

1 HB476
2 126075-1
3 By Representative Love (N & P)
4 RFD: Montgomery County Legislation
5 First Read: 07-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 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.