

1 HB575  
2 135842-1  
3 By Representative Vance (N & P)  
4 RFD: Local Legislation  
5 First Read: 20-MAR-12

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to the City of Phenix City, Alabama, in  
14 Russell and Lee Counties; authorizing automated traffic light  
15 enforcement in the City of Phenix City, Alabama, as a civil  
16 violation; providing certain procedures to be followed by the  
17 city using automated photographic traffic light enforcement;  
18 providing that the owner of the vehicle involved in running a  
19 traffic light is presumptively liable for a civil violation  
20 and the payment of a civil fine, but providing procedures to  
21 contest liability; providing for jurisdiction in Russell  
22 County and the Phenix City Municipal Court over the civil  
23 violations and allowing appeals to the Russell County Circuit  
24 Court for trial de novo; creating a cause of action for any  
25 person held responsible for payment of the civil fine against  
26 the person who was actually operating a vehicle during the  
27 running of a traffic light; and prohibiting the tampering with

1 a photographic traffic signal enforcement system, except by  
2 authorized persons.

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 "Phenix City Red Light Safety Act."

6 (b) The City of Phenix City, Alabama, may, by  
7 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 vehicles running  
11 red lights have been and are a dangerous problem in the City  
12 of Phenix City, Alabama.

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

18 (3) Current Alabama law provides that failing to  
19 stop and remain stopped at a traffic-control signal which is  
20 emitting a steady red signal is a criminal misdemeanor. Under  
21 Alabama law one who commits such a misdemeanor is subject to  
22 prosecution only if the misdemeanor was witnessed by either a  
23 duly empowered police officer or other witness who makes a  
24 verified complaint to a sworn magistrate.

25 (4) Many jurisdictions have adopted laws that allow  
26 use of automated photographic traffic enforcement, and the  
27 Legislature finds that it should adopt legislation

1 implementing a program for automated photographic enforcement  
2 of traffic signal violations; which the Legislature finds is  
3 consistent with this act.

4 (5) By allowing a program for use of automated  
5 traffic cameras in traffic signal enforcement by the City of  
6 Phenix City, the Legislature hopes to both decrease the rate  
7 of traffic signal violations and learn more about the  
8 effectiveness and fairness involved in the use of the  
9 automated systems.

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

12 (1) CITY. The City of Phenix City, Alabama.

13 (2) CIVIL FINE. The monetary amount assessed by the  
14 City of Phenix City pursuant to this act for an adjudication  
15 of civil liability for a traffic signal violation, including  
16 municipal court costs associated with the infraction.

17 (3) CIVIL VIOLATION. There is hereby created a  
18 noncriminal category of law called a civil violation created  
19 and existing for the sole purpose of carrying out the terms of  
20 this act. The penalty for violation of a civil violation shall  
21 be the payment of a civil fine, the enforceability of which  
22 shall be accomplished through civil action. The prosecution of  
23 a civil violation created hereby shall carry reduced  
24 evidentiary requirements and burden of proof as set out in  
25 Section 6, and no event shall an adjudication of liability  
26 for a civil violation be punishable by a criminal fine or  
27 imprisonment.

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

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

23           (6) TRAFFIC-CONTROL SIGNAL. Any device, whether  
24 manually, electrically, or mechanically operated, by which  
25 traffic is alternately directed to stop and permitted to  
26 proceed as defined in Section 32-1-1.1, Code of Alabama 1975.  
27 The device shall be capable of producing at least two recorded

1 images, at least one of which is capable of clearly depicting  
2 the license plate of a motor vehicle that is not operated in  
3 compliance with the instructions of the traffic-control  
4 signal.

5 (7) TRAFFIC SIGNAL VIOLATION. Any violation of  
6 Section 32-5A-31, Section 32-5A-32, or Section 32-5A-35, Code  
7 of Alabama 1975, or of any combination thereof, wherein a  
8 vehicle proceeds into a signalized intersection at a time  
9 while the traffic-control signal for that vehicle's lane of  
10 travel is emitting a steady red signal. A traffic signal  
11 violation shall be a civil violation as defined in this act.

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

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

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

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

26 Section 4. (a) The City of Phenix City is empowered  
27 to utilize an automated photographic traffic signal

1 enforcement system to detect and record traffic signal  
2 violations, to issue notices of civil violations by mail, and  
3 to prosecute civil violations for the recorded traffic signal  
4 violations which may occur within the corporate limits of the  
5 City of Phenix City as provided in this act. A civil fine  
6 assessed under this act shall not exceed one hundred dollars  
7 (\$100), and municipal court costs shall be assessed only in  
8 contested cases in the same manner and in the same amounts  
9 prescribed for a municipal criminal traffic-control device  
10 violation prosecuted as a misdemeanor under Sections 32-5A-31,  
11 32-5A-32, 32-5A-35, Code of Alabama 1975, or any combination  
12 thereof. An additional fee of ten dollars (\$10) shall be  
13 collected in connection with notices issued under this act.  
14 Court costs collected pursuant to this act shall be  
15 distributed in the same manner as prescribed by law for the  
16 distribution of municipal court costs for misdemeanor  
17 violations. The additional ten dollars (\$10) authorized by  
18 this act shall be paid to the Alabama Criminal Justice  
19 Information Center as compensation for record keeping with  
20 respect to violation notices issued under this act.

21 (b) The City of Phenix City shall cause a sign to be  
22 posted at each of a minimum of five roadway entry points to  
23 the city to provide motorists with notice that photographic  
24 traffic signal enforcement systems are in use. The sign will  
25 comply with this requirement if it states substantially the  
26 following: "AUTOMATED CAMERAS USED IN RED LIGHT ENFORCEMENT,"  
27 or if it otherwise gives sufficient notice.

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

11 (d) The city shall post a sign or signs at each  
12 intersection at which a device is located informing motorists  
13 that a photographic traffic signal enforcement system is in  
14 operation at the intersection.

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

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

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



1 state or country analogous to the Alabama Department of  
2 Revenue.

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

5 (1) A description of the violation alleged.

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

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

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

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

13 (6) A statement that the person named in the notice  
14 of violation may pay the civil penalty in Russell County and  
15 lieu of appearing at an administrative adjudication hearing.

16 (7) Information that informs the person named in the  
17 notice of violation of all of the following:

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

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

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

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

26 (9) A statement that failure to pay the civil  
27 penalty within the time allowed shall result in the imposition

1 of a late penalty not exceeding twenty-five dollars (\$25) for  
2 each month after the issuance of the order imposing the civil  
3 penalty.

4 (10) Any other information deemed necessary by the  
5 department or the city.

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

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

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

17 Section 6. (a) The Phenix City Municipal Court is  
18 vested with the power and jurisdiction to hear and adjudicate  
19 the civil violations provided for in this act, and to issue  
20 orders imposing the civil fines and costs set out in this  
21 act.

22 (b) A person who receives a violation may contest  
23 the imposition of the civil fine by submitting a request for a  
24 hearing on the adjudication of the civil violation, in  
25 writing, within 15 days of the 10th day after the date the  
26 notice of violation is mailed. Upon receipt of a timely

1 request, the city shall notify the person of the date and time  
2 of the adjudicative hearing.

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

7 (d) The civil fine and court costs shall not be  
8 assessed if, after a hearing, the Phenix City Municipal Judge  
9 enters a finding of no liability.

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

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

1 city shall be given a reasonable opportunity to lay an  
2 evidentiary 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 the Russell 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 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:

25 1. The traffic-control signal was not in proper  
26 position and sufficiently visible to an ordinarily observant  
27 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, Code of Alabama 1975, and that the operator was  
11 acting in compliance with that chapter.

12                  5. The motor vehicle was stolen or being operated by  
13 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.

26                  (k) To demonstrate that at the time of the violation  
27 the motor vehicle was a stolen vehicle or the license plate

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

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

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

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

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

19 (1) Whether the person charged with the civil  
20 violation is liable for the violation.

21 (2) If the person is found to be liable, the amount  
22 of the civil fine assessed against the person, along with the  
23 fees and costs of court provided for herein.

24 (b) The orders issued under this section may be  
25 filed in the office of the Judge of Probate of Russell County,  
26 Alabama, and shall operate as a judicial lien in the same

1 manner and with the same weight and effect as any other civil  
2 judgment filed therein.

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

13 Section 8. The circuit court hearing an appeal shall  
14 use the procedures that apply to criminal convictions in  
15 municipal court with the following qualifications:

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

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

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

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

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

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

21          Section 10. The city may provide by ordinance that  
22       late fees not exceeding twenty-five dollars (\$25) per month  
23       for each month after the issuance of the order imposing the  
24       civil fine shall attach to untimely paid civil fines that are  
25       authorized in Russell and this act. No person may be arrested  
26       or incarcerated for nonpayment of a civil fine or late fee. No  
27       record of an adjudication of civil violation made under this



1 act shall be listed, entered, or reported on any criminal  
2 record or driving record, whether the record is maintained by  
3 the city or an outside agency. An adjudication of civil  
4 violation provided for in this act shall not be considered a  
5 conviction for any purpose, shall not be used to increase or  
6 enhance punishment for any subsequent offense of a criminal  
7 nature, shall not be considered a moving violation, and shall  
8 not be used by any insurance company to determine or affect  
9 premiums or rates. The fact that a person is held liable or  
10 responsible for a civil fine for a red light violation shall  
11 not be used as evidence that the person was guilty of  
12 negligence or other culpable conduct, and as evidence in any  
13 other proceedings if it is or becomes admissible under the  
14 rules of evidence applicable therein.

15 Section 11. The city shall adopt the procedures  
16 authorized by this act, and shall keep statistical data  
17 regarding the effectiveness of photographic traffic signal  
18 enforcement systems in reducing traffic-control device  
19 violations and intersectional collisions and shall communicate  
20 the data on an annual basis to the Alabama Department of  
21 Transportation and the Alabama Criminal Justice Information  
22 Center.

23 Section 12. The placement of control devices and  
24 timing of yellow lights and red light clearance intervals,  
25 adopted by the city, shall conform to the most recent edition  
26 of the Traffic Engineering Handbook. It shall be presumed that

1 the city is in compliance with this section unless the  
2 contrary is shown by a preponderance of the evidence.

3 Section 13. No civil penalty may be imposed and no  
4 adjudication of liability for a civil violation may be made  
5 under this act if the operator of the vehicle was arrested or  
6 was issued a citation and notice to appear by a sworn police  
7 officer for a criminal violation of any portion of Article 2,  
8 Chapter 5A, Title 32, including, but not limited to, Sections  
9 32-5A-31, 32-5A-34, and 32-5A-35, Code of Alabama 1975, or any  
10 other municipal ordinance which embraces and incorporates the  
11 statutes contained in that article, and which occurred  
12 simultaneously with and under the same set of circumstances  
13 which were recorded by the photographic traffic signal  
14 enforcement system.

15 Section 14. Any person against whom an adjudication  
16 of liability for a civil violation is made under this act, or  
17 the ordinance passed pursuant hereto, and who actually pays  
18 the civil fine imposed thereby shall have a cause of action  
19 against any person who may be shown to have been operating the  
20 vehicle recorded at the time of the violation for the amount  
21 of the civil fine actually paid plus any consequential or  
22 compensatory damages and a reasonable attorney fee, without  
23 regard to the rules regarding joint and several liability,  
24 contribution, or indemnity. Provided, however, that as a  
25 condition precedent to the bringing of a civil action, that  
26 the person held responsible for payment of a civil fine must  
27 first make written demand on the other person for

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

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

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