

1 HB376
2 166361-2
3 By Representatives Wilcox, Sessions, Davis, Gaston, Williams
4 (JW), Drummond, Clarke, Buskey and Bracy (N & P)
5 RFD: Mobile County Legislation
6 First Read: 31-MAR-15

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 Relating to Mobile County; to authorize electronic
9 enforcement related to overtaking a school bus in the county
10 or municipalities located in the county; to provide that the
11 unauthorized overtaking of a school bus would be a civil
12 offense; to authorize a county or city board of education
13 located in the county to approve, in its respective
14 jurisdiction, a civil process of electronic detection device
15 of a school bus violation enforcement; to require certain
16 procedures to be followed by a county or city board of
17 education using electronic school bus enforcement; to make the
18 owner of the vehicle involved in a violation presumptively
19 responsible for payment of a civil fine; to provide procedures
20 to contest responsibility or transfer responsibility to
21 another person; to provide for the jurisdiction of district
22 courts and municipal courts over the civil offenses; to
23 provide for procedures for administering this act; to allow a
24 law enforcement agency or a local governing entity to enter
25 agreements with vendors of electronic devices; to provide for
26 the destruction of recorded information after certain time
27 periods; to allow appeals to the Circuit Court of Mobile

1 County; to provide enforcement regarding licensing, titling,
2 and driver's license issuance and renewal until the civil fine
3 is paid.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. This act shall be known and may be cited
6 as the Mobile County School Bus Safety Act.

7 Section 2. The following definitions and provisions
8 shall apply to this act:

9 (1) BOARD. A county or city board of education, or
10 the governing body of a school system located in Mobile
11 County, Alabama.

12 (2) COURT. A district court located in Mobile
13 County, Alabama, if a school bus violation occurs in an
14 unincorporated area, or a municipal court located in Mobile
15 County, Alabama, if a violation occurs in an incorporated
16 municipality.

17 (3) ELECTRONIC DEVICE. Any camera or recording
18 device that uses a vehicle sensor and camera synchronized to
19 automatically record by video, photograph, or full motion
20 streaming video, a motor vehicle approaching or overtaking a
21 school bus that is stopped for the purpose of receiving or
22 discharging school children in violation of Section 32-5A-154,
23 Code of Alabama 1975.

24 (4) LAW ENFORCEMENT AGENCY. A law enforcement agency
25 of a local political subdivision or local governing body
26 located in Mobile County, Alabama, or a county or city school
27 system located in Mobile County, Alabama, that is authorized

1 to issue a citation for a violation of the state vehicle law
2 or of local traffic laws or regulations.

3 (5) OWNER. The meaning ascribed to "owner" in
4 Section 32-1-1.1, Code of Alabama 1975, except that the term
5 may not include a motor vehicle rental or leasing company when
6 a motor vehicle registered by the company is being operated by
7 another person under a rental or lease agreement with the
8 company, in which event "owner" shall mean the person to whom
9 the vehicle is rented or leased; nor shall the term include
10 motor vehicles displaying a dealer license plate, in which
11 event "owner" shall mean the person to whom the vehicle is
12 assigned for use; nor shall the term include the owner of a
13 vehicle that has been reported stolen to a law enforcement
14 agency prior to the time of the violation, in which event
15 "owner" shall mean the person who is found guilty of stealing
16 the motor vehicle.

17 (6) SCHOOL BUS VIOLATION or VIOLATION. Any violation
18 of Section 32-5A-154, Code of Alabama 1975.

19 Section 3. Any county or city board of education
20 located in Mobile County, Alabama, may authorize a process of
21 civil enforcement of a school bus violation pursuant to the
22 procedures set out in this act.

23 Section 4. (a) A county or city board of education
24 located in Mobile County, Alabama, may approve the use of
25 electronic devices to detect school bus violations by voting
26 at a public meeting of the board to approve the adoption of an
27 electronic school bus enforcement program.

1 (b) If approved by the county, city, or other school
2 district governing board located in Mobile County, Alabama,
3 and authorized by ordinance or resolution enacted by the
4 governing body of a local political subdivision, a law
5 enforcement agency or a political subdivision in consultation
6 with a school system, as the case may be, may enter into an
7 agreement with a private vendor for the installation,
8 operation, notice processing, and administration and
9 maintenance of school bus electronic devices on buses within
10 the school system's fleet whether owned or leased.

11 (c) A county or city board of education located in
12 Mobile County, Alabama, may contract for the operation of a
13 school bus violation enforcement program authorized by this
14 act through intergovernmental agreements with the county or
15 municipal law enforcement offices and the district and
16 municipal courts located in Mobile County, Alabama.

17 (d) A civil fine, not to exceed three hundred
18 dollars (\$300), may be imposed for a school bus violation for
19 which a notice of violation is issued pursuant to this act.
20 All such fines shall be paid, less the costs to administer,
21 operate, and maintain the program, as follows: 20 percent of
22 the remainder, after costs of operation identified above, to
23 the county or municipal governing body located in Mobile
24 County, Alabama, where the offense was committed; 60 percent
25 of the remainder, after costs of operation identified above,
26 to the school system where the offense was committed; 10
27 percent of the remainder, after costs of operation identified

1 above, to the license commissioner; and 10 percent of the
2 remainder, after costs of operation identified above, to the
3 sheriff for highway safety enforcement.

4 Section 5. (a) After review of the violation by law
5 enforcement, any county or municipal governing body or law
6 enforcement office located in Mobile County, Alabama,
7 operating an electronic device shall send the owner of a
8 vehicle that has been detected by the device as being involved
9 in a school bus violation, a notice of violation by U. S.
10 mail. If there is more than one owner, the notice may be
11 issued to the first person listed on the title or other
12 evidence of ownership, or jointly to all listed owners.

13 (b) The notice of violation shall include at a
14 minimum each of the following items of information:

15 (1) The name and address of the person alleged to be
16 liable as the owner of the motor vehicle involved in the
17 violation.

18 (2) The license tag number of the vehicle.

19 (3) The violation charged.

20 (4) The date, time, and location where the violation
21 occurred.

22 (5) The photographic images or video of the vehicle
23 and vehicle license plate only that are captured by the
24 electronic device. The image or video shall be reviewed by a
25 law enforcement officer of Mobile County or municipality
26 located in Mobile County, Alabama, who shall certify the
27 notice of violation. Under no circumstances may the image or

1 video contain images of the face of the driver or passengers
2 in the vehicle.

3 (6) The amount of the civil fine along with the
4 time, place, and manner for payment of the fine.

5 (7) The procedure under which the notice of
6 violation may be contested, or the procedure and conditions
7 under which responsibility for payment of the civil fine may
8 be transferred to another individual who was operating the
9 vehicle at the time of the violation.

10 (8) That failure to timely pay, contest, or transfer
11 responsibility to another shall constitute an admission that
12 the owner is responsible, and that failure to pay a fine for
13 which the owner is determined to be responsible shall result
14 in the inability to obtain or renew in Alabama the license of
15 the vehicle involved or to obtain or transfer its title in
16 Alabama, or for the person held to be responsible to obtain or
17 renew an Alabama driver's license, unless and until the civil
18 fine is paid to the local governing body.

19 (9) The date by which the local governing body must
20 receive payment of the civil fine, receive notice by the owner
21 that responsibility is being transferred to another, or
22 receive notice by the owner that the notice of violation is
23 being contested, shall be clearly and prominently stated on
24 the notice of violation. The time may not be less than 30 days
25 after the notice of violation is mailed or personally
26 delivered.

1 (c) All recorded video images and other photographic
2 information obtained through the use of school bus violation
3 detection monitoring systems authorized in this act that do
4 not identify a violation shall be destroyed by any city, town,
5 school system or vendor within 30 days of the date the image
6 was recorded, unless otherwise ordered by a court of competent
7 jurisdiction. All photographs and other recorded information
8 that identify a violation shall be destroyed within 30 days of
9 final disposition of proceedings related to the enforcement or
10 defense of a violation, unless otherwise ordered by a court of
11 competent jurisdiction.

12 (d) All photographic evidence regardless of whether
13 it is a still photograph or video shall remain the sole
14 property of Mobile County or municipal law enforcement agency
15 which reviews the photographic evidence and shall be available
16 to a third party, other than the alleged violator, pursuant
17 only to a valid court order.

18 (e) Except as expressly provided, all civil actions
19 based on evidence produced by a school bus violation detection
20 monitoring system shall follow the procedures set out in this
21 act.

22 Section 6. The owner of a vehicle that has been
23 issued a notice of violation shall be responsible for payment
24 of the civil fine unless the owner successfully transfers
25 responsibility, there is an adjudication that no violation
26 occurred, or there is an otherwise lawful determination that
27 no civil penalty shall be imposed. All owners of a vehicle who

1 are mailed or receive a notice of violation shall be jointly
2 and severally liable for payment of the civil fine. The county
3 or municipality may collect the civil fine in the same manner
4 as any other debt owed to Mobile County or municipality
5 located in Mobile County, Alabama.

6 Section 7. (a) The owner may not be responsible for
7 payment of the civil fine resulting from a notice of violation
8 if each of the following conditions apply:

9 (1) The vehicle was operated at the time of the
10 violation by a person who was not the owner, or an agent or
11 employee of the owner.

12 (2) The owner signs and timely transmits to the
13 county or municipality on the form provided with the notice of
14 violation and in accordance with the procedure set out on the
15 notice of violation a statement that he or she was not
16 operating the vehicle at the time of the violation, and that
17 the person who was operating the vehicle was not the agent or
18 employee of the owner.

19 (3) The owner timely transmits to the county or
20 municipality on the form provided with the notice of violation
21 and in accordance with the procedure set out on the notice of
22 violation the name and mailing address of the person who was
23 operating the vehicle.

24 (4) The civil fine is paid by any person, unless
25 there is adjudication that no violation occurred or there is
26 otherwise a lawful determination that no civil penalty shall
27 be imposed.

1 (b) Whenever a county or municipality located in
2 Mobile County, Alabama, timely receives the information
3 required from the owner to transfer responsibility, it shall
4 issue a new notice of violation to the person to whom the
5 owner transferred responsibility with an explanation as to why
6 the person is receiving the notice of violation, in the same
7 manner as if the person were the owner of the vehicle. The
8 person shall be responsible for payment of the civil fine
9 unless the person either:

10 (1) Timely returns a signed statement on a form
11 provided with the notice of violation that he or she was not
12 the operator and declining responsibility, in which case
13 responsibility shall fall back to the owner.

14 (2) Admits to being the operator but denies
15 committing a violation, in which case the person may contest
16 the notice of violation in the same manner as the owner may
17 contest the notice of violation.

18 (c) In cases in which a person other than the owner
19 denies he or she was the operator and declines responsibility,
20 a new notice shall be issued to the owner stating that the
21 other person declined responsibility and giving the owner the
22 option of paying the civil fine or contesting the violation by
23 a stated date that shall be not less than 30 days from the
24 mailing of the new notice. The owner may not attempt to
25 transfer responsibility more than one time using this
26 procedure. If the owner chooses to contest the notice of
27 violation after the owner has unsuccessfully attempted to

1 transfer responsibility using this procedure, and the owner
2 claims in defense that another person was the operator of the
3 vehicle, the court may take appropriate action to cause the
4 owner and the other person to appear at the same hearing to
5 determine responsibility.

6 Section 8. (a) No person shall be responsible for
7 payment of a civil fine for a notice of violation issued under
8 this act if the operator of the vehicle that is the subject of
9 the notice of violation is adjudicated to have not committed a
10 violation or there is otherwise a lawful determination that no
11 civil penalty may be imposed. Any person receiving a notice of
12 violation pursuant to this act, in accordance with the
13 procedure set out in this act and on the notice of violation,
14 may contest the notice of violation by obtaining a hearing in
15 the court.

16 (b) District and municipal courts of Mobile County,
17 Alabama, are hereby vested with the power and jurisdiction to
18 adjudicate a notice of violation issued pursuant to this act
19 as a civil offense whenever the offense is alleged to have
20 occurred within the geographic jurisdiction of the court.

21 (c) The following procedures shall apply to
22 proceedings to contest a notice of violation issued pursuant
23 to this act:

24 (1) Upon receipt of a timely notice that the person
25 receiving the notice of violation is contesting the notice,
26 Mobile County or a municipality located in Mobile County shall

1 cause the case to be docketed in court and shall issue notice
2 of the hearing date.

3 (2) The issuance of a notice of violation shall be
4 prima facie evidence that the person who received the notice
5 of violation was operating the vehicle at the time of the
6 violation.

7 (3) If there is a dispute between the owner and
8 another as to which person was operating the vehicle at the
9 time of the alleged violation, or a dispute between joint
10 owners, it shall be presumed that the owner was operating the
11 vehicle, and if there are joint owners, the presumption shall
12 follow the order the owners are listed on the title or other
13 evidence of ownership. However, a court may determine the
14 identity of the operator of the vehicle based on any admitted
15 evidence.

16 (4) The notice of violation, any evidence of the
17 violation produced by a device, and evidence of ownership of a
18 vehicle as shown by copies or summaries of official records
19 shall be admissible into evidence without foundation unless a
20 court otherwise requires a foundation.

21 (5) All other matters of evidence and procedure not
22 specifically addressed in this act shall be subject to the
23 rules of procedure as provided in this act. On any appeal to
24 the Circuit Court of Mobile County, Alabama, the procedures
25 shall be as for any civil case in the Circuit Court of Mobile
26 County, Alabama.

1 (6) The court shall apply the preponderance of the
2 evidence standard in adjudicating any notice of violation.

3 (7) Whenever payment of a civil fine is due, the
4 amount of the civil fine may not be increased, decreased, or
5 remitted by the court, and the liability may be satisfied only
6 by payment.

7 (8) A civil fine assessed under this act may not
8 exceed three hundred dollars (\$300) and court costs shall be
9 assessed only in contested cases in the same manner and in the
10 same amounts prescribed for a violation prosecuted as a
11 misdemeanor under Section 32-5A-154, Code of Alabama 1975.
12 Court costs collected pursuant to this act shall be
13 distributed in the same manner as prescribed by law for the
14 distribution of court costs for misdemeanor violations. An
15 additional fee of ten dollars (\$10) shall be collected by the
16 district or the appropriate municipal court located Mobile
17 County, Alabama, in connection with notices issued under this
18 act to be paid to the Alabama Criminal Justice Information
19 Center and deposited in the State Treasury to the credit of
20 the Criminal Justice Information System Automation Fund as
21 compensation for record keeping and transaction processing
22 with respect to violation notices issued under this act. Any
23 civil fine assessed under this act and collected by the court
24 shall be remitted to the county or municipality in which the
25 violation occurred

26 Section 9. A person who contests a notice of
27 violation and is adjudicated by the court to be responsible

1 for the civil fine may appeal the adjudication for a trial de
2 nova to the Circuit Court of Mobile County, Alabama, in which
3 the district or municipal court is located using the
4 procedures that apply to criminal convictions with the
5 following qualifications:

6 (1) The proceedings shall retain their civil nature
7 on appeal with the Circuit Court applying the preponderance of
8 the evidence standard.

9 (2) The person appealing must, as a condition
10 precedent to appeal, pay the civil fine in full, and failure
11 to do so shall divest the Circuit Court of Mobile County,
12 Alabama. If, on appeal the Circuit Court finds that the person
13 is not responsible for payment of the civil fine, the county
14 or municipality located in Mobile County, Alabama, shall
15 refund the same without interest within 15 days of receipt of
16 notice of the disposition from the Circuit Court. If the
17 person is adjudicated by the Circuit Court to be responsible
18 for payment of the civil fine, then no additional fine may be
19 imposed by the Circuit Court, but court costs of the Circuit
20 Court shall be owed by the person adjudicated responsible with
21 100 percent of the court costs retained by the Circuit Court.
22 Court costs in the Circuit Court shall be calculated as are
23 court costs for criminal appeals from the district or
24 municipal court of Mobile County, Alabama, and if the Circuit
25 Court finds the person appealing to not be responsible, no
26 court costs shall be owed by the county or city boards of
27 education located in Mobile County, Alabama.

1 (3) Regardless of the civil nature of the
2 proceedings, the Circuit Court of Mobile County, Alabama, in
3 its discretion and for its administrative convenience, may
4 assign case numbers as for criminal appeals and place the
5 appeals on criminal dockets in the same manner as criminal
6 appeals from district or municipal court of Mobile County,
7 Alabama.

8 Section 10. If the evidence produced by an
9 electronic device does not produce an image or video of the
10 license plate with sufficient clarity for a law enforcement
11 officer to determine the identity of the owner, and if the
12 identity cannot otherwise be reliably established, then no
13 notice of violation may be issued pursuant to this act.

14 Section 11. (a) Except in cases where there is an
15 adjudication that no violation occurred or there is otherwise
16 a lawful determination that no civil penalty shall be imposed,
17 any unpaid civil fine authorized by this act:

18 (1) Shall result in nonissuance or nonrenewal of an
19 Alabama vehicle license for the vehicle involved in the
20 violation.

21 (2) Shall cause title of the vehicle involved in the
22 violation to not be transferred in Alabama.

23 (3) Shall cause the person held responsible for the
24 violation to be ineligible to obtain or renew an Alabama
25 driver's license, unless and until the civil fine plus any
26 late fee is paid to the county or municipal governing body.

1 (b) No person may be arrested or incarcerated for
2 nonpayment of a civil fine.

3 (c) Any state or county official charged with
4 issuance or transfer of vehicle licenses or titles, or
5 issuance of driver's licenses, may not issue or renew the
6 vehicle license, issue or transfer title of the vehicle, or
7 issue or renew the driver's license of the responsible person,
8 so long as the official has notice that a civil fine
9 authorized by this act is or remains unpaid. In cases in which
10 Mobile County or a municipality of Mobile County, Alabama, has
11 given a notice of nonpayment to the appropriate licensing
12 official and when thereafter the civil fine has been paid,
13 Mobile County or a municipality of Mobile County, Alabama,
14 shall transmit notice of the payment to the appropriate
15 licensing official.

16 Section 12. (a) A civil violation of this act may
17 not result in any punishment of a criminal nature, may not
18 count as points and may not be entered into any person's
19 official driving history, may not be considered a criminal
20 conviction for any purpose, may not be used to increase or
21 enhance punishment for a subsequent offense of a civil or
22 criminal nature, and may not be considered a moving violation,
23 ~~and~~ may not be used by any insurance company to determine or
24 affect premiums or rates.

25 (b) The fact that a person is held liable or
26 responsible for a civil fine for a violation may not be used
27 as evidence that the person was guilty of negligence or other

1 culpable conduct, but this fact may not preclude evidence
2 generated by a device from being used as evidence in other
3 proceedings.

4 Section 13. Adoption by a county or city board of
5 education located in Mobile County, Alabama, of the procedures
6 under this act and the enforcement of this act by Mobile
7 County or a municipality located in Mobile County, Alabama,
8 may not affect current procedure and prosecutions commenced by
9 issuance of a uniform traffic ticket and complaint by a law
10 enforcement officer or otherwise. The issuance of a notice of
11 a violation as authorized by this act shall be subordinate to
12 the issuance of a uniform traffic ticket and complaint for the
13 same action if issued by a sworn law enforcement officer, and
14 issuance of a uniform traffic ticket and complaint for a
15 school bus violation shall preclude issuance of a notice of
16 violation as authorized by this act. If both a uniform traffic
17 ticket and complaint and a notice of violation as authorized
18 by this act are issued for the same action, the one issued by
19 a sworn law enforcement officer pursuant to Section 32-5A-154,
20 Code of Alabama 1975, shall control and shall constitute a
21 defense to the other.

22 Section 14. (a) Any person who is held responsible
23 for payment of a civil fine as provided herein, but who was
24 not actually operating the involved vehicle, who timely and
25 properly followed the procedure to transfer responsibility but
26 is ultimately held responsible because of the person's
27 ownership of the vehicle, and who actually pays the civil

1 fine, shall have a cause of action against the person who was
2 operating the vehicle for the amount of the civil fine
3 actually paid plus a reasonable attorney fee, without regard
4 to the rules regarding joint and several liability,
5 contribution, or indemnity.

6 (b) As a condition precedent to the bringing of a
7 civil action under subsection (a), the person held responsible
8 for payment of the civil fine must first make written demand
9 on the other person for reimbursement of the civil fine,
10 giving a minimum of 60 days to remit payment, and if
11 reimbursement is fully made within the 60-day period then the
12 cause of action shall be extinguished and no attorney fees or
13 other damages shall attach to the reimbursement.

14 Section 15. The provisions of this act are
15 severable. If any part of this act is declared invalid or
16 unconstitutional, that declaration may not affect the part
17 which remains.

18 Section 16. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Mobile County
Legislation..... 31-MAR-15

Read for the second time and placed
on the calendar 1 amendment 09-APR-15

Read for the third time and passed
as amended..... 14-APR-15

Yeas 44, Nays 0, Abstains 49

Jeff Woodard
Clerk