

**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



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.



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

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

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

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



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

- 60           (1) A motor vehicle speed contest.
- 61           (2) A motor vehicle exhibition of speed.
- 62           (3) A motor vehicle sideshow.
- 63           (4) A motor vehicle burnout, motor vehicle donut, or  
64       other reckless driving maneuver.

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

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

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

- 82           (1) On a first violation, for a period of 10 days.
- 83           (2) On a second violation, for a period of 20 days.
- 84           (3) On a third or subsequent violation, for a period of



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.



113 (e) Notwithstanding anything in this section to the  
114 contrary, a person who is adjudicated to have not committed a  
115 violation of this section shall not be required to pay any  
116 reasonable and customary towing and storage fees for the  
117 services of the towing company. All reasonable and customary  
118 towing and storage fees shall be paid to the towing company by  
119 the governing body employing the traffic enforcement officer  
120 who directed the vehicle to be towed as required by Section  
121 4 (b) .

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

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

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

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



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



169 except as otherwise provided in this act.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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



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.

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.



**HB107 Enrolled**

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275 Speaker of the House of Representatives

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280 President and Presiding Officer of the Senate

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283 House of Representatives

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

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288 John Treadwell

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Clerk

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294 Senate

**03-May-23**

295

296 Passed

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