

1 HB442  
2 126839-1  
3 By Representative Coleman (N & P)  
4 RFD: Jefferson County Legislation  
5 First Read: 05-APR-11

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

1 the tampering with a photographic traffic signal enforcement  
2 system, except by 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 "Midfield Red Light Safety Act."

6 (b) The City of Midfield, Alabama, may, by ordinance  
7 adopt 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 Midfield,  
12 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 sworn magistrate.

25 (4) Many jurisdictions, including the City of  
26 Midfield, 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 Midfield, 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. Jefferson County in Alabama.

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

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. The term shall not include a motor  
8 vehicle rental or leasing company when a motor vehicle  
9 registered by the company is rented or leased to another  
10 person under a rental or lease agreement with the company, in  
11 which event "owner" shall mean the person to whom the vehicle  
12 is rented or leased; nor shall the term include motor vehicles  
13 displaying dealer license plates, in which event "owner" shall  
14 mean the person to whom the vehicle is assigned for use; nor  
15 shall the term include the owner of any stolen motor vehicle,  
16 in which event "owner" shall mean the person who is guilty of  
17 stealing the 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, or any combination thereof. Court costs collected  
13          pursuant to this act shall be distributed in the same manner  
14          as prescribed by law for the distribution of municipal court  
15          costs for misdemeanor violations. An additional fee of ten  
16          dollars (\$10) shall be collected by the municipal court in  
17          connection with notices issued under this act to be paid to  
18          the Alabama Criminal Justice Information Center and deposited  
19          in the State Treasury to the credit of the Criminal Justice  
20          Information System Automation Fund as compensation for record  
21          keeping and transaction processing with respect to violations  
22          notices issued under this act.

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

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

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

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

20 Section 5. (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 traffic signal  
24 enforcement system while committing a traffic signal  
25 violation. The notice shall be sent not later than the 30th  
26 day after the date the traffic signal violation is recorded  
27 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           (b) A notice of violation issued under this act  
9 shall contain the following:

10           (1) Description of the violation alleged.

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

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

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

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

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

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

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

25           b. Of the manner and time in which to contest the  
26 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 Jefferson 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 by  
16 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 non compliance.

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 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 10 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 receipt,  
25 the person requests an administrative adjudicative hearing.

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

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

3           (2) The amount of the civil fine assessed against  
4 the person, along with the fees and costs of court provided  
5 for herein.

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

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

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

24           (1) The proceedings shall retain their civil nature  
25 on appeal with the circuit court applying the preponderance of  
26 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 Alabama 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 II,  
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.