the civil fine, circuit
15 court costs shall be owed by the person adjudicated
16 responsible, with 100 percent of those court costs retained by
17 the circuit court. Court costs in the circuit court shall be
18 calculated as are court costs for criminal appeals from the
19 municipal court, and in the event the circuit court finds the
20 person appealing to not be responsible, no municipal court
21 costs shall be owed to the city.

22 (3) Regardless of the civil nature of the
23 proceedings, the circuit court, in its discretion and for its
24 administrative convenience, may assign case numbers as for
25 criminal appeals and place the appeals on criminal dockets in
26 the same manner as criminal appeals from municipal court.

1 (4) The circuit court shall sit as trier of both
2 fact and law in the civil proceedings in the circuit court.

3 (5) The city shall be responsible for providing an
4 attorney to represent the city and to prosecute the civil
5 proceedings in the circuit court.

6 Section 23. In the event the evidence produced by a
7 photographic traffic signal enforcement system does not
8 produce an image of the license plate with sufficient clarity
9 for a trained technician to determine the identity of the
10 owner, and if the identity cannot otherwise be reliably
11 established, then no notice of violation may be issued
12 pursuant to this act. If, however, a notice of violation is
13 issued, to the degree constitutionally allowed, those issues
14 related to the identity of the vehicle or its owner shall
15 affect the weight to be accorded the evidence and shall not
16 affect its admissibility.

17 Section 24. The city may provide by ordinance that a
18 late fee not exceeding twenty-five dollars (\$25) shall attach
19 to untimely paid civil fines that are authorized in this act.
20 No person may be arrested or incarcerated for nonpayment of a
21 civil fine or late fee. No record of an adjudication of civil
22 violation made under this act shall be listed, entered, or
23 reported on any criminal record or driving record, whether the
24 record is maintained by the city or an outside agency. An
25 adjudication of civil violation provided for in this act shall
26 not be considered a conviction for any purpose, shall not be

1 used to increase or enhance punishment for any subsequent
2 offense of a criminal nature, shall not be considered a moving
3 violation, and shall not be used by any insurance company to
4 determine or affect premiums or rates unless an accident
5 occurred due to the violation. The fact that a person is held
6 liable or responsible for a civil fine for a speeding
7 violation shall not be used as evidence that the person was
8 guilty of negligence or other culpable conduct, and any
9 evidence generated by a photographic vehicle speed enforcement
10 system may only be used as evidence in other proceedings if it
11 is or becomes admissible under the rules of evidence
12 applicable therein.

13 Section 25. A city, shall adopt by ordinance the
14 procedures authorized by this act, and shall keep statistical
15 data regarding the effectiveness of photographic vehicle speed
16 enforcement systems in reducing speeding violations and
17 collisions and shall communicate the data on an annual basis
18 to the Alabama Department of Transportation and the Alabama
19 Criminal Justice Information Center.

20 Section 26. No civil penalty may be imposed and no
21 adjudication of liability for a civil violation may be made
22 under this act if the operator of the vehicle was arrested or
23 was issued a citation and notice to appear by a police officer
24 for a criminal violation of Title 32 of the Code of Alabama
25 1975, if such violation was captured by the system.

1 Section 27. Any person against whom an adjudication
2 of liability for a civil violation is made under this act, or
3 the ordinance passed pursuant hereto, and who actually pays
4 the civil fine imposed thereby shall have a cause of action
5 against any person who may be shown to have been operating,
6 renting, or leasing the vehicle recorded at the time of the
7 violation for the amount of the civil fine actually paid plus
8 any consequential or compensatory damages and a reasonable
9 attorney fee, without regard to the rules regarding joint and
10 several liability, contribution, or indemnity. Provided,
11 however, that as a condition precedent to the bringing of a
12 civil action, that the person held responsible for payment of
13 the civil fine must first make written demand on the other
14 person, renter, or lessor for reimbursement of the civil fine,
15 giving a minimum of 60 days to remit payment, and if
16 reimbursement is fully made within the 60-day period then the
17 cause of action shall be extinguished and no attorney fees or
18 other damages shall attach to the reimbursement. Any cause of
19 action brought pursuant to this section must be commenced
20 within two years from the date of the payment of the civil
21 fine for a violation.

22 Section 28. The provisions of this act are
23 severable. If any part of this act is declared invalid or
24 unconstitutional, that declaration shall not affect the part
25 which remains.

1 Section 29. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Local Legislation No. 2..... 19-APR-12

Read for the second time and placed on the calen-
dar..... 26-APR-12

Read for the third time and passed as amended 03-MAY-12

Yeas 25
Nays 1
Abstaining 7

Patrick Harris
Secretary