

HB107 ENROLLED



1 ZGVQKR-3

2 By Representatives Givan, Treadaway (N & P)

3 RFD: Public Safety and Homeland Security

4 First Read: 07-Mar-23

5

6 2023 Regular Session



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Enrolled, An Act,

Relating to Jefferson County; to prohibit certain forms of street racing and exhibition driving; to authorize the county commission to assess civil penalties for violations; to authorize the towing and impoundment of a motor vehicle for a violation; to provide for the administration and enforcement procedures; and to provide adjudicative and appellate procedures.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This act shall only apply to Jefferson County.

(b) As used in this act, the following terms have the following meanings:

(1) COUNTY COMMISSION. The Jefferson County Commission.

(2) MOTOR VEHICLE BURNOUT. The practice of intentionally keeping a motor vehicle stationary by using the brake pedal or parking brake of the vehicle, while simultaneously engaging the gas pedal to allow one set of wheels to spin. The practice may result in the vehicle tires being heated to a sufficient degree so as to cause smoke to appear.

(3) MOTOR VEHICLE DONUT. The intentional and unnecessary operation of a motor vehicle in a manner that causes the vehicle to move in a zigzag or circular course or to gyrate or spin around. The term does not include maneuvering the otherwise lawfully operated vehicle when necessary to avoid collision, injury, or damage.



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(4) MOTOR VEHICLE SPEED CONTEST. The operation of two or more vehicles at accelerated speeds from a starting point to an ending point in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course from a starting point to an ending point for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit. The term includes drag racing.

(5) MOTOR VEHICLE EXHIBITION OF SPEED. The operation of one or more vehicles from a starting point to an ending point, or over a common selected course, for the purpose of exhibiting the speed or power of the vehicle.

(6) MOTOR VEHICLE SIDESHOW. An event in which one or more persons perform motor vehicle stunts, including burnouts, donuts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators.

(7) OFF STREET PARKING FACILITY. Any public or private lot, building, or space used for the parking of motor vehicles, regardless of whether charges are made for the use thereof.

(8) TRAFFIC ENFORCEMENT OFFICER. Any parking enforcement officer or traffic enforcement officer, as designated by the Jefferson County Commission or a municipality within Jefferson County, who is not required to be certified by the Alabama Peace Officers' Standards and Training Commission; and any law enforcement officer.

Section 2. A person may not engage in, or aid or abet the furtherance of, any of the following on a public road or



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highway, off street parking facility, or any other parcel of public or private property, without the consent of the owner of that property:

(1) A motor vehicle speed contest.

(2) A motor vehicle exhibition of speed.

(3) A motor vehicle sideshow.

(4) A motor vehicle burnout, motor vehicle donut, or other reckless driving maneuver.

Section 3. (a) Where an automated photographic or video traffic enforcement system is authorized to be used by existing law, the traffic enforcement system may be used to assist in the detection and recording of violations of this act. A traffic enforcement officer may issue notices of civil violations by mail and prosecute civil violations for the recorded or observed violations which occur within the county limits.

(b) In addition, the county commission, by resolution, may provide for a civil penalty to be assessed upon an adjudication of a violation of this act.

Section 4. (a) A traffic enforcement officer who observes a violation of this act, or who obtains proof of a violation through the use of an automated photographic or video traffic enforcement system, may cause a motor vehicle operated in violation of this section to be towed and impounded at the registered owner's expense as follows:

(1) On a first violation, for a period of 10 days.

(2) On a second violation, for a period of 20 days.

(3) On a third or subsequent violation, for a period of



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85 30 days.

86 (b) The traffic enforcement officer making the
87 impoundment shall direct an approved towing service to tow the
88 vehicle to the garage of the towing service, storage lot, or
89 other place of safety and maintain custody and control of the
90 vehicle for the required amount of time. Thereafter, the
91 registered owner or authorized agent of the registered owner
92 may claim the vehicle by paying all reasonable and customary
93 towing and storage fees for the services of the towing
94 company. The vehicle shall then be released to the registered
95 owner or an agent of the owner.

96 (c) Any towing service or towing company removing the
97 vehicle at the direction of a traffic enforcement officer in
98 accordance with this act shall have a lien on the motor
99 vehicle for all reasonable and customary fees relating to the
100 towing and storage of the motor vehicle. This lien shall be
101 subject and subordinate to all prior security interests and
102 other liens affecting the vehicle whether evidenced on the
103 certificate of title or otherwise. Notice of any sale or other
104 proceedings relative to this lien shall be given to the
105 holders of all prior security interests or other liens by
106 official service of process at least 15 days prior to any sale
107 or other proceedings.

108 (d) Subject to the requirements of this act, the
109 provisions of Chapter 13 of Title 32, Code of Alabama 1975,
110 relating to the impoundment and sale of abandoned motor
111 vehicles, shall apply to any person in possession of a motor
112 vehicle impounded pursuant to this section.



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(e) Notwithstanding anything in this section to the contrary, a person who is adjudicated to have not committed a violation of this section shall not be required to pay any reasonable and customary towing and storage fees for the services of the towing company. All reasonable and customary towing and storage fees shall be paid to the towing company by the governing body employing the traffic enforcement officer who directed the vehicle to be towed as required by Section 4 (b) .

Section 5. (a) The district court is vested with the power and jurisdiction to hear and adjudicate the civil violations provided for in this act, and to issue orders imposing any civil penalty authorized by the county commission, and to order the towing and impoundment of a motor vehicle in violation of this act.

(b) A person who receives a notice of violation may contest the imposition of the civil penalty or the towing and impoundment of the motor vehicle by submitting a request for a hearing on the adjudication of the civil violation, in writing, within 15 days of the 10th day after the date the notice of violation is mailed. Upon receipt of a timely request, the county commission shall notify the person of the date and time of the adjudicative hearing.

(c) Failure to pay a civil penalty or to contest liability as provided in the notice of violation.

(d) The civil penalty and court costs shall not be assessed if, after a hearing, the court enters a finding of no liability. In addition, the person shall not be required to



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141 pay any costs or fees or the towing or impoundment of the
142 motor vehicle.

143 (e) If an adjudicative hearing is requested, the county
144 commission shall have the burden of proving the violation by a
145 preponderance of the evidence. The reliability of a
146 photographic traffic signal enforcement system used to produce
147 the recorded image of the violation may be attested to by
148 affidavit of a trained technician. An affidavit of a trained
149 technician that alleges a violation based on an inspection of
150 the pertinent recorded image is admissible in a proceeding
151 under this act and is evidence of the facts contained in the
152 affidavit.

153 (f) The notice of violation, the recorded and
154 reproduced images of the traffic signal violation, regardless
155 of the media on which they are recorded, accompanied by a
156 certification of authenticity of a trained technician, and
157 evidence of ownership of a vehicle as shown by copies or
158 summaries of official records shall be admissible into
159 evidence without foundation unless the court finds there is an
160 indication of untrustworthiness, in which case the county
161 commission shall be given a reasonable opportunity to lay an
162 evidentiary foundation.

163 (g) All other matters of evidence and procedure not
164 specifically addressed in this part shall be subject to the
165 rules of evidence and the rules of procedure as they apply in
166 the small claims courts of this state, except that on any
167 appeal to the circuit court for trial de novo the evidence and
168 procedures shall be as for any civil case in the circuit court



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except as otherwise provided in this act.

(h) A person who is found liable for the civil violation after an adjudicative hearing or who requests an adjudicative hearing and thereafter fails to appear at the time and place of the hearing is liable for court costs and fees set out herein in addition to the amount of the civil penalty assessed for the violation. A person who is found liable for a civil violation after an adjudicative hearing shall pay any civil penalty and court costs assessed by the court within 10 days of the hearing.

(i) Whenever payment of a civil penalty is owed to the county commission, the amount of the civil penalty as set by resolution may not be increased, decreased, or remitted by the court, and the liability may be satisfied only by payment.

Section 6. (a) It shall be an affirmative defense to the imposition of civil liability under this act, to be proven by a preponderance of the evidence, that:

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

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

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

(b) To demonstrate that at the time of the violation



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

Section 7. Notwithstanding anything in this act to the contrary, a person who fails to pay the amount of a civil penalty or to contest liability in a timely manner is entitled to an adjudicative hearing on the violation if:

(1) The person files an affidavit with the hearing officer stating the date on which the person received the notice of violation that was mailed to the person, if not received by the 10th day after same is mailed.

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

Section 8. (a) Following an adjudicative hearing, the court shall issue an order stating:

(1) Whether the person charged with the civil violation is liable for the violation; and

(2) If so, the amount of the civil penalty assessed against the person, along with any other fees and costs of court.

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



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

Section 9. The circuit court hearing an appeal shall use the procedures that apply to criminal proceedings with the following qualifications:

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

(2) If the person is adjudicated by the circuit court to be responsible for payment of a civil penalty, circuit court costs shall be owed by the person adjudicated responsible, with 100 percent of those court costs retained by the circuit court. Court costs in the circuit court shall be calculated as are court costs for criminal appeals from the municipal court, and in the event the circuit court finds the person appealing to not be responsible, no court costs shall be owed to the county commission.

(3) Regardless of the civil nature of the proceedings, the circuit court, in its discretion and for its administrative convenience, may assign case numbers as for criminal appeals and place the appeals on criminal dockets



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

255 (5) The county commission shall be responsible for
256 providing an attorney to represent the county commission and
257 to prosecute the civil proceedings in the circuit court.

258 Section 10. In the event the evidence produced by a
259 photographic traffic signal enforcement system does not
260 produce an image of the license plate with sufficient clarity
261 for a traffic enforcement officer to determine the identity of
262 the owner, and if the identity cannot otherwise be reliably
263 established, then no notice of violation may be issued
264 pursuant to this act. If, however, a notice of violation is
265 issued, to the degree constitutionally allowed, those issues
266 related to the identity of the vehicle or its owner shall
267 affect the weight to be accorded the evidence and shall not
268 affect its admissibility.

269 Section 11. This act shall become effective on the
270 first day of the third month following its passage and
271 approval by the Governor, or its otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and
was passed by the House 06-Apr-23, as amended.

John Treadwell
Clerk

Senate

03-May-23

Passed