

HB107 INTRODUCED



1 ZGVQKR-1
2 By Representatives Givan, Treadaway (N & P)
3 RFD: Public Safety and Homeland Security
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A BILL
TO BE ENTITLED
AN ACT

Relating to Jefferson County; to prohibit certain forms of street racing and exhibition driving; to authorize the county commission to assess civil penalties for violations; to authorize the towing and impoundment of a motor vehicle for a violation; to provide for the administration and enforcement procedures; and to provide adjudicative and appellate procedures.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This act shall only apply to Jefferson County.

(b) As used in this act, the following terms have the following meanings:

(1) COUNTY COMMISSION. The Jefferson County Commission.

(2) MOTOR VEHICLE BURNOUT. The practice of intentionally keeping a motor vehicle stationary by using the brake pedal or parking brake of the vehicle, while simultaneously engaging the gas pedal to allow one set of wheels to spin. The practice may result in the vehicle tires being heated to a sufficient degree so as to cause smoke to appear.



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29 (3) MOTOR VEHICLE DONUT. The intentional and
30 unnecessary operation of a motor vehicle in a manner that
31 causes the vehicle to move in a zigzag or circular course or
32 to gyrate or spin around. The term does not include
33 maneuvering the otherwise lawfully operated vehicle when
34 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
38 each other, or the operation of one or more vehicles over a
39 common selected course from a starting point to an ending
40 point for the purpose of comparing the relative speeds or
41 power of acceleration of such vehicle or vehicles within a
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



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57 designated by the Jefferson County Commission or a
58 municipality within Jefferson County, who is not required to
59 be certified by the Alabama Peace Officers' Standards and
60 Training Commission; and any law enforcement officer.

61 Section 2. A person may not engage in, or aid or abet
62 the furtherance of, any of the following on a public road or
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:

66 (1) A motor vehicle speed contest.

67 (2) A motor vehicle exhibition of speed.

68 (3) A motor vehicle sideshow.

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.

79 (b) In addition, the county commission, by resolution,
80 may provide for a civil penalty to be assessed upon an
81 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



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197 violation.

198 (b) To demonstrate that at the time of the violation
199 the motor vehicle was a stolen vehicle or the license plate
200 displayed on the motor vehicle was a stolen plate, the owner
201 must submit proof acceptable to the hearing officer that the
202 theft of the vehicle or license plate, prior to the time of
203 the violation, had been timely reported to the appropriate law
204 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:

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

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

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

217 (1) Whether the person charged with the civil violation
218 is liable for the violation; and

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

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



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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
234 penalty. An appeal shall be determined by the circuit court by
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:

239 (1) The proceedings shall retain their civil nature on
240 appeal with the circuit court applying the preponderance of
241 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.

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



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253 administrative convenience, may assign case numbers as for
254 criminal appeals and place the appeals on criminal dockets

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

257 (5) The county commission shall be responsible for
258 providing an attorney to represent the county commission and
259 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
264 the owner, and if the identity cannot otherwise be reliably
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
268 related to the identity of the vehicle or its owner shall
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.