

1 SB534  
2 140499-1  
3 By Senator Blackwell (N & P)  
4 RFD: Local Legislation No. 2  
5 First Read: 19-APR-12

9 A BILL  
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11 TO BE ENTITLED  
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13 AN ACT  
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Relating to the City of Irondale, Alabama;  
authorizing automated traffic camera enforcement in the city  
limits of Irondale as a civil violation by the adoption of a  
municipal ordinance consistent with this act; providing  
certain procedures to be followed by Irondale; providing that  
the owner of the vehicle involved in violation of a traffic  
law is presumptively liable for a civil violation and the  
payment of a civil fine, but providing procedures to contest  
liability; providing for jurisdiction in the municipal court  
of Irondale over the civil violations and allowing appeals to  
the Jefferson County Circuit Court for trial de novo; creating  
a cause of action for any person held responsible for payment  
of the civil fine against the person who was actually  
operating a vehicle during the violation of a traffic law; and

prohibiting the tampering with a photographic traffic signal enforcement system, except by authorized persons.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

## Section 1. Part I. Red Light Enforcement.

The City of Irondale, may, by ordinance, adopt the procedures set out in this act.

Section 2. The Legislature finds and declares the following:

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

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

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

(4) Many jurisdictions have adopted laws that allow use of automated photographic traffic enforcement, and the Legislature finds that it should adopt legislation that would implement a program for automated photographic enforcement of

1 traffic signal violations, which the Legislature finds is  
2 consistent with this act.

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

8 Section 3. As used in Part 1 of this act, the  
9 following terms shall have the following meanings:

10 (1) CITY. The City of Irondale in Jefferson County,  
11 Alabama.

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

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

27 (4) COUNTY. Jefferson County in Alabama.

(5) MUNICIPAL COURT. The Irondale Municipal Court.

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

(7) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM.

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

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

1 not operated in compliance with the instructions of the  
2 traffic-control signal.

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

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

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

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

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

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

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

(b) The city shall post a sign at each of a minimum of 10 roadway entry points to the city, or all roadway entry points to the city if there are less than 10, to provide 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: "TRAFFIC  
3 LAWS ENFORCED BY AUTOMATED CAMERAS," or if it otherwise gives  
4 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.

13 (d) The city shall post signs warning of the use of  
14 automated enforcement cameras. Each sign must be in compliance  
15 with all federal Manual Uniforms Traffic Control Devices  
16 (MUTCD) standards, including but not limited to the MUTCD  
17 standards for size, location, and visibility.

18 Section 5. (a) Prior to imposing a civil penalty  
19 under this act, the city shall first mail a notice of  
20 violation by first class U.S. mail to the owner of the motor  
21 vehicle which is recorded by the photographic traffic signal  
22 enforcement system while committing a traffic signal  
23 violation.

24 The notice shall be sent not later than the 30th day  
25 after the date the traffic signal violation is recorded to:

26 (1) The owner's address as shown on the registration  
27 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 or 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 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 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

1 timely request, the city shall notify the person of the date  
2 and time of the adjudicative hearing by first class U.S. mail.

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 shall not be assessed if, after a  
8 hearing, the municipal court judge enters a finding of no  
9 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 Jefferson County Circuit Court for trial de novo the  
8 evidence and procedures shall be as for any civil case in the  
9 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.

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

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

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

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

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

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

(8) The person who received the notice of violation was not the owner of the motor vehicle at the time of the violation.

(9) There was no sign installed as required by this act near the red light at which the violation allegedly

1 occurred warning that an automated red light camera device was  
2 being used.

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

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

14 a. The person files an affidavit with the municipal  
15 court stating that he/she did not receive the notice of the  
16 violation by the 10th day after the notice was mailed or that  
17 the notice otherwise fails to comply with Section 5 of this  
18 act.

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

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

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

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

(b) The orders issued under this section may be filed in the office of the Probate Judge of Jefferson 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.

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

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

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

(2) If the person is adjudicated by the circuit court to be responsible for payment of the civil fine, circuit court costs shall be owed by the person adjudicated responsible, with 100 percent of those court costs retained by the circuit court. Court costs in the circuit court shall be calculated as are court costs for criminal appeals from the

1 municipal court, and in the event the circuit court finds the  
2 person appealing to not be responsible, no municipal court  
3 costs shall be owed to the city.

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

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

11 (5) The city shall be responsible for providing an  
12 attorney to represent the city and to prosecute the civil  
13 proceedings in the circuit court.

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

25 Section 10. The city may provide by ordinance that a  
26 late fee not exceeding twenty-five dollars (\$25) shall attach  
27 to untimely paid civil fines that are authorized in this act.

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

20                   Section 11. A city, shall adopt by ordinance the  
21       procedures authorized by this act, and shall keep statistical  
22       data regarding the effectiveness of photographic traffic  
23       signal enforcement systems in reducing traffic-control device  
24       violations and intersectional collisions and shall communicate  
25       the data on an annual basis to the Alabama Department of  
26       Transportation and the Alabama Criminal Justice Information  
27       Center.

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

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

Section 14. Any person that is adjudicated liable for a civil violation under this Act, or an ordinance passed pursuant to this Act, and who pays the civil fine imposed as a result of that adjudication, shall have a cause of action against the person who was operating the vehicle at the time of the violation for the amount of the civil fine paid plus any consequential damages and a reasonable attorney fee, without regard to the rules regarding joint and several liability, contribution, or indemnity. As a condition

precedent to bringing a civil action, the person held responsible for payment of the civil fine must first make written demand on the operator of the vehicle for reimbursement of the civil fine, within 60 days of the demand. If reimbursement is fully made within the 60-day period, the cause of action shall be extinguished and no attorney fees or other damages shall attach to the reimbursement. Any cause of action brought pursuant to this section must be commenced within two years from the date of the payment of the civil fine.

## Part II. Speeding Enforcement.

Section 15. The City of Irondale may, by ordinance, adopt the procedures set out in this act.

Section 16. The Legislature finds and declares the following:

(1) There has been a high incidence of drivers disregarding speed limits on streets and at street intersections.

(2) Exceeding the speed limit endangers vehicle operators and pedestrians alike by decreasing the efficiency of traffic control and homogeneous traffic flow and by increasing the number of serious traffic crashes to which public safety agencies must respond at the expense of the taxpayers.

(3) A reduction in the number of drivers exceeding speed limits through a program utilizing photographic evidence and enforcement through the imposition of civil penalties will

help promote and protect the health, safety, and welfare of the citizens of Irondale.

(4) Many jurisdictions have adopted laws that allow use of automated photographic traffic enforcement, and the Legislature finds that it should adopt legislation that would implement a program for automated photographic enforcement of speeding violations, which the Legislature finds is consistent with this act.

(5) By allowing a program for use of automated traffic cameras in speed limit enforcement by the city, the Legislature hopes to both decrease the rate of speeding violations and learn more about the effectiveness and fairness involved in the use of the automated systems.

Section 17. As used in Part II of this act, the following terms shall have the following meanings:

(1) CITY. The City of Irondale located in Jefferson County, Alabama.

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

(3) CIVIL VIOLATION. There is hereby created a non-criminal category of state law called a civil violation created and existing for the sole purpose of carrying out the terms of this act. The penalty for violation of a civil violation shall be the payment of a civil fine, the enforceability of which shall be accomplished through civil

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

6 (4) COUNTY. Jefferson County in Alabama.

7 (5) MUNICIPAL COURT. The Irondale Municipal Court.

8 (6) 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 (7) PHOTOGRAPHIC VEHICLE SPEED ENFORCEMENT SYSTEM OR  
23 SYSTEMS. A system meeting the following requirements:

24 a. The system has a mobile or fixed electronic speed  
25 enforcement system, or both, which is certified and in  
26 compliance with the Federal Communications Commission, if  
27 applicable.

b. The system is capable of producing at least two recorded images depicting the license plate attached to the rear of a vehicle being operated at a speed in excess of the speed limit.

The device shall be capable of producing at least two recorded images, at least one of which is capable of clearly depicting the license plate of a motor vehicle that is not operated in compliance with the posted speed limit.

(8) SPEED LIMIT. The established maximum speed limit on a given roadway prescribed by law.

(9) SYSTEM LOCATION. The approach to an intersection toward which a photographic traffic vehicle speed enforcement system is directed and in operation or a segment of roadway on which a vehicle speed enforcement system is in operation.

(10) TRAINED TECHNICIAN. A 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 vehicle speed 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.

|    | Speed Over Speed Limit             | Civil Penalty |
|----|------------------------------------|---------------|
| 11 |                                    |               |
| 12 | 5 through 10 mph                   | \$50          |
| 13 | Greater than 10 mph through 15 mph | \$100         |
| 14 | Greater than 15 mph through 20 mph | \$125         |
| 15 | Greater than 20 mph                | \$150         |

16 (b) Court costs collected by the city pursuant to  
17 this act shall be distributed in the same manner as prescribed  
18 by law for the distribution of municipal court costs for  
19 misdemeanor violations. An additional fee of ten dollars (\$10)  
20 shall be collected by the municipal court in connection with  
21 notices issued under this act to be paid to the Alabama  
22 Criminal Justice Information Center and deposited in the State  
23 Treasury to the credit of the Criminal Justice Information

1 System Automation Fund as compensation for record keeping and  
2 transaction processing with respect to violation notices  
3 issued under this act.

4 (c) The civil penalty for "speed over speed limit"  
5 as stated above shall double for violations of this act when  
6 that violation occurs and was electronically recorded within a  
7 segment of the roadway or intersection designated with signage  
8 or signals as a school zone only during school hours when  
9 school is in session and one hour before and after school  
10 hours.

11 (d) Prior to operating a photographic vehicle speed  
12 enforcement system, the city shall make a public announcement  
13 and conduct a public awareness campaign of the use of a  
14 photographic vehicle speed enforcement system a minimum of 30  
15 days before using the devices.

16 (e) After the 30 day public awareness campaign has  
17 been completed, the city may place photographic vehicle speed  
18 enforcement systems at locations without public notice of the  
19 specific location, and the city may change locations without  
20 public notice.

21 Section 19. (a) Prior to imposing a civil penalty  
22 under this act, the city shall first mail a notice of  
23 violation by first class U.S. mail to the owner of the motor  
24 vehicle which is recorded by the photographic enforcement  
25 system while committing a violation. The notice shall be sent  
26 not later than the 30th day after the date the speeding  
27 violation is recorded to:

(1) The owner's address as shown on the 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 or 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.

Section 20. (a) The 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

1 violation, in writing, within 15 days of the 10th day after  
2 the date the notice of violation is mailed. Upon receipt of a  
3 timely request, the city shall notify the person of the date  
4 and time of the adjudicative hearing by first class U.S. mail.

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

9 (d) The civil fine shall not be assessed if, after a  
10 hearing, the municipal judge enters a finding of no liability.

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

20 (f) The notice of violation, the recorded and  
21 reproduced images of the violation, regardless of the media on  
22 which they are recorded, accompanied by a certification of  
23 authenticity of a trained technician, and evidence of  
24 ownership of a vehicle as shown by copies or summaries of  
25 official records shall be admissible into evidence without  
26 foundation unless the municipal court finds there is an  
27 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 Jefferson County Circuit Court for trial de novo the  
8 evidence and procedures shall be as for any civil case in the  
9 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 operator of the motor vehicle was acting in  
26 compliance with the lawful order or direction of a police  
27 officer.

(2) The operator of the vehicle violated the speed limit so as to move out of the way of an immediately approaching authorized emergency vehicle.

(3) The motor vehicle was being operated as an authorized emergency vehicle under Sections 32-5A-7 and 32-5-213 of the Code of Alabama 1975, and that the operator was acting in compliance with that chapter.

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

(5) The license plate depicted in the recorded image of the violation was a stolen plate and being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued.

(6) The person who received the notice of violation was not the owner of the motor vehicle at the time of the violation.

(k) To demonstrate that at the time of the violation the motor vehicle was a stolen vehicle or the license plate displayed on the motor vehicle was stolen plate, the owner must submit proof acceptable to the municipal court judge that the theft of the vehicle or license plate, prior to the time of the violation, had been timely reported to the appropriate law enforcement agency.

(1) Notwithstanding anything in this act to the 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                   a. The person files an affidavit with the municipal  
4 court stating that he/she did not receive the notice of the  
5 violation by the 10th day after the notice was mailed or that  
6 the notice otherwise fails to comply with Section 19 of this  
7 act.

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

10                  Section 21. (a) Following an adjudicative hearing,  
11 the municipal court judge shall issue an order stating:

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

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

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

22                   (c) A person who is found liable after an  
23 adjudicative hearing may appeal that finding of civil  
24 liability to the Circuit Court of Jefferson County, Alabama,  
25 by filing a notice of appeal with the clerk of the municipal  
26 court. The notice of appeal must be filed not later than the  
27 14th day after the date on which the municipal court judge

1 entered the finding of civil liability. The filing of a notice  
2 of appeal shall stay the enforcement of the civil fine  
3 penalty. An appeal shall be determined by the circuit court by  
4 trial de novo.

5 Section 22. (a) The circuit court hearing an appeal  
6 shall use the procedures that apply to criminal convictions in  
7 municipal court with the following qualifications:

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

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

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

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

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

Section 23. In the event the evidence produced by a photographic traffic signal enforcement system does not produce an image of the license plate with sufficient clarity for a trained technician to determine the identity of the owner, and if the identity cannot otherwise be reliably established, then no notice of violation may be issued pursuant to this act. If, however, a notice of violation is issued, to the degree constitutionally allowed, those issues related to the identity of the vehicle or its owner shall affect the weight to be accorded the evidence and shall not affect its admissibility.

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

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

10                   Section 25. A city, shall adopt by ordinance the  
11 procedures authorized by this act, and shall keep statistical  
12 data regarding the effectiveness of photographic vehicle speed  
13 enforcement systems in reducing speeding violations and  
14 collisions and shall communicate the data on an annual basis  
15 to the Alabama Department of Transportation and the Alabama  
16 Criminal Justice Information Center.

17                   Section 26. No civil penalty may be imposed and no  
18 adjudication of liability for a civil violation may be made  
19 under this act if the operator of the vehicle was arrested or  
20 was issued a citation and notice to appear by a police officer  
21 for a criminal violation of Title 32 of the Code of Alabama  
22 1975, if such violation was captured by the system.

23                   Section 27. Any person against whom an adjudication  
24 of liability for a civil violation is made under this act, or  
25 the ordinance passed pursuant hereto, and who actually pays  
26 the civil fine imposed thereby shall have a cause of action  
27 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  
16 violation.

17                   Section 28. 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 29. This act shall become effective  
22 immediately following its passage and approval by the  
23 Governor, or its otherwise becoming law.