

1 HB579
2 138774-2
3 By Representatives Greer and Williams (D)
4 RFD: Commerce and Small Business
5 First Read: 20-MAR-12

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8 SYNOPSIS: Under existing law, the State Fire Marshal
9 is required to charge certain fees for performing
10 certain tasks and issuing certain licenses and
11 permits.

12 This bill would provide further for permits;
13 fees; the use of pyrotechnic devices before a
14 proximate audience; permissible use of fireworks;
15 sale of fireworks; authorization for retail sales
16 of permissible items of fireworks; authority of the
17 State Fire Marshal to seize and destroy illegal
18 fireworks, and the validity of city ordinances.

19 This bill would provide for the governing
20 body of any municipality to authorize law
21 enforcement to issue a summons when any municipal
22 ordinance prohibits the sale or use of aerial
23 devices and audible devices pursuant to law.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

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2 To amend Sections 8-17-210, 8-17-211, 8-17-216,
3 8-17-216.1, 8-17-217, 8-17-218, 8-17-219, 8-17-220, 8-17-222,
4 8-17-225, 8-17-226, and 11-45-9.1, of the Code of Alabama
5 1975, relating to the State Fire Marshal; to provide further
6 for permits; to increase fees; to provide further for the use
7 of pyrotechnic devices before a proximate audience; to provide
8 further for the permissible use of fireworks; to provide
9 further for the sale of fireworks; to provide further for the
10 authorization for retail sales of permissible items of
11 fireworks; to provide further for the authority of the State
12 Fire Marshal to seize and destroy illegal fireworks; to
13 provide further for definitions; and to provide further for
14 the effect on the validity of city ordinances; and to amend
15 Section 11-45-9.1 of the Code of Alabama 1975, relating to
16 issuance of summons; to allow when a municipal ordinance
17 prohibits the sale or use of aerial devices and audible
18 devices pursuant to law.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 8-17-210, 8-17-211, 8-17-216,
21 8-17-216.1, 8-17-217, 8-17-218, 8-17-219, 8-17-220, 8-17-222,
22 8-17-225, 8-17-226, and 11-45-9.1 of the Code of Alabama 1975,
23 are amended to read as follows:

24 "§8-17-210.

25 "As used in this article, the following terms shall
26 have the meanings ascribed to them in this section, unless
27 clearly indicated otherwise:

1 "(1) AERIAL DEVICES. Any type of DOT Class C,
2 Consumer Firework listed in the APA 87-1, Section 3.1.2 and
3 3.5.

4 "(2) ANNUAL RETAILER. Any person engaged in the
5 business of making sales of fireworks to consumers within the
6 State of Alabama throughout the entire calendar year from
7 January 1 through December 31.

8 "(3) APA 87-1. The 2001 American Pyrotechnic
9 Standard for Construction and Approval for Transportation of
10 Fireworks, Novelties, and Theatrical Pyrotechnics.

11 "(4) AUDIBLE GROUND DEVICES. Any type of DOT Class C
12 Consumer Firework listed in APA 87-1, Section 3.1.3.

13 "~~(1)~~(5) DISTRIBUTOR. Any person engaged in the
14 business of making sales of fireworks for resale to all
15 holders of the required Alabama permits who in turn shall
16 resell to any permit holder; or any person who receives,
17 brings, or imports any fireworks of any kind into the State of
18 Alabama, except to a holder of an Alabama manufacturer's or
19 distributor's permit.

20 "~~(2)~~(6) D.O.T. CLASS C ~~COMMON~~ Consumer FIREWORKS.
21 All articles of fireworks as are now or hereafter classified
22 as D.O.T. Class C ~~common~~ 1.4G Consumer fireworks in the
23 regulations of the U.S. Department of Transportation for the
24 transportation of explosive and other dangerous articles
25 including aerial devices, audible devices, and non-aerial
26 devices.

1 "(7) INSURANCE. Any current commercial general
2 liability and product liability insurance, including
3 contractual liability insurance, with minimum primary policy
4 limits of not less than two million dollars (\$2,000,000)
5 insuring against personal injury, bodily injury, and property
6 damage. All insurers shall be admitted carriers in the United
7 States, and licensed to do business in each state in which it
8 operates. All insurance shall be A.M. Best rating of at least
9 an A-VIII.

10 ~~"(3)"~~(8) MANUFACTURER. Any person engaged in the
11 making, manufacture, or construction of fireworks of any kind
12 within the State of Alabama.

13 "(9) NFPA 1123. The National Fire Protection
14 Association, Code for Fireworks Display, as adopted by the
15 State Fire Marshal.

16 "(10) NFPA 1124. The National Protection
17 Association, Code for the Manufacture, Transportation,
18 Storage, and Retail Sales of Fireworks and Pyrotechnic
19 Articles, 2006 Edition, or later edition adopted by the State
20 Fire Marshal.

21 "(11) NON-AERIAL DEVICES. Any type of DOT Class C
22 Consumer Firework that is a ground-based or handheld sparkling
23 device, including items listed in APA 87-1, Sections 3.1.1,
24 and 3.5.

25 "(12) NOVELTIES. Any device listed in APA 87-1,
26 Section 3.2, including, without limitation, the following:

27 "a. Party poppers.

1 "b. Snappers.

2 "c. Toy smoke devices.

3 "d. Snake, glow worms.

4 "e. Wire sparklers, dipped sticks.

5 ~~"(4)(13)~~ PERMIT. The written authority of the State
6 Fire Marshal issued under the authority of this article.

7 ~~"(5)(14)~~ PERSON. Includes any corporation,
8 association, copartnership or one or more individuals.

9 ~~"(6) RETAILER. Any person engaged in the business of~~
10 ~~making sales of fireworks to consumers within the State of~~
11 ~~Alabama during a calendar year from January 1 through December~~
12 ~~31.~~

13 ~~"(7)(15)~~ SALE. An exchange of articles or fireworks
14 for money, including barter, exchange, gift, or offer thereof,
15 and each such transaction made by any person, whether as
16 principal proprietor, salesman, agent, association,
17 copartnership, or one or more individuals.

18 ~~"(8)(16)~~ FIREWORKS SEASONS. The dates of June 20
19 through July 10 and December 15 through January 2 of each year
20 shall be the only periods when seasonal retailers may sell
21 fireworks.

22 ~~"(9)(17)~~ SEASONAL RETAILER. Any person engaged in
23 the business of making sales of fireworks to consumers within
24 the State of Alabama during the fireworks season(s) only, from
25 permanent buildings or temporary or moveable stands.

26 ~~"(10)(18)~~ SPECIAL FIREWORKS. All articles of
27 fireworks that are classified as Class B explosives, 1.3G

1 display fireworks, in the regulations of the U.S. Department
2 of Transportation, including all articles classified as
3 fireworks other than those classified as Class C Consumer
4 Fireworks.

5 "(19) THEATRICAL FIREWORKS. All theatrical
6 pyrotechnics that are approved as UN0431, Articles Pyrotechnic
7 and are commonly referred to as professional 1.4G Indoor
8 Pyrotechnics.

9 "~~(11)~~(20) WHOLESALER. Any person engaged in the
10 business of making sales of fireworks to any other person
11 engaged in the business of making sales at seasonal retail.

12 "§8-17-211.

13 "(a) It shall be unlawful for any person to
14 manufacture, sell, offer for sale, or ship or cause to be
15 shipped into or within the State of Alabama, except as herein
16 provided, any item of fireworks or pyrotechnics for use before
17 a proximate audience, without first having secured the
18 required applicable permit, as a manufacturer, distributor,
19 wholesaler, annual retailer, or seasonal retailer, from the
20 State Fire Marshal. Possession of a permit is a condition
21 prerequisite to manufacturing, selling, or offering for sale,
22 or shipping or causing to be shipped any fireworks or
23 pyrotechnics for use before a proximate audience into or
24 within the State of Alabama, except as herein provided. This
25 provision applies to nonresidents as well as residents of the
26 State of Alabama. Mail orders where consumers purchase any
27 fireworks or pyrotechnics for use before a proximate audience

1 through the mail or receive any fireworks or pyrotechnics for
2 use before a proximate audience in Alabama by mail, parcel
3 service, or other carrier are prohibited. A sales clerk must
4 be on duty to serve consumers at the time of purchase or
5 delivery. All fireworks or pyrotechnics for use before a
6 proximate audience sold and delivered to consumers within the
7 State of Alabama must take place within the State of Alabama
8 and be sold and delivered only by an individual, firm,
9 partnership, or corporation holding the proper Alabama permit
10 and all fireworks or pyrotechnics for use before a proximate
11 audience coming into the state, manufactured, sold, or stored
12 within the state shall be under the supervision of the State
13 Fire Marshal as provided for in this article.

14 "(b) Prior to engaging in the manufacture or sale
15 within the State of Alabama, or shipment into the State of
16 Alabama, of any fireworks or pyrotechnics for use before a
17 proximate audience, each person making shipment or delivery or
18 receiving any fireworks or pyrotechnics for use before a
19 proximate audience into or within the State of Alabama, must
20 make application on forms secured from the State Fire Marshal
21 for a permit or permits required under this article for each
22 location at which fireworks or pyrotechnics for use before a
23 proximate audience are to be offered for sale.

24 "(c) A manufacturer's permit issued under this
25 article shall be subject to rules and regulations promulgated
26 by the State Fire Marshal to govern the manufacture of
27 fireworks or pyrotechnics for use before a proximate audience

1 as in the judgment of the State Fire Marshal the public
2 welfare may require.

3 "(d) The decision of the State Fire Marshal as to
4 what type of permit or permits shall be required of each
5 person shall be final. The State Fire Marshal may deny a
6 permit to an applicant or revoke a permit if the State Fire
7 Marshal has knowledge or reason to believe the safety
8 standards and conditions of this article are not or cannot be
9 met by the applicant. No permit shall be issued to a person
10 under the age of 18 years. All permits shall be for the
11 calendar year or any fraction thereof and shall expire on
12 December 31 of each year, two days of grace shall be allowed
13 holders of permits after expiration thereof. Only one seasonal
14 retailer permit shall be required for a full calendar year and
15 it shall be valid for both fireworks seasons, provided that
16 the building is not moved from the location where it was
17 originally permitted and no substantial structural or
18 environmental changes have occurred. A seasonal retailer
19 permit may be issued after July tenth for the remaining
20 fireworks season of that calendar year. All permits issued
21 must be displayed in their place of business. No permit
22 provided for herein shall be transferable nor shall a person
23 be permitted to operate under a permit issued to any other
24 person or under a permit issued for another location, unless
25 transfer shall have been approved by the State Fire Marshal.
26 The holder of an annual retailer permit shall not be required
27 to obtain a seasonal retailer permit.

1 "(e) The State Fire Marshal shall charge and collect
2 for permits ~~issued as follows:~~ and shall retain the permit
3 fees be paid to the State Fire Marshal's Fund. The proceeds
4 shall be used to enforce the provisions of this law.

5 "(f) The permits shall be issued as follows:

6 "(1) Manufacturer, two thousand dollars (\$2,000).

7 "(2) Distributor, two thousand dollars (\$2,000).

8 "(3) Wholesaler, seven hundred dollars (\$700).

9 "(4) Annual Retailer, ~~two hundred dollars (\$200).~~:

10 "a. Annual retailer of aerial devices, non-aerial
11 devices, and novelties, two hundred fifty dollars (\$250) per
12 location.

13 "b. Annual retailer of non-aerial devices and
14 novelties, one hundred dollars (\$100) per location.

15 "c. Annual retailer of novelties, fifty dollars
16 (\$50) per location.

17 "(5) Seasonal Retailer, ~~two hundred dollars (\$200).~~:

18 "a. Seasonal retailer of aerial devices, non-aerial
19 devices, and novelties, two hundred dollars (\$200).

20 "b. Seasonal retailer of non-aerial devices and
21 novelties, fifty dollars (\$50) per location.

22 "c. Seasonal retailer of novelties, twenty-five
23 dollars (\$25) per location.

24 "d. All seasonal retailer permits obtained after
25 July 10 of any calendar year shall be half of the permit fee
26 listed herein.

1 "~~(6)~~ ~~Seasonal Retailer after July 10, one hundred~~
2 dollars ~~(\$100)~~."

3 "~~(7)~~ (6) Display permit for proximate audiences of
4 special or theatrical fireworks, fifty dollars (\$50).

5 "(7) Shooter's permit, required for the display of
6 special or theatrical fireworks, one hundred dollars (\$100). A
7 shooter's permit shall be valid for a two-year period from the
8 date of issuance."

9 "~~(f)~~ (g) Only holders of ~~a~~ an annual retailer or
10 seasonal retailer permit may engage in the retail sale of
11 ~~permitted items as defined in Section 8-17-217~~ aerial devices,
12 non-aerial devices, and novelties, in any quantity, to
13 consumers.

14 "~~(g)~~ (h) A holder of a manufacturer's permit is not
15 required to have any additional permit or permits in order to
16 sell to distributors, wholesalers, retailers, or seasonal
17 retailers.

18 "~~(h)~~ (i) A record of all sales by manufacturers,
19 distributors, or wholesalers must be kept showing the names
20 and addresses of purchasers. All fees collected for the
21 permits shall be paid into the Fire Marshal Revolving Fund for
22 the enforcement of this article. The State Fire Marshal may
23 designate a deputy fire marshal as the "fireworks enforcement
24 officer" who shall have the responsibility of directing
25 enforcement of the state fireworks laws.

26 "~~(i)~~ (j) The State Fire Marshal is charged with the
27 enforcement of this article and may call upon any state or

1 county or city peace officer for assistance in the enforcement
2 of this article. The fire marshal is not authorized to
3 promulgate rules or regulations in conflict with or that go
4 beyond the scope or intent of this article.

5 "§8-17-216.

6 "(a) Nothing in this article shall be construed as
7 applying to the shipping, sale, possession, and use of special
8 fireworks for public displays by holders of a permit for a
9 public display to be conducted in accordance with the rules
10 and regulations governing this type of fireworks by the
11 Alcohol, Tobacco, and Firearms Division of the United States
12 Treasury Department, and their requirements met and any permit
13 or license required by them secured before application for a
14 state display permit is made.

15 "(b) The State Fire Marshal shall have the sole and
16 exclusive authority to issue permits for Special Fireworks or
17 Professional 1.4G Pyrotechnics and may establish a training
18 program which holders of such permit shall successfully
19 complete to receive a permit.

20 "~~(b)~~ (c) Application for a state permit for public
21 display of special fireworks ~~must be made~~ shall:

22 "(1) Be made in writing to the State Fire Marshal at
23 least 10 days before the display date.

24 "(2) Include proof of training as a professional
25 operator for special fireworks or professional 1.4G indoor
26 pyrotechnics satisfactory to the State Fire Marshal's Office.

1 "(3) Include proof of insurance of at least two
2 million dollars (\$2,000,000) for the special fireworks
3 operator with additional insureds for the property where the
4 display is to occur, the city, the county, the group or entity
5 sponsoring the display, and other additional insureds may be
6 required per the State Fire Marshal's Office.

7 "The State Fire Marshal may accept an application
8 for a state permit for public display of special fireworks
9 less than 10 days before the display date if accompanied by a
10 fee of double the amount otherwise required. The application
11 shall show that the proposed display is to be so located and
12 supervised that it shall not be hazardous to property and that
13 it shall not endanger human lives. If the display is to be
14 performed within the limits of a municipality, the application
15 shall so state and shall bear the signed approval of the chief
16 supervisory officials of the fire and police departments of
17 such municipality. Permits issued shall be limited to the time
18 specified therein and shall not be transferable.

19 "(d) All special fireworks and 1.4G indoor
20 pyrotechnics shall be stored, handled, and used in accordance
21 with NFPA 1123.

22 "~~(c)~~(e) Possession and sale of special fireworks
23 shall be limited to a holder of a federal license issued for
24 display fireworks. Possession of special fireworks for resale
25 to holders of a permit for public display shall be confined to
26 holders of a distributor's permit only. Provided, however, a
27 distributor's permit shall not be required where the special

1 fireworks are for public display to be performed solely for
2 The Alabama June Jam, Inc.; and provided further that the
3 application for the state permit for public display shall show
4 that the proposed display is to be performed solely for The
5 Alabama June Jam, Inc.

6 ~~"(d) (f)~~ Nothing in this article shall apply to Class
7 C firework displays.

8 "§8-17-216.1.

9 "(a) The use of pyrotechnics before a proximate
10 audience shall comply with the requirements set out in the
11 latest edition of the National Fire Protection Association's
12 Standard for the Use of Pyrotechnics Before a Proximate
13 Audience (NFPA 1126) as shall be adopted by the State Fire
14 Marshal. For purposes of this article, the term "proximate
15 audience" shall mean an indoor audience closer to pyrotechnic
16 devices than permitted by the ~~National Fire Protection~~
17 ~~Association's Code for Fireworks Display (NFPA 1123)~~ NFPA
18 1123.

19 "(b) No person shall use pyrotechnics before a
20 proximate audience without first obtaining a permit therefor
21 from the State Fire Marshal. An application for a permit for
22 the use of pyrotechnics at an event with a proximate audience
23 shall be filed with the State Fire Marshal not less than 10
24 days prior to the planned date of the event. The State Fire
25 Marshal may accept an application for a permit under this
26 section less than 10 days before the planned date of the event

1 if accompanied by a fee of double the amount otherwise
2 required.

3 "(c) The request for a permit under subsection (b)
4 shall be in the form and manner prescribed by the State Fire
5 Marshal. The permit shall be in addition to any locally
6 required permit or approval.

7 "(d) A fee of one hundred dollars (\$100) per event
8 shall be submitted with each application.

9 "(e) Where more than one event is to take place at
10 the same location during the same calendar date, a separate
11 application shall be filed for each event. The application fee
12 for the second and subsequent events on the same calendar date
13 shall be fifty dollars (\$50) per event.

14 "(f) The State Fire Marshal may prescribe such other
15 and additional requirements associated with the use of
16 pyrotechnics before a proximate audience as are deemed
17 necessary for the safety of property and persons present at
18 the proximate event location.

19 "(g) All pyrotechnics found at an event with a
20 proximate audience which does not have a permit shall be
21 confiscated and destroyed by the State Fire Marshal or his or
22 her designee.

23 "(h) All fees collected pursuant to this section
24 shall be paid into the Fire Marshal Revolving Fund for the
25 enforcement of this article.

26 "§8-17-217.

1 "(a) It shall be unlawful for an individual, firm,
2 partnership, or corporation to possess, sell, or use within
3 the State of Alabama, or ship into the State of Alabama,
4 except as provided in Section 8-17-216, any pyrotechnics
5 commonly known as "fireworks" other than items now or
6 hereafter classified as Class C ~~common~~ consumer fireworks by
7 the United States Department of Transportation including
8 aerial devices, audible devices, and non-aerial devices and/or
9 those items that comply with the construction, chemical
10 composition, and labeling regulations promulgated by the
11 United States Consumer Product Safety Commission and permitted
12 for use by the general public under their regulations.

13 "(b) Permitted items designed to produce an audible
14 effect are confined to small ground items which include
15 firecrackers containing not over 50 milligrams of explosive
16 composition and aerial devices containing not over 130
17 milligrams of explosive composition. Propelling or expelling
18 charge consisting of a mixture of charcoal, sulfur and
19 potassium nitrate are not considered as designed to produce an
20 audible effect.

21 "(c) Items permitted and for which a permit is
22 required shall include related items not classified by the
23 United States Department of Transportation as ~~common~~ consumer
24 fireworks, but identified under their regulations as trick
25 noisemakers, toy novelties, toy smoke devices and sparklers
26 and shall include toy snakes, snappers, auto burglar alarms,
27 smoke balls, smoke novelty items, and wire sparklers

1 containing not over 100 grams of composition per item.
2 Sparklers containing any chlorate or perchlorate salts may not
3 exceed five grams of composition per item.

4 "§8-17-218.

5 "All items of fireworks which exceed the two grain
6 limit of D.O.T. Class C ~~common~~ Consumer fireworks as to
7 explosive composition, such items being commonly referred to
8 as "illegal ground salutes" designed to produce an audible
9 effect, are expressly prohibited from shipment into,
10 manufacture, possession, sale, and use within the State of
11 Alabama for any purpose. This subsection shall not affect
12 display fireworks authorized by this article~~7~~.

13 "§8-17-219.

14 "No permissible article of fireworks or related
15 items defined in Section 8-17-217 shall be sold, offered for
16 sale or possessed within the state or used within the state,
17 except as provided in Section 8-17-216 unless it shall be
18 properly named to conform to the nomenclature of Section
19 8-17-217. Items must be identified on the shipping cases and
20 by imprinting on the article or retail sales container or unit
21 "D.O.T. Class C ~~Common~~ Consumer Fireworks" or other
22 appropriate classification or identification as may be
23 applicable or required by any federal agency having
24 jurisdiction over fireworks on related items; such imprint to
25 be of sufficient size and so positioned as to be readily
26 recognized by law enforcement authorities and the general
27 public.

1 "§8-17-220.

2 "Permissible items of fireworks, defined in Section
3 8-17-217, may be sold at retail to residents of the State of
4 Alabama. The term "fireworks" shall not include toy paper
5 pistol caps which contain less than twenty-five hundredths
6 grains of explosive compounds, model rockets, emergency signal
7 flares, matches, ~~cone, bottle, tube, and other type serpentine~~
8 ~~pop-off novelties,~~ trick matches and cigarette loads, the sale
9 and use of which shall be permitted at all times without a
10 special fireworks permit.

11 "§8-17-222.

12 "It shall be unlawful to offer for sale or to sell
13 any fireworks to children under the age of 16 years unless
14 accompanied by an adult or to any intoxicated or irresponsible
15 person. Any person purchasing fireworks shall be required to
16 show a valid driver's license or state approved identification
17 card. It shall be unlawful to explode or ignite fireworks
18 within ~~600~~ 300 feet of any church, hospital, asylum, public
19 school, or any enclosed building, ~~or within 200 feet of where~~
20 ~~fireworks are stored, sold, or offered for sale~~ except as
21 provided for in this section. Any display of pyrotechnics at a
22 school or on school grounds shall be licensed as a public
23 display by the State Fire Marshal pursuant to Section
24 8-17-216. No person shall ignite or discharge any permissible
25 articles of fireworks within or throw the same from a motor
26 vehicle while within nor shall any person place or throw any

1 ignited article of fireworks into or at such a motor vehicle,
2 or at or near any person or group of people.

3 "§8-17-225.

4 "The State Fire Marshal shall seize as contraband
5 any fireworks other than the permitted "Class C ~~Common~~
6 Consumer Fireworks" and related items defined in Section
7 8-17-217 or "special fireworks" for public displays as
8 provided in Section 8-17-216, which are sold, displayed, used
9 or possessed in violation of this article. The fire marshal is
10 authorized to destroy any illegal fireworks so seized.

11 "§8-17-226.

12 "This article shall in no wise affect the validity
13 of any city ordinance further restricting the sale or use of
14 fireworks aerial devices and audible devices, including the
15 authority to cite violations in accordance with Section
16 11-45-9.1; provided, however, no city or county ordinance
17 shall conflict with the provisions related in this amendatory
18 act to the transportation, storage, retail, sale, possession,
19 or use of non-aerial devices or novelties.

20 "§11-45-9.1.

21 "(a) By ordinance, the governing body of any
22 municipality may authorize any law enforcement officer of a
23 municipality or any law enforcement officer of the state, in
24 lieu of placing persons under custodial arrest, to issue a
25 summons and complaint to any person charged with violating any
26 municipal littering ordinance; municipal ordinance which
27 prohibits animals from running at large, which shall include

1 leash laws and rabies control laws; any municipal ordinance
2 which prohibits the sale or use of aerial devices and audible
3 devices prescribed in Section 8-17-10 et seq. or any Class C
4 misdemeanor or violation not involving violence, threat of
5 violence, or alcohol or drugs.

6 "(b) Such summons and complaint shall be on a form
7 approved by the governing body of the municipality and shall
8 contain the name of the court; the name of the defendant; a
9 description of the offense, including the municipal ordinance
10 number; the date and time of the offense; the place of the
11 offense; signature of the officer issuing the citation; the
12 scheduled court date and time; an explanation to the person
13 cited of the ways in which he may settle his case; and a
14 signature block for the magistrate to sign upon the officer's
15 oath and affirmation given prior to trial.

16 "(c) Whenever any person is arrested for a violation
17 of any of the enumerated offenses, the arresting officer shall
18 take the name and address of such person and any other
19 identifying information and issue a summons and complaint to
20 the person charged. Such officer shall release the person from
21 custody upon his written promise to appear in court at the
22 designated time and place as evidenced by his signature on the
23 summons and complaint, without any condition relating to the
24 deposit of security.

25 "(d) If any person refuses to give a written
26 recognizance to appear by placing his signature on the summons
27 and complaint, the officer shall take that person into custody

1 and bring him before any officer or official who is authorized
2 to approve bond.

3 "(e) Before implementation of the summons and
4 complaint procedure, the governing body shall adopt a schedule
5 of fines for first, second, and subsequent offenders of the
6 alleged violation of such ordinances, which shall be posted in
7 a place conspicuous to the public within the court clerk's
8 office and the police department.

9 "(f) (1) When a person is charged with one of the
10 enumerated ordinance violations, he may elect to appear before
11 the municipal court magistrate, or where the municipal court
12 has been abolished, the district court magistrate, within the
13 time specified in the summons and complaint, and upon entering
14 a plea of guilty, pay the fine and court costs. A plea of
15 guilty shall only be accepted by the magistrate after the
16 defendant has executed a notice and waiver of rights form.

17 "(2) In the alternative, the defendant shall have
18 the option of depositing the required bail, and upon a plea of
19 not guilty, shall be entitled to a trial as authorized by law.

20 "(g) The court clerk or magistrate shall receive and
21 issue receipts for cash bail from persons who wish to be heard
22 in court; enter the time of their appearance on the court
23 docket; and notify the arresting officer and witnesses, if
24 any, to be present.

25 "(h) If the defendant fails to appear as specified
26 in the summons and complaint, the judge or magistrate having
27 jurisdiction of the offense may issue a warrant for his arrest

1 commanding that he be brought before the court to answer the
2 charge contained on the summons and complaint. In addition,
3 any person who willfully violates his written promise or bond
4 to appear, given in accordance with this section, shall be
5 guilty of the separate offense of failing to appear, a
6 misdemeanor, regardless of the disposition of the charge upon
7 which he was originally arrested.

8 "(i) All fines and forfeitures collected upon a
9 conviction or upon the forfeiture of bail of any person
10 charged with a violation of such ordinances, shall be remitted
11 to the general fund of the municipality; provided, however,
12 fines, forfeitures, and court costs assessed and collected in
13 district court shall be distributed as now provided by law."

14 Section 2. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.