

1 SB545
2 140005-2
3 By Senator Waggoner (N & P)
4 RFD: Local Legislation No. 2
5 First Read: 19-APR-12

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4 With Notice and Proof

5
6 ENGROSSED

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8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

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

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

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Part I. Red Light Enforcement.

5 Each incorporated municipality in Jefferson County
6 may, by ordinance, adopt the 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 the
11 municipalities located in Jefferson County, 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
27 implement a program for automated photographic enforcement of

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

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

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

10 (1) CITY. Each incorporated municipality located in
11 Jefferson 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.

27 (4) COUNTY. Jefferson County in Alabama.

1 (5) MUNICIPAL COURT. The Municipal Court of any
2 municipality in Jefferson County that has an ordinance adopted
3 pursuant to this act.

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

22 (7) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM.
23 A camera system which is designed and installed to work in
24 conjunction with an electrically operated traffic-control
25 device using vehicle sensors synchronized to automatically
26 record, either by conventional film or digital imaging,
27 sequenced photographs or full motion video of the rear of a

1 motor vehicle while proceeding through a signalized
2 intersection.

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 instructions of the
7 traffic-control signal.

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

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

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

21 a. Is a professional engineer in the field of civil
22 engineering.

23 b. Has received instruction and training in the
24 proper use of the photographic traffic signal enforcement
25 system to be used by the city by the city's traffic engineer
26 or his or her designee.

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

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

1 keeping and transaction processing with respect to violation
2 notices issued under this act.

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

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

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

24 Section 5. (a) Prior to imposing a civil penalty
25 under this act, the city shall first mail a notice of
26 violation by first class U.S. mail to the owner of the motor
27 vehicle which is recorded by the photographic traffic signal

1 enforcement system while committing a traffic signal
2 violation. The notice shall be sent not later than the 30th
3 day after the date the traffic signal violation is recorded
4 initially to:

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

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

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

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

18 (1) Description of the violation alleged.

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

20 (3) A copy of recorded images of the vehicle
21 involved in the violation.

22 (4) The amount of the civil penalty to be imposed
23 for the violation.

24 (5) The date by which the civil penalty must be
25 paid.

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

4 (7) Information that informs the person named in the
5 notice of violation:

6 a. Of the right to contest the imposition of the
7 civil penalty in an administrative adjudication.

8 b. Of the manner and time in which to contest the
9 imposition of the civil penalty.

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

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

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

17 (10) Any other information deemed necessary by the
18 department or the city.

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

22 (d) The civil penalty imposed shall be paid within
23 30 days of the 10th day after the date the notice of violation
24 is mailed.

25 (e) It shall be within the discretion of the trained
26 technician to determine which of the recorded traffic signal
27 violations are prosecuted based upon the quality and

1 legibility of the recorded image. In lieu of issuing a notice
2 of violation, the city may mail a warning notice to the owner.

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

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

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

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

21 (e) If an adjudicative hearing is requested, the
22 city shall have the burden of proving the traffic signal
23 violation by a preponderance of the evidence. The reliability
24 of the photographic traffic signal enforcement system used to
25 produce the recorded image of the violation may be attested to
26 by affidavit of a trained technician. An affidavit of a
27 trained technician that alleges a violation based on an

1 inspection of the pertinent recorded image is admissible in a
2 proceeding under this act and is evidence of the facts
3 contained in the affidavit.

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

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

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

1 for a civil violation after an adjudicative hearing shall pay
2 the civil fine and costs within 10 days of the hearing.

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

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

10 (1) The traffic-control signal was not in proper
11 position and sufficiently visible to an ordinarily observant
12 person.

13 (2) The operator of the motor vehicle was acting in
14 compliance with the lawful order or direction of a police
15 officer.

16 (3) The operator of the motor vehicle violated the
17 instructions of the traffic-control signal so as to yield the
18 right-of-way to an immediately approaching authorized
19 emergency vehicle.

20 (4) The motor vehicle was being operated as an
21 authorized emergency vehicle under Sections 32-5A-7 and
22 32-5-213 of the Code of Alabama 1975, and that the operator
23 was acting in compliance with that chapter.

24 (5) The motor vehicle was stolen or being operated
25 by a person other than the owner of the vehicle without the
26 effective consent of the owner.

1 (6) The license plate depicted in the recorded image
2 of the violation was a stolen plate and being displayed on a
3 motor vehicle other than the motor vehicle for which the plate
4 had been issued.

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

9 (8) The person who received the notice of violation
10 was not the owner of the motor vehicle at the time of the
11 violation.

12 (9) There was no sign installed as required by this
13 act near the red light at which the violation allegedly
14 occurred warning that an automated red light camera device was
15 being used.

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

18 (k) (1) To demonstrate that at the time of the
19 violation the motor vehicle was a stolen vehicle or the
20 license plate displayed on the motor vehicle was stolen plate,
21 the owner must submit proof acceptable to the municipal court
22 judge that the theft of the vehicle or license plate, prior to
23 the time of the violation, had been timely reported to the
24 appropriate law enforcement agency.

25 (2) Notwithstanding anything in this act to the
26 contrary, a person who fails to pay the amount of a civil fine

1 or to contest liability in a timely manner is entitled to an
2 adjudicative hearing on the violation if:

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

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

10 (3) To demonstrate that at the time of the violation
11 the motor vehicle was rented or leased, the owner of the motor
12 vehicle or its affiliate, within 30 days after the date of
13 issuance, shall furnish to the appropriate governmental entity
14 a certification setting forth the following information
15 supporting the affirmative defense provided in subdivision
16 (10) of subsection (j) of Section 6: the name, address, date
17 of birth, and, if known, the driver's license number of the
18 person who leased, rented or otherwise had care, custody, or
19 control of the motor vehicle at the time of the alleged
20 violation. The certification is admissible in court and shall
21 create a rebuttable presumption that the person identified in
22 the certification rented or leased the motor vehicle.

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

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

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

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

9 (c) A person who is found liable after an
10 adjudicative hearing may appeal that finding of civil
11 liability to the Circuit Court of Jefferson County, Alabama,
12 by filing a notice of appeal with the clerk of the municipal
13 court. The notice of appeal must be filed not later than the
14 14th day after the date on which the municipal court judge
15 entered the finding of civil liability. The filing of a notice
16 of appeal shall stay the enforcement of the civil fine
17 penalty. An appeal shall be determined by the circuit court by
18 trial de novo.

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

22 (1) The proceedings shall retain their civil nature
23 on appeal with the circuit court applying the preponderance of
24 the evidence standard.

25 (2) If the person is adjudicated by the circuit
26 court to be responsible for payment of the civil fine, circuit
27 court costs shall be owed by the person adjudicated

1 responsible, with 100 percent of those court costs retained by
2 the circuit court. Court costs in the circuit court shall be
3 calculated as are court costs for criminal appeals from the
4 municipal court, and in the event the circuit court finds the
5 person appealing to not be responsible, no municipal court
6 costs shall be owed to the city.

7 (3) Regardless of the civil nature of the
8 proceedings, the circuit court, in its discretion and for its
9 administrative convenience, may assign case numbers as for
10 criminal appeals and place the appeals on criminal dockets in
11 the same manner as criminal appeals from municipal court.

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

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

17 Section 9. In the event the evidence produced by a
18 photographic traffic signal enforcement system does not
19 produce an image of the license plate with sufficient clarity
20 for a trained technician to determine the identity of the
21 owner, and if the identity cannot otherwise be reliably
22 established, then no notice of violation may be issued
23 pursuant to this act. If, however, a notice of violation is
24 issued, to the degree constitutionally allowed, those issues
25 related to the identity of the vehicle or its owner shall
26 affect the weight to be accorded the evidence and shall not
27 affect its admissibility.

1 Section 10. The city may provide by ordinance that a
2 late fee not exceeding twenty-five dollars (\$25) shall attach
3 to untimely paid civil fines that are authorized in this act.
4 No person may be arrested or incarcerated for nonpayment of a
5 civil fine or late fee. No record of an adjudication of civil
6 violation made under this act shall be listed, entered, or
7 reported on any criminal record or driving record, whether the
8 record is maintained by the city or an outside agency. An
9 adjudication of civil violation provided for in this act shall
10 not be considered a conviction for any purpose, shall not be
11 used to increase or enhance punishment for any subsequent
12 offense of a criminal nature, shall not be considered a moving
13 violation, and shall not be used by any insurance company to
14 determine or affect premiums or rates unless an accident
15 occurred due to the violation. The fact that a person is held
16 liable or responsible for a civil fine for a red light
17 violation shall not be used as evidence that the person was
18 guilty of negligence or other culpable conduct, and any
19 evidence generated by a photographic traffic signal
20 enforcement system may only be used as evidence in other
21 proceedings if it is or becomes admissible under the rules of
22 evidence applicable therein.

23 Section 11. A city, shall adopt by ordinance the
24 procedures authorized by this act, and shall keep statistical
25 data regarding the effectiveness of photographic traffic
26 signal enforcement systems in reducing traffic-control device
27 violations and intersectional collisions and shall communicate

1 the data on an annual basis to the Alabama Department of
2 Transportation and the Alabama Criminal Justice Information
3 Center.

4 Section 12. The placement of control devices and
5 timing of yellow lights and red light clearance intervals,
6 adopted by the city, shall conform to the most recent edition
7 of the Traffic Engineering Handbook. It shall be presumed that
8 the city is in compliance with this section unless the
9 contrary is shown by a preponderance of the evidence.

10 Section 13. No civil penalty may be imposed and no
11 adjudication of liability for a civil violation may be made
12 under this act if the operator of the vehicle was arrested or
13 was issued a citation and notice to appear by a police officer
14 for a criminal violation of any portion of Article II, Chapter
15 5A, Title 32 including, but not limited to, Sections 32-5A-31,
16 32-5A-34, and 32-5A-35 of the Code of Alabama 1975, or any
17 other municipal ordinance which embraces and incorporates the
18 statutes contained in that article, and which occurred
19 simultaneously with and under the same set of circumstances
20 which were recorded by the photographic traffic signal
21 enforcement system.

22 Section 14. Any person that is adjudicated liable
23 for a civil violation under this Act, or an ordinance passed
24 pursuant to this Act, and who pays the civil fine imposed as a
25 result of that adjudication, shall have a cause of action
26 against the person who was operating the vehicle at the time
27 of the violation for the amount of the civil fine paid plus

1 any consequential damages and a reasonable attorney fee,
2 without regard to the rules regarding joint and several
3 liability, contribution, or indemnity. As a condition
4 precedent to bringing a civil action, the person held
5 responsible for payment of the civil fine must first make
6 written demand on the operator, renter, or lessor of the
7 vehicle for reimbursement of the civil fine, within 60 days of
8 the demand. If reimbursement is fully made within the 60-day
9 period, the cause of action shall be extinguished and no
10 attorney fees or other damages shall attach to the
11 reimbursement. Any cause of action brought pursuant to this
12 section must be commenced within two years from the date of
13 the payment of the civil fine.

14 Section 15. Part II. Speeding Enforcement.

15 Each incorporated municipality in Jefferson County
16 may, by ordinance, adopt the procedures set out in this act.

17 Section 16. The Legislature finds and declares the
18 following:

19 (1) There has been a high incidence of drivers
20 disregarding speed limits on streets and at street
21 intersections.

22 (2) Exceeding the speed limit endangers vehicle
23 operators and pedestrians alike by decreasing the efficiency
24 of traffic control and homogeneous traffic flow and by
25 increasing the number of serious traffic crashes to which
26 public safety agencies must respond at the expense of the
27 taxpayers.

1 (3) A reduction in the number of drivers exceeding
2 speed limits through a program utilizing photographic evidence
3 and enforcement through the imposition of civil penalties will
4 help promote and protect the health, safety, and welfare of
5 the citizens of the municipalities of Jefferson County.

6 (4) Many jurisdictions have adopted laws that allow
7 use of automated photographic traffic enforcement, and the
8 Legislature finds that it should adopt legislation that would
9 implement a program for automated photographic enforcement of
10 speeding violations, which the Legislature finds is consistent
11 with this act.

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

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

19 (1) CITY. Each incorporated municipality located in
20 Jefferson County, Alabama.

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

25 (3) CIVIL VIOLATION. There is hereby created a
26 non-criminal category of state law called a civil violation
27 created and existing for the sole purpose of carrying out the

1 terms of this act. The penalty for violation of a civil
2 violation shall be the payment of a civil fine, the
3 enforceability of which shall be accomplished through civil
4 action. The prosecution of a civil violation created hereby
5 shall carry reduced evidentiary requirements and burden of
6 proof as set out in Section 6, and in no event shall an
7 adjudication of liability for a civil violation be punishable
8 by a criminal fine or imprisonment.

9 (4) COUNTY. Jefferson County in Alabama.

10 (5) MUNICIPAL COURT. The Municipal Court of any
11 municipality in Jefferson County that has an ordinance adopted
12 pursuant to this act.

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

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

3 a. The system has a mobile or fixed electronic speed
4 enforcement system, or both, which is certified and in
5 compliance with the Federal Communications Commission, if
6 applicable.

7 b. The system is capable of producing at least two
8 recorded images depicting the license plate attached to the
9 rear of a vehicle being operated at a speed in excess of the
10 speed limit.

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

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

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

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 vehicle speed 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 violation issued or amount of fines
7 collected.

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

18	Speed Over Speed Limit	Civil Penalty
19	5 through 10 mph	\$50
20	Greater than 10 mph	
21	through 15 mph	\$100
22	Greater than 15 mph	
23	through 20 mph	\$125
24	Greater than 20 mph	\$150

1 (b) Court costs collected by any city pursuant to
2 this act shall be distributed in the same manner as prescribed
3 by law for the distribution of municipal court costs for
4 misdemeanor violations. An additional fee of ten dollars (\$10)
5 shall be collected by the municipal court in connection with
6 notices issued under this act to be paid to the Alabama
7 Criminal Justice Information Center and deposited in the State
8 Treasury to the credit of the Criminal Justice Information
9 System Automation Fund as compensation for record keeping and
10 transaction processing with respect to violation notices
11 issued under this act.

12 (c) The civil penalty for "speed over speed limit"
13 as stated above shall double for violations of this act when
14 that violation occurs and was electronically recorded within a
15 segment of the roadway or intersection designated with signage
16 or signals as a school zone only during school hours when
17 school is in session and one hour before and after school
18 hours.

19 (d) Prior to operating a photographic vehicle speed
20 enforcement system, the city shall make a public announcement
21 and conduct a public awareness campaign of the use of a
22 photographic vehicle speed enforcement system a minimum of 30
23 days before using the devices.

24 (e) After the 30 day public awareness campaign has
25 been completed, the city may place photographic vehicle speed

1 enforcement systems at locations without public notice of the
2 specific location, and the city may change locations without
3 public notice.

4 Section 19. (a) Prior to imposing a civil penalty
5 under this act, the city shall first mail a notice of
6 violation by first class U.S. mail to the owner of the motor
7 vehicle which is recorded by the photographic enforcement
8 system while committing a violation. The notice shall be sent
9 not later than the 30th day after the date the speeding
10 violation is recorded to:

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

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

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

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

24 (1) Description of the violation alleged.

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

26 (3) A copy of recorded images of the vehicle
27 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 speeding
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 20. (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 judge enters a finding of no liability.

26 (e) If an adjudicative hearing is requested, the
27 city shall have the burden of proving the violation by a

1 preponderance of the evidence. The reliability of the
2 photographic enforcement system used to produce the recorded
3 image of the violation may be attested to by affidavit of a
4 trained technician. An affidavit of a trained technician that
5 alleges a violation based on an inspection of the pertinent
6 recorded image is admissible in a proceeding under this act
7 and is evidence of the facts contained in the affidavit.

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

18 (g) All other matters of evidence and procedure not
19 specifically addressed in this act shall be subject to the
20 rules of evidence and the rules of procedure as they apply in
21 the small claims courts of this state, except that on any
22 appeal to Jefferson County Circuit Court for trial de novo the
23 evidence and procedures shall be as for any civil case in the
24 circuit court except as otherwise provided in this act.

25 (h) A person who is found liable for the civil
26 violation after an adjudicative hearing or who requests an
27 adjudicative hearing and thereafter fails to appear at the

1 time and place of the hearing is liable for court costs and
2 fees set out herein in addition to the amount of the civil
3 fine assessed for the violation. A person who is found liable
4 for a civil violation after an adjudicative hearing shall pay
5 the civil fine and costs within 10 days of the hearing.

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

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

13 (1) The operator of the motor vehicle was acting in
14 compliance with the lawful order or direction of a police
15 officer.

16 (2) The operator of the vehicle violated the speed
17 limit so as to move out of the way of an immediately
18 approaching authorized emergency vehicle.

19 (3) The motor vehicle was being operated as an
20 authorized emergency vehicle under Sections 32-5A-7 and
21 32-5-213 of the Code of Alabama 1975, and that the operator
22 was acting in compliance with that chapter.

23 (4) The motor vehicle was stolen or being operated
24 by a person other than the owner of the vehicle without the
25 effective consent of the owner.

26 (5) The license plate depicted in the recorded image
27 of the violation was a stolen plate and being displayed on a

1 motor vehicle other than the motor vehicle for which the plate
2 had been issued.

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

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

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

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

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

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

26 (3) To demonstrate that at the time of the violation
27 the motor vehicle was rented or leased, the owner of the motor

1 vehicle or its affiliate, within 30 days after the date of
2 issuance, shall furnish to the appropriate governmental entity
3 a certification setting forth the following information
4 supporting the affirmative defense provided in subdivision
5 (10) of subsection (j) of Section 6: The name, address, date
6 of birth, and, if known, the driver's license number of the
7 person who leased, rented, or otherwise had care, custody, or
8 control of the motor vehicle at the time of the alleged
9 violation. The certification is admissible in court and shall
10 create a rebuttable presumption that the person identified in
11 the certification rented or leased the motor vehicle.

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

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

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

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

24 (c) A person who is found liable after an
25 adjudicative hearing may appeal that finding of civil
26 liability to the Circuit Court of Jefferson County, Alabama,
27 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
27 used to increase or enhance punishment for any subsequent

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

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

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

25 Section 27. Any person against whom an adjudication
26 of liability for a civil violation is made under this act, or
27 the ordinance passed pursuant hereto, and who actually pays

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

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

23 Section 29. This act shall become effective
24 immediately following its passage and approval by the
25 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 24
Nays 1
Abstaining 8

Patrick Harris
Secretary