

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

1 SB356

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3
4 With Notice and Proof

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6 ENROLLED, An Act,

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

1 Safety Act, relating to mailing notices of violations and
2 hearings.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

8 Section 2. The Legislature finds and declares the
9 following:

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

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

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

23 (4) Many jurisdictions that have adopted laws that
24 allow the use of automated speeding enforcement have
25 experienced a significant reduction in the instances of

1 speeding, and the Legislature finds that it should adopt
2 legislation that would authorize the City of Montgomery to
3 implement a program for automated speeding enforcement of
4 speeding violations.

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

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

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

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

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

21 (3) CIVIL FINE. The monetary amount assessed by the
22 City of Montgomery pursuant to this act for an adjudication of
23 civil liability for a speeding violation, including municipal
24 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.

1 (6) SPEEDING VIOLATION. Any violation of a motor
2 vehicle at a speed that exceeds the legal maximum speed limits
3 presented in or adopted pursuant to Article 8, Chapter 5A,
4 Title 32, Sections 32-5A-170 to 32-5A-178, inclusive, Code of
5 Alabama 1975; provided, however, that speed limits set by
6 action of the Montgomery City Council as found in the City
7 Code of the City of Montgomery, Article IX, Section 27-561
8 shall supersede the limits set in Article 8, Chapter 5A, Title
9 32, Sections 32-5A-170 to 32-5A-178, inclusive, Code of
10 Alabama 1975. A speeding violation shall be a civil violation
11 as defined in this act.

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

14 a. Is a professional engineer in the field of civil
15 engineering.

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

20 c. Has been trained by the vendor installing the
21 equipment.

22 Section 4. (a) The City of Montgomery is empowered
23 to utilize an automated photographic speeding enforcement
24 system to detect and record speeding violations, to issue
25 notices of civil violations by mail, and to prosecute civil

1 violations for the recorded speeding violations which may
2 occur within certain areas within the corporate limits of the
3 City of Montgomery as provided in this act. A civil fine
4 assessed under this act shall not exceed one hundred dollars
5 (\$100), and municipal court costs may be assessed in the same
6 manner and in the same amounts prescribed for municipal
7 criminal speeding violations prosecuted as a misdemeanor. An
8 additional fee of ten dollars (\$10) shall be added to the
9 Montgomery Municipal Court costs authorized to be collected in
10 connection with notices issued under this act. Court costs
11 collected pursuant to this act shall be distributed in the
12 same manner as prescribed by law for the distribution of
13 municipal court costs for misdemeanor violations. The
14 additional ten dollars (\$10) authorized by this act shall be
15 paid to the Alabama Criminal Justice Information Center as
16 compensation for record keeping with respect to speeding
17 violation notices issued pursuant to this act.

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

21 (1) School zones.

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

23 (3) Residential neighborhoods.

24 (c) Prior to operating such an enforcement system,
25 the City of Montgomery shall make a public announcement and

1 conduct a public awareness campaign of the use of an automated
2 photographic speeding enforcement system a minimum of 30 days
3 before using the devices. The City of Montgomery may place
4 photographic speeding enforcement systems at locations
5 specified in subsection (b) without public notice of the
6 specific location and may change locations without public
7 notice and may install and move as needed decoy devices
8 designed to resemble photographic speeding enforcement.

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

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

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

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

1 (1) Description of the speeding violation alleged.

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

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

5 (4) The amount of the civil penalty to be imposed
6 for the violation.

7 (5) The date by which the civil penalty must be
8 paid.

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

12 (7) Information that informs the person named in the
13 notice of violation of the following:

14 a. The right to contest the imposition of the civil
15 penalty in an administrative adjudication.

16 b. The manner and time in which to contest the
17 imposition of the civil penalty.

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

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

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

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

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

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

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

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

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

1 (c) Failure to pay a civil penalty or to contest
2 liability in a timely manner is an admission of liability in
3 the full amount of the civil fine assessed in the notice of
4 violation.

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

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

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

1 be given a reasonable opportunity to lay an evidentiary
2 foundation.

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

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

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

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

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

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

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

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

15 5. The person who received the notice of violation
16 was not the owner of the motor vehicle at the time of the
17 violation.

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

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

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

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

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

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

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

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

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

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

14 (1) The proceedings shall retain their civil nature
15 on appeal with the circuit court applying the preponderance of
16 the evidence standard.

17 (2) If the person is adjudicated by the circuit
18 court to be responsible for payment of the civil fine, circuit
19 court costs shall be owed by the person adjudicated
20 responsible, with 100 percent of those court costs retained by
21 the circuit court. Court costs in the circuit court shall be
22 calculated as are court costs for criminal appeals from the
23 municipal court, and in the event the circuit court finds the
24 person appealing not to be responsible, no municipal court
25 costs shall be owed to the city.

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

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

8 (5) The city shall be responsible for providing an
9 attorney to represent the city and to prosecute the civil
10 proceedings in the circuit court.

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

22 Section 10. The city may provide by ordinance that a
23 late fee not exceeding twenty-five dollars (\$25) shall attach
24 to untimely paid civil fines that are authorized in this act.
25 No person may be arrested or incarcerated for nonpayment of a

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

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

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

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

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

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

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

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

"(1) Description of the violation alleged.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 "(b) A person who receives a notice of violation may
2 contest the imposition of the civil fine by submitting a
3 request for a hearing on the adjudication of the civil
4 violation, in writing, within 15 days of the 10th day after
5 the date the notice of violation is mailed. Upon receipt of a
6 timely request, the city shall notify the person of the date
7 and time of the adjudicative hearing by U.S. mail.

8 "(c) Failure to pay a civil penalty or to contest
9 liability in a timely manner is an admission of liability in
10 the full amount of the civil fine assessed in the notice of
11 violation.

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

15 "(e) If an adjudicative hearing is requested, the
16 city shall have the burden of proving the traffic signal
17 violation by a preponderance of the evidence. The reliability
18 of the photographic traffic signal enforcement system used to
19 produce the recorded image of the violation may be attested to
20 by affidavit of a trained technician. An affidavit of a
21 trained technician that alleges a violation based on an
22 inspection of the pertinent recorded image is admissible in a
23 proceeding under this act and is evidence of the facts
24 contained in the affidavit.

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

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

18 "(h) A person who is found liable for the civil
19 violation after an adjudicative hearing or who requests an
20 adjudicative hearing and thereafter fails to appear at the
21 time and place of the hearing is liable for court costs and
22 fees set out herein in addition to the amount of the civil
23 fine assessed for the violation. A person who is found liable
24 for a civil violation after an adjudicative hearing shall pay
25 the civil fine and costs within 10 days of the hearing.

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

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

8 "1. The traffic control signal was not in proper
9 position and sufficiently visible to an ordinarily observant
10 person.

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

14 "3. The operator of the motor vehicle violated the
15 instructions of the traffic control signal so as to yield the
16 right-of-way to an immediately approaching authorized
17 emergency vehicle.

18 "4. The motor vehicle was being operated as an
19 authorized emergency vehicle under Sections 32-5A-7 and
20 32-5-213 of the Code of Alabama 1975, and that the operator
21 was acting in compliance with those chapters.

22 "5. The motor vehicle was stolen or being operated
23 by a person other than the owner of the vehicle without the
24 effective consent of the owner.

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

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

9 "8. The person who received the notice of violation
10 was not the owner of the motor vehicle at the time of the
11 violation.

12 "9. There was no sign installed as required by this
13 act near the red light at which the violation allegedly
14 occurred warning that an automated red light camera device was
15 being used.

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

23 "(l) Notwithstanding any thing in this act to the
24 contrary, a person who fails to pay the amount of a civil fine

1 or to contest liability in a timely manner is entitled to an
2 adjudicative hearing on the violation if:

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

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

10 Section 15. The provisions of this act are
11 severable. If any part of this act is declared invalid or
12 unconstitutional, that declaration shall not affect the part
13 which remains.

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB356
Senate 03-MAY-11
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 26-MAY-11

By: Senator Brewbaker