

1 HB476
2 126075-2
3 By Representative Love (N & P)
4 RFD: Montgomery County Legislation
5 First Read: 07-APR-11

1
2 ENROLLED, An Act,

3 Relating to the City of Montgomery, Alabama, in
4 Montgomery County, further regulating the enforcement of
5 traffic laws; authorizing automated speeding enforcement in
6 the City of Montgomery, Alabama, as a civil violation;
7 authorizing the city to adopt a municipal ordinance consistent
8 with this act; providing certain procedures to be followed by
9 the city using automated photographic speeding enforcement;
10 providing that the owner of the vehicle involved is
11 presumptively liable for a civil violation and the payment of
12 a civil fine, but providing procedures to contest liability;
13 providing for jurisdiction in the Montgomery Municipal Court
14 over the civil violations and allowing appeals to the
15 Montgomery County Circuit Court for trial de novo; creating a
16 cause of action for any person held responsible for payment of
17 the civil fine against the person who was actually operating a
18 vehicle while speeding; prohibiting the tampering with
19 automated speeding enforcement devices or equipment systems,
20 except by authorized persons; and amending Sections 5 and 6 of
21 Act 2009-740 (Acts 2009, p. 2208), the Montgomery Red Light
22 Safety Act, relating to mailing notices of violations and
23 hearings.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

5 Section 2. The Legislature finds and declares the
6 following:

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

9 (2) Studies have found that automated speeding
10 enforcement in a municipal area is a highly accurate method
11 for detecting speeding violations and is very effective in
12 reducing the number of speeding violations and decreasing the
13 number of traffic accidents, deaths, and injuries.

14 (3) Current Alabama law provides that speeding is a
15 criminal misdemeanor. Under Alabama law, one who commits such
16 a misdemeanor is subject to prosecution only if the
17 misdemeanor was witnessed by either a duly empowered police
18 officer or other witness who makes a verified complaint to a
19 sworn magistrate.

20 (4) Many jurisdictions that have adopted laws that
21 allow the use of automated speeding enforcement have
22 experienced a significant reduction in the instances of
23 speeding, and the Legislature finds that it should adopt
24 legislation that would authorize the City of Montgomery to

1 implement a program for automated speeding enforcement of
2 speeding violations.

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

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

9 (1) AUTOMATED PHOTOGRAPHIC SPEEDING ENFORCEMENT
10 SYSTEM. A camera system which is designed and installed to
11 work in conjunction with an electrically operated speed
12 detection device synchronized to automatically record digital
13 imaging of a motor vehicle while speeding.

14 The device shall be capable of producing at least
15 two recorded images, at least one of which is capable of
16 clearly depicting the license plate of a motor vehicle that is
17 speeding.

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

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

23 (4) CIVIL VIOLATION. There is created a non-criminal
24 category of law called a civil violation created and existing
25 for the sole purpose of carrying out the terms of this act.

1 The penalty for violation of a civil violation shall be the
2 payment of a civil fine, the enforceability of which shall be
3 accomplished through civil action. The prosecution of a civil
4 violation created hereby shall carry reduced evidentiary
5 requirements and burden of proof as set out in Section 6, and
6 in no event shall an adjudication of liability for a civil
7 violation be punishable by a criminal fine or imprisonment.

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

22 (6) SPEEDING VIOLATION. Any violation of a motor
23 vehicle at a speed that exceeds the legal maximum speed limits
24 presented in or adopted pursuant to Article 8, Chapter 5A,
25 Title 32, Sections 32-5A-170 to 32-5A-178, inclusive, Code of

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

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

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

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

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

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

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

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

17 (1) School zones.

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

19 (3) Residential neighborhoods.

20 (c) Prior to operating such an enforcement system,
21 the City of Montgomery shall make a public announcement and
22 conduct a public awareness campaign of the use of an automated
23 photographic speeding enforcement system a minimum of 30 days
24 before using the devices. The City of Montgomery may place
25 photographic speeding enforcement systems at locations

1 specified in subsection (b) without public notice of the
2 specific location and may change locations without public
3 notice and may install and move as needed decoy devices
4 designed to resemble photographic speeding enforcement.

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

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

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

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

22 (1) Description of the speeding violation alleged.

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

24 (3) A copy of recorded images of the vehicle
25 involved in the violation.

1 (4) The amount of the civil penalty to be imposed
2 for the violation.

3 (5) The date by which the civil penalty must be
4 paid.

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

8 (7) Information that informs the person named in the
9 notice of violation of the following:

10 a. The right to contest the imposition of the civil
11 penalty in an administrative adjudication.

12 b. The manner and time in which to contest the
13 imposition of the civil penalty.

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

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

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

21 (10) Any other information deemed necessary by the
22 city.

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

1 (d) The civil penalty imposed shall be paid within
2 30 days of the 10th day after the date the notice of violation
3 is mailed.

4 (e) It shall be within the discretion of the trained
5 technician to determine which of the recorded speeding
6 violations are prosecuted based upon the quality and
7 legibility of the recorded image. In lieu of issuing a notice
8 of violation, the city may mail a warning notice to the owner
9 during the initial warning period.

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

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

21 (c) Failure to pay a civil penalty or to contest
22 liability in a timely manner is an admission of liability in
23 the full amount of the civil fine assessed in the notice of
24 violation.

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

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

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

24 (g) All other matters of evidence and procedure not
25 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 as 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 operator of the motor vehicle was acting in
22 compliance with the lawful order or direction of a police
23 officer.

24 2. The motor vehicle was being operated as an
25 authorized emergency vehicle under Sections 32-5A-7 and

1 32-5-213 of the Code of Alabama 1975, and that the operator
2 was acting in compliance with those chapters.

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

6 4. The license plate depicted in the recorded image
7 of the violation was a stolen plate and being displayed on a
8 motor vehicle other than the motor vehicle for which the plate
9 had been issued.

10 5. The person who received the notice of violation
11 was not the owner of the motor vehicle at the time of the
12 violation.

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

20 (l) Notwithstanding anything in this act to the
21 contrary, a person who fails to pay the amount of a civil fine
22 or to contest liability in a timely manner is entitled to an
23 adjudicative hearing on the violation if:

24 1. The person files an affidavit with the hearing
25 officer stating the date on which the person received the

1 notice of violation that was mailed to the person, if not
2 received by the 10th day after the notice is mailed as set out
3 in Section 5.

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

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

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

11 (2) The amount of the civil fine assessed against
12 the person, along with the fees and costs of court provided
13 for herein.

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

19 (c) A person who is found liable after an
20 adjudicative hearing may appeal that finding of civil
21 liability to the Circuit Court of Montgomery County, Alabama,
22 by filing a notice of appeal with the clerk of the municipal
23 court. The notice of appeal must be filed not later than the
24 14th day after the date on which the municipal court judge
25 entered the finding of civil liability. The filing of a notice

1 of appeal shall stay the enforcement of the civil fine. An
2 appeal shall be determined by the circuit court by trial de
3 novo.

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

7 (1) The proceedings shall retain their civil nature
8 on appeal with the circuit court applying the preponderance of
9 the evidence standard.

10 (2) If the person is adjudicated by the circuit
11 court to be responsible for payment of the civil fine, circuit
12 court costs shall be owed by the person adjudicated
13 responsible, with 100 percent of those court costs retained by
14 the circuit court. Court costs in the circuit court shall be
15 calculated as are court costs for criminal appeals from the
16 municipal court, and in the event the circuit court finds the
17 person appealing not to be responsible, no municipal court
18 costs shall be owed to the city.

19 (3) Regardless of the civil nature of the
20 proceedings, the circuit court, in its discretion and for its
21 administrative convenience, may assign case numbers as for
22 criminal appeals and place the appeals on criminal dockets in
23 the same manner as criminal appeals from municipal court.

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

1 (5) The city shall be responsible for providing an
2 attorney to represent the city and to prosecute the civil
3 proceedings in the circuit court.

4 Section 9. In the event the evidence produced by an
5 automated photographic speeding enforcement system does not
6 produce an image of the license plate with sufficient clarity
7 for a trained technician to determine the identity of the
8 owner, and if the identity cannot otherwise be reliably
9 established, then no notice of violation may be issued
10 pursuant to this act. If, however, a notice of violation is
11 issued, to the degree constitutionally allowed, those issues
12 related to the identity of the vehicle or its owner shall
13 affect the weight to be accorded the evidence and shall not
14 affect its admissibility.

15 Section 10. The city may provide by ordinance that a
16 late fee not exceeding twenty-five dollars (\$25) shall attach
17 to untimely paid civil fines that are authorized in this act.
18 No person may be arrested or incarcerated for nonpayment of a
19 civil fine or late fee. No record of an adjudication of civil
20 violation made under this act shall be listed, entered, or
21 reported on any criminal record or driving record, whether the
22 record is maintained by the city or an outside agency. An
23 adjudication of civil violation provided for in this act shall
24 not be considered a conviction for any purpose, shall not be
25 used to increase or enhance punishment for any subsequent

1 offense of a criminal nature, shall not be considered a moving
2 violation, and shall not be used by any insurance company to
3 determine or affect premiums or rates unless an accident
4 occurred due to the violation. The fact that a person is held
5 liable or responsible for a civil fine for a speeding
6 violation shall not be used as evidence that the person was
7 guilty of negligence or other culpable conduct, and any
8 evidence generated by an automated photographic speeding
9 enforcement system may only be used as evidence in other
10 proceedings if it is or becomes admissible under the rules of
11 evidence applicable therein.

12 Section 11. (a) The city shall keep statistical data
13 regarding the effectiveness of automated photographic speeding
14 enforcement systems in reducing speeding violations and
15 collisions and shall communicate the data on an annual basis
16 to the Alabama Department of Transportation and the Alabama
17 Criminal Justice Information Center.

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

21 Section 12. No civil penalty may be imposed and no
22 adjudication of liability for a civil violation may be made
23 under this act if the operator of the vehicle was arrested or
24 was issued a citation and notice to appear by a sworn police
25 officer for a criminal violation of any portion of Title 32,

1 Chapter 5A, Article 8, including, but not limited to, Sections
2 32-5A-170 to 32-5A-178, inclusive, Code of Alabama 1975, or
3 any other municipal ordinance which embraces and incorporates
4 the statutes contained in that article, and which occurred
5 simultaneously with and under the same set of circumstances
6 which were recorded by the automated photographic speeding
7 enforcement system.

8 Section 13. Any person against whom an adjudication
9 of liability for a civil violation is made pursuant to this
10 act, or an ordinance passed pursuant hereto, and who actually
11 pays the civil fine imposed thereby shall have a cause of
12 action against any person who may be shown to have been
13 operating the vehicle recorded at the time of the violation
14 for the amount of the civil fine actually paid plus any
15 consequential or compensatory damages and a reasonable
16 attorney fee, without regard to the rules regarding joint and
17 several liability, contribution, or indemnity. Provided,
18 however, that as a condition precedent to the bringing of a
19 civil action, that the person held responsible for payment of
20 the civil fine must first make written demand on the other
21 person for reimbursement of the civil fine, giving a minimum
22 of 60 days to remit payment, and if reimbursement is fully
23 made within the 60-day period then the cause of action shall
24 be extinguished and no attorney fees or other damages shall
25 attach to the reimbursement. Any cause of action brought

1 pursuant to this section must be commenced within two years
2 from the date of the payment of the civil fine for a speeding
3 violation.

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

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

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

17 "(2) If the vehicle is registered in another state
18 or country, to the owner's address as shown on the motor
19 vehicle registration records of the department or agency of
20 the other state or country analogous to the Alabama Department
21 of Revenue.

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

24 "(1) Description of the violation alleged.

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

1 "(3) A copy of recorded images of the vehicle
2 involved in the violation.

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

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

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

10 "(7) Information that informs the person named in
11 the notice of violation:

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

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

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

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

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

23 "(10) Any other information deemed necessary by the
24 department.

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

4 "(d) The civil penalty imposed shall be paid within
5 30 days of the 10th day after the date the notice of violation
6 is mailed.

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

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

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

23 "(c) Failure to pay a civil penalty or to contest
24 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.

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

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

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

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

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

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

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

8 "4. The motor vehicle was being operated as an
9 authorized emergency vehicle under Sections 32-5A-7 and
10 32-5-213 of the Code of Alabama 1975, and that the operator
11 was acting in compliance with those chapters.

12 "5. The motor vehicle was stolen or being operated
13 by a person other than the owner of the vehicle without the
14 effective consent of the owner.

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

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

23 "8. The person who received the notice of violation
24 was not the owner of the motor vehicle at the time of the
25 violation.

1 "9. There was no sign installed as required by this
2 act near the red light at which the violation allegedly
3 occurred warning that an automated red light camera device was
4 being used.

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

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

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

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

23 Section 15. The provisions of this act are
24 severable. If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part
2 which remains.

3 Section 16. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 27-APR-11.

Greg Pappas
Clerk

Senate

24-MAY-2011

Passed