

1 SB545  
2 140005-1  
3 By Senator Waggoner (N & P)  
4 RFD: Local Legislation No. 2  
5 First Read: 19-APR-12

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Jefferson County; authorizing automated  
14 traffic camera enforcement in as a civil violation by the  
15 adoption of a municipal ordinance consistent with this act;  
16 providing certain procedures to be followed by the city using  
17 automated photographic traffic light camera enforcement;  
18 providing that the owner of the vehicle involved in violation  
19 of a traffic law 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 the municipal  
22 court of each incorporated municipality in the county over the  
23 civil violations and allowing appeals to the Jefferson County  
24 Circuit Court for trial de novo; creating a cause of action  
25 for any person held responsible for payment of the civil fine  
26 against the person who was actually operating a vehicle during  
27 the violation of a traffic law; and prohibiting the tampering

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

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Part I. Red Light Enforcement.

5 Each incorporated municipality in Jefferson County  
6 may, by ordinance, adopt the procedures set out in this act.

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

9 (1) Accident data establishes that vehicles running  
10 red lights have been and are a dangerous problem in the  
11 municipalities located in Jefferson County, Alabama.

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

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

24 (4) Many jurisdictions have adopted laws that allow  
25 use of automated photographic traffic enforcement, and the  
26 Legislature finds that it should adopt legislation that would  
27 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 the city, 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. Each incorporated municipality located in  
11 Jefferson County, 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.

1           (5) MUNICIPAL COURT. The Municipal Court of any  
2 municipality in Jefferson County that has an ordinance adopted  
3 pursuant to this act.

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

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

26           The device shall be capable of producing at least  
27 two recorded images, at least one of which is capable of

1 clearly depicting the license plate of a motor vehicle that is  
2 not operated in compliance with the instructions of the  
3 traffic-control signal.

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

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

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

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

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

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

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

24           (b) The city shall post a sign at each of a minimum  
25 of 10 roadway entry points to the city, or all roadway entry  
26 points to the city if there are less than 10, to provide  
27 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. The notice shall be sent not later than the 30th  
24 day after the date the traffic signal violation is recorded  
25 to:

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



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

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

8           (1) Description of the violation alleged.

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

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

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

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

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

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

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

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

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

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

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

6           (10)           Any other information deemed necessary  
7 by the department or the city.

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

11           (d) The civil penalty imposed shall be paid within  
12 30 days of the 10th day after the date the notice of violation  
13 is mailed.

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

19           Section 6. (a) The municipal court is vested with  
20 the power and jurisdiction to hear and adjudicate the civil  
21 violations provided for in this act, and to issue orders  
22 imposing the civil fines and costs set out in this act.

23           (b) A person who receives a notice of violation may  
24 contest the imposition of the civil fine by submitting a  
25 request for a hearing on the adjudication of the civil  
26 violation, in writing, within 15 days of the 10th day after  
27 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.

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

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

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

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

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

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

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           (9) There was no sign installed as required by this  
27 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 (1) 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.

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

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

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

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

22 (2) If the person is adjudicated by the circuit  
23 court to be responsible for payment of the civil fine, circuit  
24 court costs shall be owed by the person adjudicated  
25 responsible, with 100 percent of those court costs retained by  
26 the circuit court. Court costs in the circuit court shall be  
27 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.

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

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

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

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

11 Section 15. Part II. Speeding Enforcement.

12 Each incorporated municipality in Jefferson County  
13 may, by ordinance, adopt the procedures set out in this act.

14 Section 16. The Legislature finds and declares the  
15 following:

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

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

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

1 help promote and protect the health, safety, and welfare of  
2 the citizens of the municipalities of Jefferson County.

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

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

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

16 (1) CITY. Each incorporated municipality located in  
17 Jefferson County, Alabama.

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

22 (3) CIVIL VIOLATION. There is hereby created a  
23 non-criminal category of state law called a civil violation  
24 created and existing for the sole purpose of carrying out the  
25 terms of this act. The penalty for violation of a civil  
26 violation shall be the payment of a civil fine, the  
27 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 Municipal Court of any  
8 municipality in Jefferson County that has an ordinance adopted  
9 pursuant to this act.

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

24 (7) PHOTOGRAPHIC VEHICLE SPEED ENFORCEMENT SYSTEM OR  
25 SYSTEMS. A system meeting the following requirements:

26 a. The system has a mobile or fixed electronic speed  
27 enforcement system, or both, which is certified and in

1 compliance with the Federal Communications Commission, if  
2 applicable.

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

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

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

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

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

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

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

25 c. Has been trained by the vendor installing the  
26 equipment. Under no circumstances shall the salary or other  
27 compensation of the trained technician be related to the

1 number of notices of violation issued or amount of fines  
2 collected.

3 Section 18. (a) A city is authorized to adopt an  
4 ordinance to utilize an automated photographic vehicle speed  
5 enforcement system to detect and record speeding violations,  
6 to issue notices of civil violations by mail, and to prosecute  
7 civil violations for the recorded speeding violations which  
8 may occur within the corporate limits of the city as provided  
9 in this act. The following civil penalties shall apply to the  
10 owner when captured by the system where the vehicle was re-  
11 corded as traveling at the following speeds over the speed  
12 limit:

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

20 (b) Court costs collected by any city pursuant to  
21 this act shall be distributed in the same manner as prescribed  
22 by law for the distribution of municipal court costs for  
23 misdemeanor violations. An additional fee of ten dollars (\$10)

1 shall be collected by the municipal court in connection with  
2 notices issued under this act to be paid to the Alabama  
3 Criminal Justice Information Center and deposited in the State  
4 Treasury to the credit of the Criminal Justice Information  
5 System Automation Fund as compensation for record keeping and  
6 transaction processing with respect to violation notices  
7 issued under this act.

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

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

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

25 Section 19. (a) Prior to imposing a civil penalty  
26 under this act, the city shall first mail a notice of  
27 violation by first class U.S. mail to the owner of the motor



1 vehicle which is recorded by the photographic enforcement  
2 system while committing a violation. The notice shall be sent  
3 not later than the 30th day after the date the speeding  
4 violation is recorded 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.

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

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

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

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

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

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

12           (10) Any other information deemed necessary by  
13 the department or the city.

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

17           (d) The civil penalty imposed shall be paid within  
18 30 days of the 10th day after the date the notice of violation  
19 is mailed.

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

25           Section 20. (a) The municipal court is vested with  
26 the power and jurisdiction to hear and adjudicate the civil

1 violations provided for in this act, and to issue orders  
2 imposing the civil fines and costs set out in this act.

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

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

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

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

25 (f) The notice of violation, the recorded and  
26 reproduced images of the violation, regardless of the media on  
27 which they are recorded, accompanied by a certification of

1 authenticity of a trained technician, and evidence of  
2 ownership of a vehicle as shown by copies or summaries of  
3 official records shall be admissible into evidence without  
4 foundation unless the municipal court finds there is an  
5 indication of untrustworthiness, in which case the city shall  
6 be given a reasonable opportunity to lay an evidentiary  
7 foundation.

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

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

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

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

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

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

10          (3) The motor vehicle was being operated as an  
11       authorized emergency vehicle under Sections 32-5A-7 and  
12       32-5-213 of the Code of Alabama 1975, and that the operator  
13       was acting in compliance with that chapter.

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

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

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

24          (k) To demonstrate that at the time of the violation  
25       the motor vehicle was a stolen vehicle or the license plate  
26       displayed on the motor vehicle was stolen plate, the owner  
27       must submit proof acceptable to the municipal court judge that

1 the theft of the vehicle or license plate, prior to the time  
2 of the violation, had been timely reported to the appropriate  
3 law enforcement agency.

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

8 a. The person files an affidavit with the municipal  
9 court stating that he/she did not receive the notice of the  
10 violation by the 10th day after the notice was mailed or that  
11 the notice otherwise fails to comply with Section 19 of this  
12 act.

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

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

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

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

22 (b) The orders issued under this section may be  
23 filed in the office of the Probate Judge of Jefferson County,  
24 Alabama, and shall operate as a judicial lien in the same  
25 manner and with the same weight and effect as any other civil  
26 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 22. (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.

26           (3) Regardless of the civil nature of the  
27      proceedings, the circuit court, in its discretion and for its

1 administrative convenience, may assign case numbers as for  
2 criminal appeals and place the appeals on criminal dockets in  
3 the same manner as criminal appeals from municipal court.

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

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

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

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



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

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

22           Section 26. No civil penalty may be imposed and no  
23 adjudication of liability for a civil violation may be made  
24 under this act if the operator of the vehicle was arrested or  
25 was issued a citation and notice to appear by a police officer  
26 for a criminal violation of Title 32 of the Code of Alabama  
27 1975, if such violation was captured by the system.

1           Section 27. Any person against whom an adjudication  
2   of liability for a civil violation is made under this act, or  
3   the ordinance passed pursuant hereto, and who actually pays  
4   the civil fine imposed thereby shall have a cause of action  
5   against any person who may be shown to have been operating the  
6   vehicle recorded at the time of the violation for the amount  
7   of the civil fine actually paid plus any consequential or  
8   compensatory damages and a reasonable attorney fee, without  
9   regard to the rules regarding joint and several liability,  
10   contribution, or indemnity. Provided, however, that as a  
11   condition precedent to the bringing of a civil action, that  
12   the person held responsible for payment of the civil fine must  
13   first make written demand on the other person for  
14   reimbursement of the civil fine, giving a minimum of 60 days  
15   to remit payment, and if reimbursement is fully made within  
16   the 60-day period then the cause of action shall be  
17   extinguished and no attorney fees or other damages shall  
18   attach to the reimbursement. Any cause of action brought  
19   pursuant to this section must be commenced within two years  
20   from the date of the payment of the civil fine for a  
21   violation.

22           Section 28. The provisions of this act are  
23   severable. If any part of this act is declared invalid or  
24   unconstitutional, that declaration shall not affect the part  
25   which remains.

1                   Section 29. This act shall become effective  
2       immediately following its passage and approval by the  
3       Governor, or its otherwise becoming law.