

1 SB356  
2 126075-1  
3 By Senator Brewbaker (N & P)  
4 RFD: Local Legislation No. 1  
5 First Read: 06-APR-11

2  
3  
4  
5  
6  
7  
8  
9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
12

13 Relating to the City of Montgomery, Alabama, in  
14 Montgomery County, further regulating the enforcement of  
15 traffic laws; authorizing automated speeding enforcement in  
16 the City of Montgomery, Alabama, as a civil violation;  
17 authorizing the city to adopt a municipal ordinance consistent  
18 with this act; providing certain procedures to be followed by  
19 the city using automated photographic speeding enforcement;  
20 providing that the owner of the vehicle involved is  
21 presumptively liable for a civil violation and the payment of  
22 a civil fine, but providing procedures to contest liability;  
23 providing for jurisdiction in the Montgomery Municipal Court  
24 over the civil violations and allowing appeals to the  
25 Montgomery County Circuit Court for trial de novo; creating a  
26 cause of action for any person held responsible for payment of  
27 the civil fine against the person who was actually operating a

1 vehicle while speeding; prohibiting the tampering with  
2 automated speeding enforcement devices or equipment systems,  
3 except by authorized persons; and amending Sections 5 and 6 of  
4 Act 2009-740 (Acts 2009, p. 2208), the Montgomery Red Light  
5 Safety Act, relating to mailing notices of violations and  
6 hearings.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. (a) This act shall be known and may be  
9 cited as the "Montgomery Speed Limit Safety Act."

10 (b) The City of Montgomery, Alabama, may, by  
11 municipal ordinance adopt the procedures set out in this act.

12 Section 2. The Legislature finds and declares the  
13 following:

14 (1) Accident data establishes that speeding vehicles  
15 have been and are a dangerous problem in Montgomery, Alabama.

16 (2) Studies have found that automated speeding  
17 enforcement in a municipal area is a highly accurate method  
18 for detecting speeding violations and is very effective in  
19 reducing the number of speeding violations and decreasing the  
20 number of traffic accidents, deaths, and injuries.

21 (3) Current Alabama law provides that speeding is a  
22 criminal misdemeanor. Under Alabama law, one who commits such  
23 a misdemeanor is subject to prosecution only if the  
24 misdemeanor was witnessed by either a duly empowered police  
25 officer or other witness who makes a verified complaint to a  
26 sworn magistrate.

1           (4) Many jurisdictions that have adopted laws that  
2 allow the use of automated speeding enforcement have  
3 experienced a significant reduction in the instances of  
4 speeding, and the Legislature finds that it should adopt  
5 legislation that would authorize the City of Montgomery to  
6 implement a program for automated speeding enforcement of  
7 speeding violations.

8           (5) By allowing a program for the use of automated  
9 traffic cameras in speeding enforcement by the City of  
10 Montgomery, the Legislature hopes to decrease the rate of  
11 speeding violations.

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

14           (1) AUTOMATED PHOTOGRAPHIC SPEEDING ENFORCEMENT  
15 SYSTEM. A camera system which is designed and installed to  
16 work in conjunction with an electrically operated speed  
17 detection device synchronized to automatically record digital  
18 imaging of a motor vehicle while speeding.

19           The device shall be capable of producing at least  
20 two recorded images, at least one of which is capable of  
21 clearly depicting the license plate of a motor vehicle that is  
22 speeding.

23           (2) CITY. The City of Montgomery, Alabama.

24           (3) CIVIL FINE. The monetary amount assessed by the  
25 City of Montgomery pursuant to this act for an adjudication of  
26 civil liability for a speeding violation, including municipal  
27 court costs associated with the infraction.

1           (4) CIVIL VIOLATION. There is created a non-criminal  
2 category of law called a civil violation created and existing  
3 for the sole purpose of carrying out the terms of this act.  
4 The penalty for violation of a civil violation shall be the  
5 payment of a civil fine, the enforceability of which shall be  
6 accomplished through civil action. The prosecution of a civil  
7 violation created hereby shall carry reduced evidentiary  
8 requirements and burden of proof as set out in Section 6, and  
9 in no event shall an adjudication of liability for a civil  
10 violation be punishable by a criminal fine or imprisonment.

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

25           (6) SPEEDING VIOLATION. Any violation of a motor  
26 vehicle at a speed that exceeds the legal maximum speed limits  
27 presented in or adopted pursuant to Article 8, Chapter 5A,

1 Title 32, Sections 32-5A-170 to 32-5A-178, inclusive, Code of  
2 Alabama 1975; provided, however, that speed limits set by  
3 action of the Montgomery City Council as found in the City  
4 Code of the City of Montgomery, Article IX, Section 27-561  
5 shall supersede the limits set in Article 8, Chapter 5A, Title  
6 32, Sections 32-5A-170 to 32-5A-178, inclusive, Code of  
7 Alabama 1975. A speeding violation shall be a civil violation  
8 as defined in this act.

9 (7) TRAINED TECHNICIAN. A sworn law enforcement  
10 officer employed by the City of Montgomery, who alternatively:

11 a. Is a professional engineer in the field of civil  
12 engineering.

13 b. Has received instruction and training in the  
14 proper use of the automated photographic speeding enforcement  
15 system to be used by the city's traffic engineer or his or her  
16 designee.

17 c. Has been trained by the vendor installing the  
18 equipment.

19 Section 4. (a) The City of Montgomery is empowered  
20 to utilize an automated photographic speeding enforcement  
21 system to detect and record speeding violations, to issue  
22 notices of civil violations by mail, and to prosecute civil  
23 violations for the recorded speeding violations which may  
24 occur within certain areas within the corporate limits of the  
25 City of Montgomery as provided in this act. A civil fine  
26 assessed under this act shall not exceed one hundred dollars  
27 (\$100), and municipal court costs may be assessed in the same

1 manner and in the same amounts prescribed for municipal  
2 criminal speeding violations prosecuted as a misdemeanor. An  
3 additional fee of ten dollars (\$10) shall be added to the  
4 Montgomery Municipal Court costs authorized to be collected in  
5 connection with notices issued under this act. Court costs  
6 collected pursuant to this act shall be distributed in the  
7 same manner as prescribed by law for the distribution of  
8 municipal court costs for misdemeanor violations. The  
9 additional ten dollars (\$10) authorized by this act shall be  
10 paid to the Alabama Criminal Justice Information Center as  
11 compensation for record keeping with respect to speeding  
12 violation notices issued pursuant to this act.

13 (b) If an ordinance is adopted for automated  
14 speeding enforcement, the ordinance may only apply in the  
15 following locations within the corporate limits of the city:

16 (1) School zones.

17 (2) Road or highway construction zones or areas.

18 (3) Residential neighborhoods.

19 (c) Prior to operating such an enforcement system,  
20 the City of Montgomery shall make a public announcement and  
21 conduct a public awareness campaign of the use of an automated  
22 photographic speeding enforcement system a minimum of 30 days  
23 before using the devices. The City of Montgomery may place  
24 photographic speeding enforcement systems at locations  
25 specified in subsection (b) without public notice of the  
26 specific location and may change locations without public

1 notice and may install and move as needed decoy devices  
2 designed to resemble photographic speeding enforcement.

3 Section 5. (a) Prior to imposing a civil penalty  
4 pursuant to this act, the City of Montgomery shall first mail  
5 a notice of violation by first class U.S. mail to the owner of  
6 the motor vehicle which is recorded by the automated  
7 photographic speeding enforcement system that committed a  
8 speeding violation. The notice shall be sent not later than  
9 the 30th day after the date the speeding violation is recorded  
10 to the following:

11 (1) The owner's address as shown on the registration  
12 records of the Alabama Department of Revenue.

13 (2) If the vehicle is registered in another state or  
14 country, to the owner's address as shown on the motor vehicle  
15 registration records of the department or agency of the other  
16 state or country analogous to the Alabama Department of  
17 Revenue.

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

20 (1) Description of the speeding violation alleged.

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

22 (3) A copy of recorded images of the vehicle  
23 involved in the violation.

24 (4) The amount of the civil penalty to be imposed  
25 for the violation.

26 (5) The date by which the civil penalty must be  
27 paid.



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

4           (7) Information that informs the person named in the  
5 notice of violation of the following:

6           a. The right to contest the imposition of the civil  
7 penalty in an administrative adjudication.

8           b. The manner and time in which to contest the  
9 imposition of the civil penalty.

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

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

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

17          (10) Any other information deemed necessary by the  
18 city.

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

22          (d) The civil penalty imposed shall be paid within  
23 30 days of the 10th day after the date the notice of violation  
24 is mailed.

25          (e) It shall be within the discretion of the trained  
26 technician to determine which of the recorded speeding  
27 violations are prosecuted based upon the quality and

1 legibility of the recorded image. In lieu of issuing a notice  
2 of violation, the city may mail a warning notice to the owner  
3 during the initial warning period.

4 Section 6. (a) The Montgomery Municipal Court is  
5 vested with the power and jurisdiction to hear and adjudicate  
6 the civil violations provided for in this act and to issue  
7 orders imposing the civil fines and costs set out in this act.

8 (b) A person who receives a notice of violation may  
9 contest the imposition of the civil fine by submitting a  
10 request for a hearing on the adjudication of the civil  
11 violation, in writing, within 15 days of the 10th day after  
12 the date the notice of violation is mailed. Upon receipt of a  
13 timely request, the city shall notify the person of the date  
14 and time of the adjudicative hearing by U.S. mail.

15 (c) Failure to pay a civil penalty or to contest  
16 liability in a timely manner is an admission of liability in  
17 the full amount of the civil fine assessed in the notice of  
18 violation.

19 (d) The civil fine shall not be assessed if, after a  
20 hearing, the Montgomery Municipal Judge enters a finding of no  
21 liability.

22 (e) If an adjudicative hearing is requested, the  
23 city shall have the burden of proving the speeding violation  
24 by a preponderance of the evidence. The reliability of the  
25 automated photographic speeding enforcement system used to  
26 produce the recorded image of the violation may be attested to  
27 by affidavit of a trained technician. An affidavit of a

1 trained technician that alleges a violation based on an  
2 inspection of the pertinent recorded image or video is  
3 admissible in a proceeding under this act and is evidence of  
4 the facts contained in the affidavit.

5 (f) The notice of violation, the recorded and  
6 reproduced images of the violation, regardless of the media on  
7 which they are recorded, accompanied by a certification of  
8 authenticity of a trained technician, and evidence of  
9 ownership of a vehicle as shown by copies or summaries of  
10 official records shall be admissible into evidence without  
11 foundation unless the municipal court finds there is an  
12 indication of untrustworthiness, in which case the city shall  
13 be given a reasonable opportunity to lay an evidentiary  
14 foundation.

15 (g) All other matters of evidence and procedure not  
16 specifically addressed in this act shall be subject to the  
17 rules of evidence and the rules of procedure as they apply in  
18 the small claims courts of this state, except that on any  
19 appeal to Montgomery County Circuit Court for trial de novo  
20 the evidence and procedures shall be as for any civil case in  
21 the circuit court except as otherwise provided in this act.

22 (h) A person who is found liable for the civil  
23 violation after an adjudicative hearing or who requests an  
24 adjudicative hearing and thereafter fails to appear at the  
25 time and place of the hearing is liable for court costs and  
26 fees as set out herein in addition to the amount of the civil  
27 fine assessed for the violation. A person who is found liable

1 for a civil violation after an adjudicative hearing shall pay  
2 the civil fine and costs within 10 days of the hearing.

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

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

10 1. The operator of the motor vehicle was acting in  
11 compliance with the lawful order or direction of a police  
12 officer.

13 2. The motor vehicle was being operated as an  
14 authorized emergency vehicle under Sections 32-5A-7 and  
15 32-5-213 of the Code of Alabama 1975, and that the operator  
16 was acting in compliance with those chapters.

17 3. The motor vehicle was stolen or being operated by  
18 a person other than the owner of the vehicle without the  
19 effective consent of the owner.

20 4. The license plate depicted in the recorded image  
21 of the violation was a stolen plate and being displayed on a  
22 motor vehicle other than the motor vehicle for which the plate  
23 had been issued.

24 5. The person who received the notice of violation  
25 was not the owner of the motor vehicle at the time of the  
26 violation.

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

8           (1) Notwithstanding anything in this act to the  
9 contrary, a person who fails to pay the amount of a civil fine  
10 or to contest liability in a timely manner is entitled to an  
11 adjudicative hearing on the violation if:

12                 1. The person files an affidavit with the hearing  
13 officer stating the date on which the person received the  
14 notice of violation that was mailed to the person, if not  
15 received by the 10th day after the notice is mailed as set out  
16 in Section 5.

17                 2. Within the 15 days of the date of actual receipt,  
18 the person requests an administrative adjudicative hearing.

19           Section 7. (a) Following an adjudicative hearing,  
20 the municipal court judge shall issue an order stating the  
21 following:

22                 (1) Whether the person charged with the civil  
23 violation is liable for the violation and, if so,

24                 (2) The amount of the civil fine assessed against  
25 the person, along with the fees and costs of court provided  
26 for herein.

1           (b) The orders issued under this section may be  
2       filed in the office of the Judge of Probate of Montgomery  
3       County, Alabama, and shall operate as a judicial lien in the  
4       same manner and with the same weight and effect as any other  
5       civil judgment filed therein.

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

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

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

22           (2) If the person is adjudicated by the circuit  
23      court to be responsible for payment of the civil fine, circuit  
24      court costs shall be owed by the person adjudicated  
25      responsible, with 100 percent of those court costs retained by  
26      the circuit court. Court costs in the circuit court shall be  
27      calculated as are court costs for criminal appeals from the

1       municipal court, and in the event the circuit court finds the  
2       person appealing not to be responsible, no municipal court  
3       costs shall be owed to the city.

4               (3) Regardless of the civil nature of the  
5       proceedings, the circuit court, in its discretion and for its  
6       administrative convenience, may assign case numbers as for  
7       criminal appeals and place the appeals on criminal dockets in  
8       the same manner as criminal appeals from municipal court.

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

11              (5) The city shall be responsible for providing an  
12      attorney to represent the city and to prosecute the civil  
13      proceedings in the circuit court.

14              Section 9. In the event the evidence produced by an  
15      automated photographic speeding enforcement system does not  
16      produce an image of the license plate with sufficient clarity  
17      for a trained technician to determine the identity of the  
18      owner, and if the identity cannot otherwise be reliably  
19      established, then no notice of violation may be issued  
20      pursuant to this act. If, however, a notice of violation is  
21      issued, to the degree constitutionally allowed, those issues  
22      related to the identity of the vehicle or its owner shall  
23      affect the weight to be accorded the evidence and shall not  
24      affect its admissibility.

25              Section 10. The city may provide by ordinance that a  
26      late fee not exceeding twenty-five dollars (\$25) shall attach  
27      to untimely paid civil fines that are authorized in this act.

1 No person may be arrested or incarcerated for nonpayment of a  
2 civil fine or late fee. No record of an adjudication of civil  
3 violation made under this act shall be listed, entered, or  
4 reported on any criminal record or driving record, whether the  
5 record is maintained by the city or an outside agency. An  
6 adjudication of civil violation provided for in this act shall  
7 not be considered a conviction for any purpose, shall not be  
8 used to increase or enhance punishment for any subsequent  
9 offense of a criminal nature, shall not be considered a moving  
10 violation, and shall not be used by any insurance company to  
11 determine or affect premiums or rates unless an accident  
12 occurred due to the violation. The fact that a person is held  
13 liable or responsible for a civil fine for a speeding  
14 violation shall not be used as evidence that the person was  
15 guilty of negligence or other culpable conduct, and any  
16 evidence generated by an automated photographic speeding  
17 enforcement system may only be used as evidence in other  
18 proceedings if it is or becomes admissible under the rules of  
19 evidence applicable therein.

20 Section 11. (a) The city shall keep statistical data  
21 regarding the effectiveness of automated photographic speeding  
22 enforcement systems in reducing speeding violations and  
23 collisions and shall communicate the data on an annual basis  
24 to the Alabama Department of Transportation and the Alabama  
25 Criminal Justice Information Center.



1           (b) Under no circumstances shall the salary or other  
2       compensation of a trained technician be related to the number  
3       of notices of violation issued or amount of fines collected.

4           Section 12. No civil penalty may be imposed and no  
5       adjudication of liability for a civil violation may be made  
6       under this act if the operator of the vehicle was arrested or  
7       was issued a citation and notice to appear by a sworn police  
8       officer for a criminal violation of any portion of Title 32,  
9       Chapter 5A, Article 8, including, but not limited to, Sections  
10      32-5A-170 to 32-5A-178, inclusive, Code of Alabama 1975, or  
11      any other municipal ordinance which embraces and incorporates  
12      the statutes contained in that article, and which occurred  
13      simultaneously with and under the same set of circumstances  
14      which were recorded by the automated photographic speeding  
15      enforcement system.

16          Section 13. Any person against whom an adjudication  
17      of liability for a civil violation is made pursuant to this  
18      act, or an ordinance passed pursuant hereto, and who actually  
19      pays the civil fine imposed thereby shall have a cause of  
20      action against any person who may be shown to have been  
21      operating the vehicle recorded at the time of the violation  
22      for the amount of the civil fine actually paid plus any  
23      consequential or compensatory damages and a reasonable  
24      attorney fee, without regard to the rules regarding joint and  
25      several liability, contribution, or indemnity. Provided,  
26      however, that as a condition precedent to the bringing of a  
27      civil action, that the person held responsible for payment of

1 the civil fine must first make written demand on the other  
2 person for reimbursement of the civil fine, giving a minimum  
3 of 60 days to remit payment, and if reimbursement is fully  
4 made within the 60-day period then the cause of action shall  
5 be extinguished and no attorney fees or other damages shall  
6 attach to the reimbursement. Any cause of action brought  
7 pursuant to this section must be commenced within two years  
8 from the date of the payment of the civil fine for a speeding  
9 violation.

10 Section 14. Sections 5 and 6 of Act No. 2009-740  
11 (Acts 2009, p. 2208), Code of Alabama 1975, are amended to  
12 read as follows:

13 "Section 5. (a) Prior to imposing a civil penalty  
14 under this act, the City of Montgomery shall first mail a  
15 notice of violation by U.S. mail to the owner of the motor  
16 vehicle which is recorded by the photographic traffic signal  
17 enforcement system while committing a traffic signal  
18 violation. The notice shall be sent not later than the 30th  
19 day after the date the traffic signal violation is recorded  
20 to:

21 "(1) The owner's address as shown on the  
22 registration records of the Alabama Department of Revenue.

23 "(2) If the vehicle is registered in another state  
24 or country, to the owner's address as shown on the motor  
25 vehicle registration records of the department or agency of  
26 the other state or country analogous to the Alabama Department  
27 of Revenue.

1           "(b) A notice of violation issued under this act  
2 shall contain the following:

3           "(1) Description of the violation alleged.

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

5           "(3) A copy of recorded images of the vehicle  
6 involved in the violation.

7           "(4) The amount of the civil penalty to be imposed  
8 for the violation.

9           "(5) The date by which the civil penalty must be  
10 paid.

11           "(6) A statement that the person named in the notice  
12 of violation may pay the civil penalty in lieu of appearing at  
13 an administrative adjudication hearing.

14           "(7) Information that informs the person named in  
15 the notice of violation:

16           "a. Of the right to contest the imposition of the  
17 civil penalty in an administrative adjudication.

18           "b. Of the manner and time in which to contest the  
19 imposition of the civil penalty.

20           "c. That failure to pay the civil penalty or to  
21 contest liability is an admission of liability.

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

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

1           "(10) Any other information deemed necessary by the  
2 department.

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

6           "(d) The civil penalty imposed shall be paid within  
7 30 days of the 10th day after the date the notice of violation  
8 is mailed.

9           "(e) It shall be within the discretion of the  
10 trained technician to determine which of the recorded traffic  
11 signal violations are prosecuted based upon the quality and  
12 legibility of the recorded image. In lieu of issuing a notice  
13 of violation, the city may mail a warning notice to the owner.

14           "Section 6. (a) The Montgomery Municipal Court is  
15 vested with the power and jurisdiction to hear and adjudicate  
16 the civil violations provided for in this act, and to issue  
17 orders imposing the civil fines and costs set out in this act.

18           "(b) A person who receives a notice of violation may  
19 contest the imposition of the civil fine by submitting a  
20 request for a hearing on the adjudication of the civil  
21 violation, in writing, within 15 days of the 10th day after  
22 the date the notice of violation is mailed. Upon receipt of a  
23 timely request, the city shall notify the person of the date  
24 and time of the adjudicative hearing by U.S. mail.

25           "(c) Failure to pay a civil penalty or to contest  
26 liability in a timely manner is an admission of liability in

1 the full amount of the civil fine assessed in the notice of  
2 violation.

3 "(d) The civil fine shall not be assessed if, after  
4 a hearing, the Montgomery Municipal Judge enters a finding of  
5 no liability.

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

16 "(f) The notice of violation, the recorded and  
17 reproduced images of the traffic signal violation, regardless  
18 of the media on which they are recorded, accompanied by a  
19 certification of authenticity of a trained technician, and  
20 evidence of ownership of a vehicle as shown by copies or  
21 summaries of official records shall be admissible into  
22 evidence without foundation unless the municipal court finds  
23 there is an indication of untrustworthiness, in which case the  
24 city shall be given a reasonable opportunity to lay an  
25 evidentiary foundation.

26 "(g) All other matters of evidence and procedure not  
27 specifically addressed in this act shall be subject to the

1 rules of evidence and the rules of procedure as they apply in  
2 the small claims courts of this state, except that on any  
3 appeal to Montgomery County Circuit Court for trial de novo,  
4 the evidence and procedures shall be as for any civil case in  
5 the circuit court except as otherwise provided in this act.

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

14 "(i) Whenever payment of a civil fine is owed to the  
15 city, the amount of the civil fine as set by ordinance may not  
16 be increased, decreased, or remitted by the municipal court,  
17 and the liability may be satisfied only by payment.

18 "(j) It shall be an affirmative defense to the  
19 imposition of civil liability under this act, to be proven by  
20 a preponderance of the evidence, that:

21 "1. The traffic control signal was not in proper  
22 position and sufficiently visible to an ordinarily observant  
23 person.

24 "2. The operator of the motor vehicle was acting in  
25 compliance with the lawful order or direction of a police  
26 officer.

1           "3. The operator of the motor vehicle violated the  
2 instructions of the traffic control signal so as to yield the  
3 right-of-way to an immediately approaching authorized  
4 emergency vehicle.

5           "4. The motor vehicle was being operated as an  
6 authorized emergency vehicle under Sections 32-5A-7 and  
7 32-5-213 of the Code of Alabama 1975, and that the operator  
8 was acting in compliance with those chapters.

9           "5. The motor vehicle was stolen or being operated  
10 by a person other than the owner of the vehicle without the  
11 effective consent of the owner.

12           "6. The license plate depicted in the recorded image  
13 of the violation was a stolen plate and being displayed on a  
14 motor vehicle other than the motor vehicle for which the plate  
15 had been issued.

16           "7. The presence of ice, snow, unusual amounts of  
17 rain, or other unusually hazardous road conditions existed  
18 that would make compliance with this act more dangerous under  
19 the circumstances than noncompliance.

20           "8. The person who received the notice of violation  
21 was not the owner of the motor vehicle at the time of the  
22 violation.

23           "9. There was no sign installed as required by this  
24 act near the red light at which the violation allegedly  
25 occurred warning that an automated red light camera device was  
26 being used.

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

8           "(l) Notwithstanding any thing in this act to the  
9 contrary, a person who fails to pay the amount of a civil fine  
10 or to contest liability in a timely manner is entitled to an  
11 adjudicative hearing on the violation if:

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

17           "2. Within 15 days of the date of actual receipt,  
18 the person requests an administrative adjudicative hearing."

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.