

1 HB548
2 135903-1
3 By Representative Bracy (N & P)
4 RFD: Mobile County Legislation
5 First Read: 15-MAR-12

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the City of Prichard in Mobile County;
14 authorizing automated traffic light enforcement in the city as
15 a civil violation; providing certain procedures to be followed
16 by the city using automated photographic traffic light
17 enforcement; providing that the owner of the vehicle involved
18 in running a traffic light is presumptively liable for a civil
19 violation and the payment of a civil fine, but providing
20 procedures to contest liability; providing for jurisdiction in
21 the Prichard Municipal Court over the civil violations and
22 allowing appeals to the Mobile County Circuit Court for trial
23 de novo; creating a cause of action for any person held
24 responsible for payment of the civil fine against the person
25 who was actually operating a vehicle during the running of a
26 traffic light; and prohibiting the tampering with a

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

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. (a) This act shall be known and may be
5 cited as the "Prichard Red Light Safety Act."

6 (b) The City of Prichard, by ordinance, may 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 the City
12 of Prichard.

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 sworn magistrate.

25 (4) Many jurisdictions, including the City of
26 Prichard, have adopted laws that allow use of automated
27 photographic traffic enforcement, and the Legislature finds

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

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

10 Section 3. As used in this act, the following terms
11 shall have the following meanings:

12 (1) CITY. The City of Prichard, Alabama.

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

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

1 (4) COUNTY. Mobile County in Alabama.

2 (5) MUNICIPAL COURT. The Municipal Court of the City
3 of Prichard.

4 (6) OWNER. The owner of a motor vehicle as shown on
5 the motor vehicle registration records of the Department of
6 Revenue or the analogous department or agency of another state
7 or country. The term shall not include a motor vehicle rental
8 or leasing company when a motor vehicle registered by the
9 company is rented or leased to another person under a rental
10 or lease agreement with the company, in which event "owner"
11 shall mean the person to whom the vehicle is rented or leased;
12 nor shall the term include motor vehicles displaying dealer
13 license plates, in which event "owner" shall mean the person
14 to whom the vehicle is assigned for use; nor shall the term
15 include the owner of any stolen motor vehicle, in which event
16 "owner" shall mean the person who is guilty of stealing the
17 motor vehicle.

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

26 The device shall be capable of producing at least
27 two recorded images, at least one of which is capable of

1 clearly depicting the license plate of a motor vehicle that is
2 not operated in compliance with the instructions of the
3 traffic-control signal.

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

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

15 (10) TRAINED TECHNICIAN. A sworn law enforcement
16 officer employed by the city who alternatively:

17 a. Is a professional engineer in the field of civil
18 engineering.

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

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

1 Section 4. (a) The city is authorized to utilize an
2 automated photographic traffic signal enforcement system to
3 detect and record traffic signal violations, to issue notices
4 of civil violations by mail, and to prosecute civil violations
5 for the recorded traffic signal violations which may occur
6 within the corporate limits of the city as provided in this
7 act. A civil fine assessed under this act shall not exceed one
8 hundred dollars (\$100), and municipal court costs shall be
9 assessed in the same manner and in the same amounts prescribed
10 for a municipal criminal traffic-control device violation
11 prosecuted as a misdemeanor under Sections 32-5A-31, 32-5A-32,
12 32-5A-35, Code of Alabama 1975, or any combination thereof.
13 Court costs collected pursuant to this act shall be
14 distributed in the same manner as prescribed by law for the
15 distribution of municipal court costs for misdemeanor
16 violations. An additional fee of ten dollars (\$10) shall be
17 collected by the municipal court in connection with notices
18 issued under this act to be paid to the Alabama Criminal
19 Justice Information Center and deposited in the State Treasury
20 to the credit of the Criminal Justice Information System
21 Automation Fund as compensation for record keeping and
22 transaction processing with respect to violations notices
23 issued under this act.

24 (b) The city shall cause a sign to be posted at each
25 of a minimum of 10 roadway entry points to the city to provide
26 motorists with notice that photographic traffic signal
27 enforcement systems are in use. The sign will comply with this

1 requirement if it states substantially the following:

2 "AUTOMATED CAMERAS USED IN RED LIGHT ENFORCEMENT," or if it
3 otherwise gives sufficient notice.

4 (c) Prior to operating a photographic traffic signal
5 enforcement system, the city shall make a public announcement
6 and conduct a public awareness campaign of the use of a
7 photographic traffic signal enforcement system a minimum of 30
8 days before using the devices. The city may place photographic
9 traffic signal enforcement systems at locations without public
10 notice of the specific location, may change locations without
11 public notice, and may install and move as needed decoy
12 devices designed to resemble photographic traffic signal
13 enforcement systems.

14 (d) The city shall post signs warning of the use of
15 an automated red light photographic device within 60 yards of
16 every intersection at which such a device shall be used. Each
17 sign shall be placed at least 10 feet from the edge of the
18 road or street and shall have reflective light material. The
19 reflective signs shall be placed not lower than six feet and
20 not higher than eight feet.

21 Section 5. (a) Prior to imposing a civil penalty
22 under this act, the city shall first mail a notice of
23 violation by first class U.S. mail to the owner of the motor
24 vehicle which is recorded by the photographic traffic signal
25 enforcement system while committing a traffic signal
26 violation. The notice shall be sent not later than the 30th

1 day after the date the traffic signal violation is recorded
2 to:

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

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

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

11 (1) Description of the violation alleged.

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

13 (3) A copy of recorded images of the vehicle
14 involved in the violation.

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

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

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

22 (7) Information that informs the person named in the
23 notice of violation:

24 a. Of the right to contest the imposition of the
25 civil penalty in an administrative adjudication.

26 b. Of the manner and time in which to contest the
27 imposition of the civil penalty.

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

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

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

8 (10) Any other information deemed necessary by the
9 department or the city.

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

13 (d) The civil penalty imposed shall be paid within
14 30 days of the 10th day after the date the notice of violation
15 is mailed.

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

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

25 (b) A person who receives a notice of violation may
26 contest the imposition of the civil fine by submitting a
27 request for a hearing on the adjudication of the civil

1 violation, in writing, within 15 days of the 10th day after
2 the date the notice of violation is mailed. Upon receipt of a
3 timely request, the city shall notify the person of the date
4 and time of the adjudicative hearing by U.S. mail, return
5 receipt requested.

6 (c) Failure to pay a civil penalty or to contest
7 liability in a timely manner is an admission of liability in
8 the full amount of the civil fine assessed in the notice of
9 violation.

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

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

22 (f) The notice of violation, the recorded and
23 reproduced images of the traffic signal violation, regardless
24 of the media on which they are recorded, accompanied by a
25 certification of authenticity of a trained technician, and
26 evidence of ownership of a vehicle as shown by copies or
27 summaries of official records shall be admissible into

1 evidence without foundation unless the municipal court finds
2 there is an indication of untrustworthiness, in which case the
3 city shall be given a reasonable opportunity to lay an
4 evidentiary foundation.

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

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

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

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

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

4 (2) The operator of the motor vehicle was acting in
5 compliance with the lawful order or direction of a police
6 officer.

7 (3) The operator of the motor vehicle violated the
8 instructions of the traffic-control signal so as to yield the
9 right-of-way to an immediately approaching authorized
10 emergency vehicle.

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

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

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

22 (7) The presence of ice, snow, unusual amounts of
23 rain, or other unusually hazardous road conditions existed
24 that would make compliance with this act more dangerous under
25 the circumstances than noncompliance.

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

4 (9) There was no sign installed as required by this
5 act near the red light at which the violation allegedly
6 occurred warning that an automated red light camera device was
7 being used.

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

15 (1) 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 (1) The person files an affidavit with the hearing
20 officer stating the date on which the person received the
21 notice of violation that was mailed to the person, if not
22 received by the 10th day after same is mailed as set out in
23 subsection (a) of Section 5.

24 (2) Within the 15 days of the date of actual
25 receipt, the person requests an administrative adjudicative
26 hearing.

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

3 Whether the person charged with the civil violation
4 is liable for the violation; and, if so, the amount of the
5 civil fine assessed against the person, along with the fees
6 and costs of court provided for herein.

7 (b) The orders issued under this section may be
8 filed in the office of the Judge of Probate of Mobile County
9 and shall operate as a judicial lien in the same manner and
10 with the same weight and effect as any other civil judgment
11 filed therein.

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

22 Section 8. The circuit court hearing an appeal shall
23 use the procedures that apply to criminal convictions in
24 municipal court with the following qualifications:

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

1 (2) If the person is adjudicated by the circuit
2 court to be responsible for payment of the civil fine, circuit
3 court costs shall be owed by the person adjudicated
4 responsible, with 100 percent of those court costs retained by
5 the circuit court. Court costs in the circuit court shall be
6 calculated as are court costs for criminal appeals from the
7 municipal court, and in the event the circuit court finds the
8 person appealing to not be responsible, no municipal court
9 costs shall be owed to the city.

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

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

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

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

1 related to the identity of the vehicle or its owner shall
2 affect the weight to be accorded the evidence and shall not
3 affect its admissibility.

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

26 Section 11. The city shall adopt the procedures
27 authorized by this act and shall keep statistical data

1 regarding the effectiveness of photographic traffic signal
2 enforcement systems in reducing traffic-control device
3 violations and intersectional collisions and shall communicate
4 the data on an annual basis to the Department of
5 Transportation and the Alabama Criminal Justice Information
6 Center.

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

13 Section 13. No civil penalty may be imposed and no
14 adjudication of liability for a civil violation may be made
15 under this act if the operator of the vehicle was arrested or
16 was issued a citation and notice to appear by a sworn police
17 officer for a criminal violation of any portion of Article 2,
18 Chapter 5A, Title 32, including, but not limited to, Sections
19 32-5A-31, 32-5A-34, and 32-5A-35 of the Code of Alabama 1975,
20 or any other municipal ordinance which embraces and
21 incorporates the statutes contained in that article, and which
22 occurred simultaneously with and under the same set of
23 circumstances which were recorded by the photographic traffic
24 signal enforcement system.

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

19 Section 15. 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 16. This act shall become effective
24 immediately following its passage and approval by the
25 Governor, or its otherwise becoming law.