

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

1  
2 ENROLLED, An Act,

3           Relating to the City of Midfield, Alabama, in  
4 Jefferson County; authorizing automated traffic light  
5 enforcement in the city as a civil violation; providing  
6 certain procedures to be followed by the city using automated  
7 photographic traffic light enforcement; providing that the  
8 owner of the vehicle involved in running a traffic light is  
9 presumptively liable for a civil violation and the payment of  
10 a civil fine, but providing procedures to contest liability;  
11 providing for jurisdiction in the Midfield Municipal Court  
12 over the civil violations and allowing appeals to the  
13 Jefferson County Circuit Court for trial de novo; creating a  
14 cause of action for any person held responsible for payment of  
15 the civil fine against the person who was actually operating a  
16 vehicle during the running of a traffic light; and prohibiting  
17 the tampering with a photographic traffic signal enforcement  
18 system, except by authorized persons.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20           Section 1. (a) This act shall be known and may be  
21 cited as the "Midfield Red Light Safety Act."

22           (b) The City of Midfield, Alabama, may, by ordinance  
23 adopt the procedures set out in this act.

24           Section 2. The Legislature finds and declares the  
25 following:

1           (1) Accident data establishes that vehicles running  
2 red lights have been and are a dangerous problem in Midfield,  
3 Alabama.

4           (2) Studies have found that automated traffic camera  
5 enforcement in a municipal area is a highly accurate method  
6 for detecting red light violations and is very effective in  
7 reducing the number of red light violations and decreasing the  
8 number of traffic accidents, deaths, and injuries.

9           (3) Current Alabama law provides that failing to  
10 stop and remain stopped at a traffic-control signal which is  
11 emitting a steady red signal is a criminal misdemeanor. Under  
12 Alabama law one who commits such a misdemeanor is subject to  
13 prosecution only if the misdemeanor was witnessed by either a  
14 duly empowered police officer or other witness who makes a  
15 verified complaint to a sworn magistrate.

16           (4) Many jurisdictions, including the City of  
17 Midfield, have adopted laws that allow use of automated  
18 photographic traffic enforcement, and the Legislature finds  
19 that it should adopt legislation that would implement a  
20 program for automated photographic enforcement of traffic  
21 signal violations, which the Legislature finds is consistent  
22 with this act.

23           (5) By allowing a program for use of automated  
24 traffic cameras in traffic signal enforcement by the city, the  
25 Legislature hopes to both decrease the rate of traffic signal

1 violations and learn more about the effectiveness and fairness  
2 involved in the use of the automated systems.

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

5 (1) CITY. The City of Midfield, Alabama.

6 (2) CIVIL FINE. The monetary amount assessed by the  
7 city pursuant to this act for an adjudication of civil  
8 liability for a traffic signal violation, including municipal  
9 court costs associated with the infraction.

10 (3) CIVIL VIOLATION. There is hereby created a  
11 non-criminal category of state law called a civil violation  
12 created and existing for the sole purpose of carrying out the  
13 terms of this act. The penalty for violation of a civil  
14 violation shall be the payment of a civil fine, the  
15 enforceability of which shall be accomplished through civil  
16 action. The prosecution of a civil violation created hereby  
17 shall carry reduced evidentiary requirements and burden of  
18 proof as set out in Section 6, and in no event shall an  
19 adjudication of liability for a civil violation be punishable  
20 by a criminal fine or imprisonment.

21 (4) COUNTY. Jefferson County in Alabama.

22 (5) MUNICIPAL COURT. The Municipal Court of the City  
23 of Midfield.

24 (6) OWNER. The owner of a motor vehicle as shown on  
25 the motor vehicle registration records of the Alabama

1 Department of Revenue or the analogous department or agency of  
2 another state or country. The term shall not include a motor  
3 vehicle rental or leasing company when a motor vehicle  
4 registered by the company is rented or leased to another  
5 person under a rental or lease agreement with the company, in  
6 which event "owner" shall mean the person to whom the vehicle  
7 is rented or leased; nor shall the term include motor vehicles  
8 displaying dealer license plates, in which event "owner" shall  
9 mean the person to whom the vehicle is assigned for use; nor  
10 shall the term include the owner of any stolen motor vehicle,  
11 in which event "owner" shall mean the person who is guilty of  
12 stealing the motor vehicle.

13 (7) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM.

14 A camera system which is designed and installed to work in  
15 conjunction with an electrically operated traffic-control  
16 device using vehicle sensors synchronized to automatically  
17 record, either by conventional film or digital imaging,  
18 sequenced photographs or full motion video of the rear of a  
19 motor vehicle while proceeding through a signalized  
20 intersection.

21 The device shall be capable of producing at least  
22 two recorded images, at least one of which is capable of  
23 clearly depicting the license plate of a motor vehicle that is  
24 not operated in compliance with the instructions of the  
25 traffic-control signal.

(8) TRAFFIC-CONTROL SIGNAL. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed as defined in Section 32-1-1.1, Code of Alabama 1975.

(9) TRAFFIC SIGNAL VIOLATION. Any violation of Section 32-5A-31, Section 32-5A-32, or Section 32-5A-5, Code of Alabama 1975, or of any combination thereof, wherein a vehicle proceeds into a signalized intersection at a time while the traffic-control signal for that vehicle's lane of travel is emitting a steady red signal. A traffic signal violation shall be a civil violation as defined in this act.

(10) TRAINED TECHNICIAN. A sworn law enforcement officer employed by the city who alternatively:

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

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

c. Has been trained by the vendor installing the equipment. Under no circumstances shall the salary or other compensation of the trained technician be related to the number of notices of violation issued or amount of fines collected.

1           Section 4. (a) The city is authorized to utilize an  
2           automated photographic traffic signal enforcement system to  
3           detect and record traffic signal violations, to issue notices  
4           of civil violations by mail, and to prosecute civil violations  
5           for the recorded traffic signal violations which may occur  
6           within the corporate limits of the city as provided in this  
7           act. A civil fine assessed under this act shall not exceed one  
8           hundred dollars (\$100), and municipal court costs shall be  
9           assessed in the same manner and in the same amounts prescribed  
10          for a municipal criminal traffic-control device violation  
11          prosecuted as a misdemeanor under Sections 32-5A-31, 32-5A-32,  
12          32-5A-35, or any combination thereof. Court costs collected  
13          pursuant to this act shall be distributed in the same manner  
14          as prescribed by law for the distribution of municipal court  
15          costs for misdemeanor violations. An additional fee of ten  
16          dollars (\$10) shall be collected by the municipal court in  
17          connection with notices issued under this act to be paid to  
18          the Alabama Criminal Justice Information Center and deposited  
19          in the State Treasury to the credit of the Criminal Justice  
20          Information System Automation Fund as compensation for record  
21          keeping and transaction processing with respect to violations  
22          notices issued under this act.

23               (b) The city shall cause a sign to be posted at each  
24               of a minimum of 10 roadway entry points to the city to provide  
25               motorists with notice that photographic traffic signal

1 enforcement systems are in use. The sign will comply with this  
2 requirement if it states substantially the following:

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

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

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

22 Section 5. (a) Prior to imposing a civil penalty  
23 under this act, the city shall first mail a notice of  
24 violation by first class U.S. mail to the owner of the motor  
25 vehicle which is recorded by the photographic traffic signal

1 enforcement system while committing a traffic signal  
2 violation. The notice shall be sent not later than the 30th  
3 day after the date the traffic signal violation is recorded  
4 to:

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

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

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

14 (1) Description of the violation alleged.

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

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

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

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

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

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

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

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

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

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

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

14           (10) Any other information deemed necessary by the  
15 department or the city.

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

19           (d) The civil penalty imposed shall be paid within  
20 30 days of the 10th day after the date the notice of violation  
21 is mailed.

22           (e) It shall be within the discretion of the trained  
23 technician to determine which of the recorded traffic signal  
24 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 Section 6. (a) The municipal court is vested with  
4 the power and jurisdiction to hear and adjudicate the civil  
5 violations provided for in this act, and to issue orders  
6 imposing the civil fines and costs set out in this act.

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

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 municipal judge enters a finding of no liability.

21 (e) If an adjudicative hearing is requested, the  
22 city shall have the burden of proving the traffic signal  
23 violation by a preponderance of the evidence. The reliability  
24 of the photographic traffic signal enforcement system used to  
25 produce the recorded image of the violation may be attested to

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

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

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

23 (h) A person who is found liable for the civil  
24 violation after an adjudicative hearing or who requests an  
25 adjudicative hearing and thereafter fails to appear at the

1 time and place of the hearing is liable for court costs and  
2 fees set out herein in addition to the amount of the civil  
3 fine assessed for the violation. A person who is found liable  
4 for a civil violation after an adjudicative hearing shall pay  
5 the civil fine and costs within 10 days of the hearing.

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

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

13 1. The traffic-control signal was not in proper  
14 position and sufficiently visible to an ordinarily observant  
15 person.

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

19 3. The operator of the motor vehicle violated the  
20 instructions of the traffic-control signal so as to yield the  
21 right-of-way to an immediately approaching authorized  
22 emergency vehicle.

23 4. The motor vehicle was being operated as an  
24 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 that chapter.

3 5. 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 6. 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 7. The presence of ice, snow, unusual amounts of  
11 rain, or other unusually hazardous road conditions existed  
12 that would make compliance with this act more dangerous under  
13 the circumstances than non compliance.

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

17 9. There was no sign installed as required by this  
18 act near the red light at which the violation allegedly  
19 occurred warning that an automated red light camera device was  
20 being used.

21 (k) To demonstrate that at the time of the violation  
22 the motor vehicle was a stolen vehicle or the license plate  
23 displayed on the motor vehicle was stolen plate, the owner  
24 must submit proof acceptable to the hearing officer that the  
25 theft of the vehicle or license plate, prior to the time of

1 the violation, had been timely reported to the appropriate law  
2 enforcement agency.

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

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

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

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

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

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

21 (b) The orders issued under this section may be  
22 filed in the office of the Probate Judge of Jefferson County,  
23 Alabama, and shall operate as a judicial lien in the same  
24 manner and with the same weight and effect as any other civil  
25 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 Jefferson 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  
9       penalty. An appeal shall be determined by the circuit court by  
10      trial de 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 to not 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 a  
12 photographic traffic signal 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 red light  
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 a photographic traffic signal  
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. The city, shall adopt the procedures  
20 authorized by this act, and shall keep statistical data  
21 regarding the effectiveness of photographic traffic signal  
22 enforcement systems in reducing traffic-control device  
23 violations and intersectional collisions and shall communicate  
24 the data on an annual basis to the Alabama Department of

1       Transportation and the Alabama Criminal Justice Information  
2       Center.

3               Section 12. The placement of control devices and  
4       timing of yellow lights and red light clearance intervals,  
5       adopted by the city, shall conform to the most recent edition  
6       of the Traffic Engineering Handbook. It shall be presumed that  
7       the city is in compliance with this section unless the  
8       contrary is shown by a preponderance of the evidence.

9               Section 13. No civil penalty may be imposed and no  
10       adjudication of liability for a civil violation may be made  
11       under this act if the operator of the vehicle was arrested or  
12       was issued a citation and notice to appear by a sworn police  
13       officer for a criminal violation of any portion of Article II,  
14       Chapter 5A, Title 32 including, but not limited to, Sections  
15       32-5A-31, 32-5A-34, and 32-5A-35 of the Code of Alabama 1975,  
16       or any other municipal ordinance which embraces and  
17       incorporates the statutes contained in that article, and which  
18       occurred simultaneously with and under the same set of  
19       circumstances which were recorded by the photographic traffic  
20       signal enforcement system.

21              Section 14. Any person against whom an adjudication  
22       of liability for a civil violation is made under this act, or  
23       the ordinance passed pursuant hereto, and who actually pays  
24       the civil fine imposed thereby shall have a cause of action  
25       against any person who may be shown to have been operating the

1 vehicle recorded at the time of the violation for the amount  
2 of the civil fine actually paid plus any consequential or  
3 compensatory damages and a reasonable attorney fee, without  
4 regard to the rules regarding joint and several liability,  
5 contribution, or indemnity. Provided, however, that as a  
6 condition precedent to the bringing of a civil action, that  
7 the person held responsible for payment of the civil fine must  
8 first make written demand on the other person for  
9 reimbursement of the civil fine, giving a minimum of 60 days  
10 to remit payment, and if reimbursement is fully made within  
11 the 60-day period then the cause of action shall be  
12 extinguished and no attorney fees or other damages shall  
13 attach to the reimbursement. Any cause of action brought  
14 pursuant to this section must be commenced within two years  
15 from the date of the payment of the civil fine for a red light  
16 violation.

17 Section 15. The provisions of this act are  
18 severable. If any part of this act is declared invalid or  
19 unconstitutional, that declaration shall not affect the part  
20 which remains.

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

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Speaker of the House of Representatives

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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 26-MAY-11.

Greg Pappas  
Clerk

Senate

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02-JUN-11

Passed