

1 HB441
2 126831-1
3 By Representative Coleman (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 05-APR-11

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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 light enforcement in all incorporated municipalities
15 in the county as a civil violation by the adoption of a
16 municipal ordinance consistent with this act; providing
17 certain procedures to be followed by the city using automated
18 photographic traffic light enforcement; providing that the
19 owner of the vehicle involved in running a traffic light is
20 presumptively liable for a civil violation and the payment of
21 a civil fine, but providing procedures to contest liability;
22 providing for jurisdiction in the municipal court of each
23 incorporated municipality in the county over the civil
24 violations and allowing appeals to the Jefferson County
25 Circuit Court for trial de novo; creating a cause of action
26 for any person held responsible for payment of the civil fine
27 against the person who was actually operating a vehicle during

1 the running of a traffic light; and prohibiting the tampering
2 with a photographic traffic signal enforcement system, except
3 by authorized persons.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Each incorporated municipality in
6 Jefferson County, may, by ordinance, adopt the procedures set
7 out in this act.

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

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

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

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

25 (4) Many jurisdictions have adopted laws that allow
26 use of automated photographic traffic enforcement, and the
27 Legislature finds that it should adopt legislation that would

1 implement a program for automated photographic enforcement of
2 traffic signal violations, which the Legislature finds is
3 consistent with this act.

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

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

11 (1) CITY. Each incorporated municipality located in
12 Jefferson 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 Municipal Court of any
3 municipality in Jefferson County that has an ordinance adopted
4 pursuant to this act.

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

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

1 The device shall be capable of producing at least
2 two recorded images, at least one of which is capable of
3 clearly depicting the license plate of a motor vehicle that is
4 not operated in compliance with the instructions of the
5 traffic-control signal.

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

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

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

26 (b) The city shall cause a sign to be posted at each
27 of a minimum of 10 roadway entry points to the city to provide

1 motorists with notice that photographic traffic signal
2 enforcement systems are in use. The sign will comply with this
3 requirement if it states substantially the following:

4 "AUTOMATED CAMERAS USED IN RED LIGHT ENFORCEMENT," or if it
5 otherwise gives sufficient notice.

6 (c) Prior to operating a photographic traffic signal
7 enforcement system, the city shall make a public announcement
8 and conduct a public awareness campaign of the use of a
9 photographic traffic signal enforcement system a minimum of 30
10 days before using the devices. The city may place photographic
11 traffic signal enforcement systems at locations without public
12 notice of the specific location, may change locations without
13 public notice, and may install and move as needed decoy
14 devices designed to resemble photographic traffic signal
15 enforcement systems.

16 (d) The city shall post signs warning of the use of
17 an automated red light photographic device within 60 yards of
18 every intersection at which such a device shall be used. Each
19 sign shall be placed at least 10 feet from the edge of the
20 road or street and shall have reflective light material. The
21 reflective signs shall be placed not lower than six feet and
22 not higher than eight feet.

23 Section 5. (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 traffic signal
27 enforcement system while committing a traffic signal

1 violation. The notice shall be sent not later than the 30th
2 day after the date the traffic signal violation is recorded
3 to:

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

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

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

13 (1) Description of the violation alleged.

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

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

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

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

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

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

26 a. Of the right to contest the imposition of the
27 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 traffic signal
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 6. (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 traffic signal
16 violation by a preponderance of the evidence. The reliability
17 of the photographic traffic signal enforcement system used to
18 produce the recorded image of the violation may be attested to
19 by affidavit of a trained technician. An affidavit of a
20 trained technician that alleges a violation based on an
21 inspection of the pertinent recorded image is admissible in a
22 proceeding under this act and is evidence of the facts
23 contained in the affidavit.

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

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

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

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

22 (i) Whenever payment of a civil fine is owed to the
23 city, the amount of the civil fine as set by ordinance may not
24 be increased, decreased, or remitted by the municipal court,
25 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 traffic-control signal was not in proper
5 position and sufficiently visible to an ordinarily observant
6 person.

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

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

14 4. The motor vehicle was being operated as an
15 authorized emergency vehicle under Sections 32-5A-7 and
16 32-5-213 of the Code of Alabama 1975, and that the operator
17 was acting in compliance with that chapter.

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

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

25 7. The presence of ice, snow, unusual amounts of
26 rain, or other unusually hazardous road conditions existed

1 that would make compliance with this act more dangerous under
2 the circumstances than non compliance.

3 8. The person who received the notice of violation
4 was not the owner of the motor vehicle at the time of the
5 violation.

6 9. There was no sign installed as required by this
7 act near the red light at which the violation allegedly
8 occurred warning that an automated red light camera device was
9 being used.

10 (k) To demonstrate that at the time of the violation
11 the motor vehicle was a stolen vehicle or the license plate
12 displayed on the motor vehicle was stolen plate, the owner
13 must submit proof acceptable to the hearing officer that the
14 theft of the vehicle or license plate, prior to the time of
15 the violation, had been timely reported to the appropriate law
16 enforcement agency.

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

21 1. The person files an affidavit with the hearing
22 officer stating the date on which the person received the
23 notice of violation that was mailed to the person, if not
24 received by the 10 day after same is mailed as set out in
25 subsection (a) of Section 5.

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

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

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

5 (2) The amount of the civil fine assessed against
6 the person, along with the fees and costs of court provided
7 for herein.

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

13 (c) A person who is found liable after an
14 adjudicative hearing may appeal that finding of civil
15 liability to the Circuit Court of Jefferson County, Alabama,
16 by filing a notice of appeal with the clerk of the municipal
17 court. The notice of appeal must be filed not later than the
18 14th day after the date on which the municipal court judge
19 entered the finding of civil liability. The filing of a notice
20 of appeal shall stay the enforcement of the civil fine
21 penalty. An appeal shall be determined by the circuit court by
22 trial de novo.

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

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

4 (2) If the person is adjudicated by the circuit
5 court to be responsible for payment of the civil fine, circuit
6 court costs shall be owed by the person adjudicated
7 responsible, with 100 percent of those court costs retained by
8 the circuit court. Court costs in the circuit court shall be
9 calculated as are court costs for criminal appeals from the
10 municipal court, and in the event the circuit court finds the
11 person appealing to not be responsible, no municipal court
12 costs shall be owed to the city.

13 (3) Regardless of the civil nature of the
14 proceedings, the circuit court, in its discretion and for its
15 administrative convenience, may assign case numbers as for
16 criminal appeals and place the appeals on criminal dockets in
17 the same manner as criminal appeals from municipal court.

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

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

23 Section 9. In the event the evidence produced by a
24 photographic traffic signal enforcement system does not
25 produce an image of the license plate with sufficient clarity
26 for a trained technician to determine the identity of the
27 owner, and if the identity cannot otherwise be reliably

1 established, then no notice of violation may be issued
2 pursuant to this act. If, however, a notice of violation is
3 issued, to the degree constitutionally allowed, those issues
4 related to the identity of the vehicle or its owner shall
5 affect the weight to be accorded the evidence and shall not
6 affect its admissibility.

7 Section 10. The city may provide by ordinance that a
8 late fee not exceeding twenty-five dollars (\$25) shall attach
9 to untimely paid civil fines that are authorized in this act.
10 No person may be arrested or incarcerated for nonpayment of a
11 civil fine or late fee. No record of an adjudication of civil
12 violation made under this act shall be listed, entered, or
13 reported on any criminal record or driving record, whether the
14 record is maintained by the city or an outside agency. An
15 adjudication of civil violation provided for in this act shall
16 not be considered a conviction for any purpose, shall not be
17 used to increase or enhance punishment for any subsequent
18 offense of a criminal nature, shall not be considered a moving
19 violation, and shall not be used by any insurance company to
20 determine or affect premiums or rates unless an accident
21 occurred due to the violation. The fact that a person is held
22 liable or responsible for a civil fine for a red light
23 violation shall not be used as evidence that the person was
24 guilty of negligence or other culpable conduct, and any
25 evidence generated by a photographic traffic signal
26 enforcement system may only be used as evidence in other

1 proceedings if it is or becomes admissible under the rules of
2 evidence applicable therein.

3 Section 11. A city, shall adopt by ordinance the
4 procedures authorized by this act, and shall keep statistical
5 data regarding the effectiveness of photographic traffic
6 signal enforcement systems in reducing traffic-control device
7 violations and intersectional collisions and shall communicate
8 the data on an annual basis to the Alabama Department of
9 Transportation and the Alabama Criminal Justice Information
10 Center.

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

17 Section 13. No civil penalty may be imposed and no
18 adjudication of liability for a civil violation may be made
19 under this act if the operator of the vehicle was arrested or
20 was issued a citation and notice to appear by a sworn police
21 officer for a criminal violation of any portion of Article II,
22 Chapter 5A, Title 32 including, but not limited to, Sections
23 32-5A-31, 32-5A-34, and 32-5A-35 of the Code of Alabama 1975,
24 or any other municipal ordinance which embraces and
25 incorporates the statutes contained in that article, and which
26 occurred simultaneously with and under the same set of

1 circumstances which were recorded by the photographic traffic
2 signal enforcement system.

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

24 Section 15. The provisions of this act are
25 severable. If any part of this act is declared invalid or
26 unconstitutional, that declaration shall not affect the part
27 which remains.

1 Section 16. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.