

- 1 ZGVQKR-1
- 2 By Representatives Givan, Treadaway (N & P)
- 3 RFD: Public Safety and Homeland Security
- 4 First Read: 07-Mar-23

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5	A BILL
6	TO BE ENTITLED
7	AN ACT
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9	Relating to Jefferson County; to prohibit certain forms
10	of street racing and exhibition driving; to authorize the
11	county commission to assess civil penalties for violations; to
12	authorize the towing and impoundment of a motor vehicle for a
13	violation; to provide for the administration and enforcement
14	procedures; and to provide adjudicative and appellate
15	procedures.
16	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
17	Section 1. (a) This act shall only apply to Jefferson
18	County.
19	(b) As used in this act, the following terms have the
20	following meanings:
21	(1) COUNTY COMMISSION. The Jefferson County Commission.
22	(2) MOTOR VEHICLE BURNOUT. The practice of
23	intentionally keeping a motor vehicle stationary by using the
24	brake pedal or parking brake of the vehicle, while
25	simultaneously engaging the gas pedal to allow one set of
26	wheels to spin. The practice may result in the vehicle tires
27	being heated to a sufficient degree so as to cause smoke to
28	appear.



(3) MOTOR VEHICLE DONUT. The intentional and unnecessary operation of a motor vehicle in a manner that causes the vehicle to move in a zigzag or circular course or to gyrate or spin around. The term does not include maneuvering the otherwise lawfully operated vehicle when necessary to avoid collision, injury, or damage.

35 (4) MOTOR VEHICLE SPEED CONTEST. The operation of two 36 or more vehicles at accelerated speeds from a starting point 37 to an ending point in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a 38 39 common selected course from a starting point to an ending point for the purpose of comparing the relative speeds or 40 power of acceleration of such vehicle or vehicles within a 41 42 certain distance or time limit. The term includes drag racing.

43 (5) MOTOR VEHICLE EXHIBITION OF SPEED. The operation of
44 one or more vehicles from a starting point to an ending point,
45 or over a common selected course, for the purpose of
46 exhibiting the speed or power of the vehicle.

47 (6) MOTOR VEHICLE SIDESHOW. An event in which one or
48 more persons perform motor vehicle stunts, including burnouts,
49 donuts, motor vehicle speed contests, motor vehicle
50 exhibitions of speed, or reckless driving, for spectators.

51 (7) OFF STREET PARKING FACILITY. Any public or private 52 lot, building, or space used for the parking of motor 53 vehicles, regardless of whether charges are made for the use 54 thereof.

55 (8) TRAFFIC ENFORCEMENT OFFICER. Any parking
56 enforcement officer or traffic enforcement officer, as



57 designated by the Jefferson County Commission or a 58 municipality within Jefferson County, who is not required to be certified by the Alabama Peace Officers' Standards and 59 60 Training Commission; and any law enforcement officer. 61 Section 2. A person may not engage in, or aid or abet the furtherance of, any of the following on a public road or 62 63 highway, off street parking facility, or any other parcel of 64 public or private property, without the consent of the owner 65 of that property: (1) A motor vehicle speed contest. 66 67 (2) A motor vehicle exhibition of speed. (3) A motor vehicle sideshow. 68 69 (4) A motor vehicle burnout, motor vehicle donut, or 70 other reckless driving maneuver. 71 Section 3. (a) Where an automated photographic or video 72 traffic enforcement system is authorized to be used by 73 existing law, the traffic enforcement system may be used to 74 assist in the detection and recording of violations of this 75 act. A traffic enforcement officer may issue notices of civil 76 violations by mail and prosecute civil violations for the 77 recorded or observed violations which occur within the county 78 limits.

(b) In addition, the county commission, by resolution, may provide for a civil penalty to be assessed upon an adjudication of a violation of this act.

82 Section 4. (a) A traffic enforcement officer who 83 observes a violation of this act, or who obtains proof of a 84 violation through the use of an automated photographic or



85 video traffic enforcement system, may cause a motor vehicle 86 operated in violation of this section to be towed and 87 impounded at the registered owner's expense as follows: 88 (1) On a first violation, for a period of 10 days. 89 (2) On a second violation, for a period of 20 days. 90 (3) On a third or subsequent violation, for a period of 91 30 days. 92 (b) The traffic enforcement officer making the 93 impoundment shall direct an approved towing service to tow the vehicle to the garage of the towing service, storage lot, or 94 95 other place of safety and maintain custody and control of the

vehicle for the required amount of time. Thereafter, the

towing and storage fees for the services of the towing

registered owner or authorized agent of the registered owner

may claim the vehicle by paying all reasonable and customary

company. The vehicle shall then be released to the registered

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owner or an agent of the owner. 102 (c) Any towing service or towing company removing the 103 vehicle at the direction of a traffic enforcement officer in accordance with this act shall have a lien on the motor 104 105 vehicle for all reasonable and customary fees relating to the 106 towing and storage of the motor vehicle. This lien shall be 107 subject and subordinate to all prior security interests and 108 other liens affecting the vehicle whether evidenced on the 109 certificate of title or otherwise. Notice of any sale or other proceedings relative to this lien shall be given to the 110 holders of all prior security interests or other liens by 111 112 official service of process at least 15 days prior to any sale

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113 or other proceedings.

(d) Subject to the requirements of this act, the provisions of Chapter 13 of Title 32, Code of Alabama 1975, relating to the impoundment and sale of abandoned motor vehicles, shall apply to any person in possession of a motor vehicle impounded pursuant to this section.

(e) Notwithstanding anything in this section to the contrary, a person who is adjudicated to have not committed a violation of this section shall not be required to pay any reasonable and customary towing and storage fees for the services of the towing company.

Section 5. (a) The district court is vested with the power and jurisdiction to hear and adjudicate the civil violations provided for in this act, and to issue orders imposing any civil penalty authorized by the county commission, and to order the towing and impoundment of a motor vehicle in violation of this act.

130 (b) A person who receives a notice of violation may 131 contest the imposition of the civil penalty or the towing and 132 impoundment of the motor vehicle by submitting a request for a 133 hearing on the adjudication of the civil violation, in 134 writing, within 15 days of the 10th day after the date the 135 notice of violation is mailed. Upon receipt of a timely 136 request, the county commission shall notify the person of the 137 date and time of the adjudicative hearing.

138 (c) Failure to pay a civil penalty or to contest139 liability as provided in the notice of violation.

140 (d) The civil penalty and court costs shall not be



141 assessed if, after a hearing, the court enters a finding of no 142 liability. In addition, the person shall not be required to 143 pay any costs or fees or the towing or impoundment of the 144 motor vehicle.

145 (e) If an adjudicative hearing is requested, the county 146 commission shall have the burden of proving the violation by a 147 preponderance of the evidence. The reliability of a 148 photographic traffic signal enforcement system used to produce 149 the recorded image of the violation may be attested to by affidavit of a trained technician. An affidavit of a trained 150 151 technician that alleges a violation based on an inspection of 152 the pertinent recorded image is admissible in a proceeding 153 under this act and is evidence of the facts contained in the affidavit. 154

155 (f) The notice of violation, the recorded and 156 reproduced images of the traffic signal violation, regardless 157 of the media on which they are recorded, accompanied by a 158 certification of authenticity of a trained technician, and 159 evidence of ownership of a vehicle as shown by copies or summaries of official records shall be admissible into 160 161 evidence without foundation unless the court finds there is an 162 indication of untrustworthiness, in which case the county 163 commission shall be given a reasonable opportunity to lay an 164 evidentiary foundation.

(g) All other matters of evidence and procedure not specifically addressed in this part shall be subject to the rules of evidence and the rules of procedure as they apply in the small claims courts of this state, except that on any

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appeal to the circuit court for trial de novo the evidence and procedures shall be as for any civil case in the circuit court except as otherwise provided in this act.

172 (h) A person who is found liable for the civil 173 violation after an adjudicative hearing or who requests an 174 adjudicative hearing and thereafter fails to appear at the 175 time and place of the hearing is liable for court costs and 176 fees set out herein in addition to the amount of the civil 177 penalty assessed for the violation. A person who is found liable for a civil violation after an adjudicative hearing 178 179 shall pay any civil penalty and court costs assessed by the 180 court within 10 days of the hearing.

(i) Whenever payment of a civil penalty is owed to the county commission, the amount of the civil penalty as set by resolution may not be increased, decreased, or remitted by the court, and the liability may be satisfied only by payment.

185 Section 6. (a) It shall be an affirmative defense to 186 the imposition of civil liability under this act, to be proven 187 by a preponderance of the evidence, that:

188 (1) The motor vehicle was stolen or being operated by a
189 person other than the owner of the vehicle without the
190 effective consent of the owner.

191 (2) The license plate depicted in the recorded image of 192 the violation was a stolen plate and being displayed on a 193 motor vehicle other than the motor vehicle for which the plate 194 had been issued.

195 (3) The person who received the notice of violation was196 not the owner of the motor vehicle at the time of the



197 violation.

(b) To demonstrate that at the time of the violation the motor vehicle was a stolen vehicle or the license plate displayed on the motor vehicle was a stolen plate, the owner must submit proof acceptable to the hearing officer that the theft of the vehicle or license plate, prior to the time of the violation, had been timely reported to the appropriate law enforcement agency.

205 Section 7. Notwithstanding anything in this act to the 206 contrary, a person who fails to pay the amount of a civil 207 penalty or to contest liability in a timely manner is entitled 208 to an adjudicative hearing on the violation if:

(1) The person files an affidavit with the hearing officer stating the date on which the person received the notice of violation that was mailed to the person, if not received by the 10th day after same is mailed.

(2) Within 15 days of the date of actual receipt, theperson requests an administrative adjudicative hearing.

215 Section 8. (a) Following an adjudicative hearing, the 216 court shall issue an order stating:

(1) Whether the person charged with the civil violationis liable for the violation; and

(2) If so, the amount of the civil penalty assessed against the person, along with any other fees and costs of court.

(b) The orders issued under this section may be filed in the office of the Judge of Probate of Jefferson County, and shall operate as a judicial lien in the same manner and with



225 the same weight and effect as any other civil judgment filed 226 therein.

227 (c) A person who is found liable after an adjudicative 228 hearing may appeal that finding of civil liability to the 229 circuit court, by filing a notice of appeal with the clerk of 230 the municipal court. The notice of appeal must be filed not 231 later than the 14th day after the date on which the municipal 232 court judge entered the finding of civil liability. The filing 233 of a notice of appeal shall stay the enforcement of the civil penalty. An appeal shall be determined by the circuit court by 234 235 trial de novo.

236 Section 9. The circuit court hearing an appeal shall 237 use the procedures that apply to criminal proceedings with the 238 following qualifications:

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

242 (2) If the person is adjudicated by the circuit court 243 to be responsible for payment of a civil penalty, circuit 244 court costs shall be owed by the person adjudicated 245 responsible, with 100 percent of those court costs retained by 246 the circuit court. Court costs in the circuit court shall be 247 calculated as are court costs for criminal appeals from the 248 municipal court, and in the event the circuit court finds the 249 person appealing to not be responsible, no court costs shall 250 be owed to the county commission.

(3) Regardless of the civil nature of the proceedings,the circuit court, in its discretion and for its

administrative convenience, may assign case numbers as for criminal appeals and place the appeals on criminal dockets (4) The circuit court shall sit as trier of both fact and law in the civil proceedings in the circuit court.

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

260 Section 10. In the event the evidence produced by a 261 photographic traffic signal enforcement system does not 262 produce an image of the license plate with sufficient clarity 263 for a traffic enforcement officer to determine the identity of the owner, and if the identity cannot otherwise be reliably 264 265 established, then no notice of violation may be issued 266 pursuant to this act. If, however, a notice of violation is 267 issued, to the degree constitutionally allowed, those issues related to the identity of the vehicle or its owner shall 268 269 affect the weight to be accorded the evidence and shall not 270 affect its admissibility.

271 Section 11. This act shall become effective on the 272 first day of the third month following its passage and 273 approval by the Governor, or its otherwise becoming law.