

1 SB546
2 140007-2
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

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

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

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Part I. Red Light Enforcement.

6 The City of Vestavia Hills, may, by ordinance, adopt
7 the procedures set out in this act.

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

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

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

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

25 (4) Many jurisdictions have adopted laws that allow
26 use of automated photographic traffic enforcement, and the

1 Legislature finds that it should adopt legislation that would
2 implement a program for automated photographic enforcement of
3 traffic signal violations, which the Legislature finds is
4 consistent with this act.

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

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

13 (1) CITY. The City of Vestavia Hills in Jefferson
14 County, Alabama.

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

19 (3) CIVIL VIOLATION. There is hereby created a
20 non-criminal category of state law called a civil violation
21 created and existing for the sole purpose of carrying out the
22 terms of this act. The penalty for violation of a civil
23 violation shall be the payment of a civil fine, the
24 enforceability of which shall be accomplished through civil
25 action. The prosecution of a civil violation created hereby
26 shall carry reduced evidentiary requirements and burden of

1 proof as set out in Section 6, and in no event shall an
2 adjudication of liability for a civil violation be punishable
3 by a criminal fine or imprisonment.

4 (4) COUNTY. Jefferson County in Alabama.

5 (5) MUNICIPAL COURT. The Vestavia Hills Municipal
6 Court.

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

25 (7) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM.

26 A camera system which is designed and installed to work in

1 conjunction with an electrically operated traffic-control
2 device using vehicle sensors synchronized to automatically
3 record, either by conventional film or digital imaging,
4 sequenced photographs or full motion video of the rear of a
5 motor vehicle while proceeding through a signalized
6 intersection.

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

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

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

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

25 a. Is a professional engineer in the field of civil
26 engineering.

1 b. Has received instruction and training in the
2 proper use of the photographic traffic signal enforcement
3 system to be used by the city by the city's traffic engineer
4 or his or her designee.

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

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

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

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

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

23 (d) The city shall post signs warning of the use of
24 automated enforcement cameras. Each sign must be in compliance
25 with all federal Manual Uniforms Traffic Control Devices

1 (MUTCD) standards, including but not limited to the MUTCD
2 standards for size, location, and visibility.

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

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.

1 (3) A copy of recorded images of the vehicle
2 involved in the violation.

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

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

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

10 (7) Information that informs the person named in the
11 notice of violation:

12 a. Of the right to contest the imposition of the
13 civil penalty in an administrative adjudication.

14 b. Of the manner and time in which to contest the
15 imposition of the civil penalty.

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

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

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

23 (10) Any other information deemed necessary by the
24 department or the city.

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

4 (d) The civil penalty imposed shall be paid within
5 30 days of the 10th day after the date the notice of violation
6 is mailed.

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

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

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

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

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

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

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

24 (g) All other matters of evidence and procedure not
25 specifically addressed in this act shall be subject to the
26 rules of evidence and the rules of procedure as they apply in

1 the small claims courts of this state, except that on any
2 appeal to Jefferson County Circuit Court for trial de novo the
3 evidence and procedures shall be as for any civil case in the
4 circuit court except as otherwise provided in this act.

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

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

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

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

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

1 (3) The operator of the motor vehicle violated the
2 instructions of the traffic-control signal so as to yield the
3 right-of-way to an immediately approaching authorized
4 emergency vehicle.

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

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

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

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

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

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

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

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

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

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

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 of the motor vehicle.

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

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

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

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

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

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

1 of appeal shall stay the enforcement of the civil fine
2 penalty. An appeal shall be determined by the circuit court by
3 trial de novo.

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

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

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

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

24 (4) The circuit court shall sit as trier of both
25 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 Section 15. Part II. Speeding Enforcement.

5 The City of Vestavia Hills may, by ordinance, adopt
6 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 Vestavia Hills.

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 Vestavia Hills 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.

1 (4) COUNTY. Jefferson County in Alabama.

2 (5) MUNICIPAL COURT. The Vestavia Hills Municipal
3 Court.

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. When a motor vehicle registered by
8 the company is rented or leased to another person under a
9 rental or lease agreement with the company, and a
10 certification is provided to the appropriate governmental
11 entity in accordance with subdivision (2) of subsection (k) of
12 Section 20, the term "owner" shall mean the person to whom the
13 vehicle is rented or leased; nor shall the term include motor
14 vehicles displaying dealer license plates, in which event
15 "owner" shall mean the person to whom the vehicle is assigned
16 for use; nor shall the term include the owner of any stolen
17 motor vehicle, in which event "owner" shall mean the person
18 who is guilty of stealing the motor vehicle.

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

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

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

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

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

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

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

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

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

25 Section 18. (a) The city is authorized to adopt an
26 ordinance to utilize an automated photographic vehicle speed

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

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

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

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

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

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

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

20 Section 19. (a) Prior to imposing a civil penalty
21 under this act, the city shall first mail a notice of
22 violation by first class U.S. mail to the owner of the motor
23 vehicle which is recorded by the photographic enforcement
24 system while committing a violation. The notice shall be sent
25 not later than the 30th day after the date the speeding
26 violation is recorded initially to:

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

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

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

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

14 (1) Description of the violation alleged.

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

16 (3) A copy of recorded images of the vehicle
17 involved in the violation.

18 (4) The amount of the civil penalty to be imposed
19 for the violation.

20 (5) The date by which the civil penalty must be
21 paid.

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

25 (7) Information that informs the person named in the
26 notice of violation:

1 a. Of the right to contest the imposition of the
2 civil penalty in an administrative adjudication.

3 b. Of the manner and time in which to contest the
4 imposition of the civil penalty.

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

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

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

12 (10) Any other information deemed necessary by the
13 department or the city.

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

17 (d) The civil penalty imposed shall be paid within
18 30 days of the 10th day after the date the notice of violation
19 is mailed.

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

25 Section 20. (a) The municipal court is vested with
26 the power and jurisdiction to hear and adjudicate the civil

1 violations provided for in this act, and to issue orders
2 imposing the civil fines and costs set out in this act.

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

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

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

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

25 (f) The notice of violation, the recorded and
26 reproduced images of the violation, regardless of the media on

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

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

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

24 (i) Whenever payment of a civil fine is owed to the
25 city, the amount of the civil fine as set by ordinance may not

1 be increased, decreased, or remitted by the municipal court,
2 and the liability may be satisfied only by payment.

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

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

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

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

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

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

23 (6) The person who received the notice of violation
24 was not the owner of the motor vehicle at the time of the
25 violation.

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

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

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

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

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

21 (3) To demonstrate that at the time of the violation
22 the motor vehicle was rented or leased, the owner of the motor
23 vehicle or its affiliate, within 30 days after the date of
24 issuance, shall furnish to the appropriate governmental entity
25 a certification setting forth the following information
26 supporting the affirmative defense provided in subdivision

1 (10) of subsection (j) of Section 6: The name, address, date
2 of birth, and, if known, the driver's license number of the
3 person who leased, rented, or otherwise had care, custody, or
4 control of the motor vehicle at the time of the alleged
5 violation. The certification is admissible in court and shall
6 create a rebuttable presumption that the person identified in
7 the certification rented or leased the motor vehicle.

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

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

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

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

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

1 of appeal shall stay the enforcement of the civil fine
2 penalty. An appeal shall be determined by the circuit court by
3 trial de novo.

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

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

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

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

24 (4) The circuit court shall sit as trier of both
25 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 23. 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 24. 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 speeding
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 vehicle speed enforcement
8 system may only be used as evidence in other proceedings if it
9 is or becomes admissible under the rules of evidence
10 applicable therein.

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

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

24 Section 27. Any person against whom an adjudication
25 of liability for a civil violation is made under this act, or
26 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, renter, 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