

1 SB546
2 140007-1
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 the City of Vestavia Hills, Alabama;
14 authorizing automated traffic camera enforcement in the city
15 limits of Vestavia Hills as a civil violation by the adoption
16 of a municipal ordinance consistent with this act; providing
17 certain procedures to be followed by Vestavia Hills; providing
18 that the owner of the vehicle involved in violation of a
19 traffic law is presumptively liable for a civil violation and
20 the payment of a civil fine, but providing procedures to
21 contest liability; providing for jurisdiction in the municipal
22 court of Vestavia Hills over the civil violations and allowing
23 appeals to the Jefferson County Circuit Court for trial de
24 novo; creating a cause of action for any person held
25 responsible for payment of the civil fine against the person
26 who was actually operating a vehicle during the violation of a
27 traffic law; and prohibiting the tampering with a photographic

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

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Part I. Red Light Enforcement.

5 The City of Vestavia Hills, may, by ordinance, adopt
6 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 Vestavia
11 Hills, 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 Vestavia
5 Hills, the Legislature hopes to both decrease the rate of
6 traffic signal violations and learn more about the
7 effectiveness and fairness involved in the use of the
8 automated systems.

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

11 (1) CITY. The City of Vestavia Hills in Jefferson
12 County, Alabama.

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

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

1 (4) COUNTY. Jefferson County in Alabama.

2 (5) MUNICIPAL COURT. The Vestavia Hills Municipal
3 Court.

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) The 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 by the
7 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
4 violation the motor vehicle was a stolen vehicle or the
5 license plate displayed on the motor vehicle was stolen plate,
6 the owner must submit proof acceptable to the municipal court
7 judge that the theft of the vehicle or license plate, prior to
8 the time of the violation, had been timely reported to the
9 appropriate 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 The City of Vestavia Hills may, by ordinance, adopt
13 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 Vestavia Hills.

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. The City of Vestavia Hills 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 Vestavia Hills Municipal
8 Court.

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

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

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

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

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

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

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

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

24 c. Has been trained by the vendor installing the
25 equipment. Under no circumstances shall the salary or other
26 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) The 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

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

1 Criminal Justice Information Center and deposited in the State
2 Treasury to the credit of the Criminal Justice Information
3 System Automation Fund as compensation for record keeping and
4 transaction processing with respect to violation notices
5 issued under this act.

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

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

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

23 Section 19. (a) Prior to imposing a civil penalty
24 under this act, the city shall first mail a notice of
25 violation by first class U.S. mail to the owner of the motor
26 vehicle which is recorded by the photographic enforcement
27 system while committing a violation. The notice shall be sent

1 not later than the 30th day after the date the speeding
2 violation is recorded to:

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

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

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

12 (1) Description of the violation alleged.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (d) The civil penalty imposed shall be paid within
16 30 days of the 10th day after the date the notice of violation
17 is mailed.

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

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

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

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

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

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

23 (f) The notice of violation, the recorded and
24 reproduced images of the violation, regardless of the media on
25 which they are recorded, accompanied by a certification of
26 authenticity of a trained technician, and evidence of
27 ownership of a vehicle as shown by copies or summaries of

1 official records shall be admissible into evidence without
2 foundation unless the municipal court finds there is an
3 indication of untrustworthiness, in which case the city shall
4 be given a reasonable opportunity to lay an evidentiary
5 foundation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (c) A person who is found liable after an
25 adjudicative hearing may appeal that finding of civil
26 liability to the Circuit Court of Jefferson County, Alabama,
27 by filing a notice of appeal with the clerk of the municipal

1 court. The notice of appeal must be filed not later than the
2 14th day after the date on which the municipal court judge
3 entered the finding of civil liability. The filing of a notice
4 of appeal shall stay the enforcement of the civil fine
5 penalty. An appeal shall be determined by the circuit court by
6 trial de novo.

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

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

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

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

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

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

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

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

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

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

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

25 Section 27. Any person against whom an adjudication
26 of liability for a civil violation is made under this act, or
27 the ordinance passed pursuant hereto, and who actually pays

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

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

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