

1 SB215
2 173892-3
3 By Senators Holley, Dial and Scofield
4 RFD: Governmental Affairs
5 First Read: 11-FEB-16

2
3
4 ENGROSSED

5
6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Authorizing automated enforcement related to
12 overtaking a school bus in counties and municipalities as a
13 civil offense; authorizing a county or municipal board of
14 education to approve, in their respective jurisdiction, a
15 civil process of automated detection device of a school bus
16 violation enforcement; requiring certain procedures to be
17 followed by a county or municipal board of education using
18 automated school bus enforcement; making the owner of the
19 vehicle involved in a violation presumptively responsible for
20 payment of a civil fine, but providing procedures to contest
21 responsibility or transfer responsibility to another person;
22 providing for jurisdiction in district courts and in municipal
23 courts over the civil offenses; providing for procedures for
24 administrating this act; allowing a law enforcement agency or
25 a local governing entity to enter agreements with contractors
26 providing automated devices; providing for the destruction of

1 recorded information after certain time periods; and allowing
2 appeals to the circuit court.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 1. (a) This act shall be known
5 and may be cited as the "Alabama School Bus Safety Act."

6 (b) Any board may authorize a process of civil
7 enforcement of a school bus violation pursuant to the
8 procedures set out in this act.

9 (c) The provisions of this act shall not compel a
10 governing body or board to participate in the safety program
11 created herein.

12 Section 2. The following definitions and provisions
13 shall apply to this act:

14 (1) AUTOMATED DEVICE. Any camera or recording device
15 that uses a vehicle sensor and camera synchronized to record
16 by photograph or video the rear of a motor vehicle approaching
17 or overtaking a school bus that is stopped for the purpose of
18 receiving or discharging school children in violation of
19 Section 32-5A-154, Code of Alabama 1975.

20 (2) BOARD. A board of education or the governing
21 body of a school system.

22 (3) CONTRACTOR. A company that provides services to
23 a board or governing body including, but not limited to,
24 automated devices, citation processing, and collection of the
25 civil fines. None of the activities of the contractor shall be
26 construed as an agent providing or participating in private

1 investigative services or acting as a statutory authority
2 under open records laws.

3 (4) COURT. A district court, if a school bus
4 violation occurs in an unincorporated area or a municipal
5 court if a violation occurs in an incorporated municipality.

6 (5) GOVERNING BODY. A county commission, city
7 council, or city commission.

8 (6) LAW ENFORCEMENT AGENCY. A law enforcement agency
9 of a local governing body, or a school system that is
10 authorized to issue a citation for a violation of the state
11 vehicle law or of local traffic laws or regulations.

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

26 (8) SCHOOL BUS VIOLATION or VIOLATION. Any violation
27 of Section 32-5A-154, Code of Alabama 1975, as amended.

1 (9) TRAINED TECHNICIAN. A sworn law enforcement
2 officer or person who has received instruction and training in
3 the proper use of the automated photographic enforcement
4 system to be used by the school board or contractor.

5 Section 3. (a) A board may approve the use of
6 automated devices to detect school bus violations by voting at
7 a meeting of the board to approve the adoption of an automated
8 school bus enforcement program.

9 The school board may elect to operate the program
10 authorized in this act without the involvement of the
11 governing body or sheriff through the utilization of a trained
12 technician. In such case, all references in this act to
13 governing body, county, or city shall apply to the school
14 board.

15 (b) In the alternative, if approved by a board and
16 authorized by ordinance or resolution enacted by the governing
17 body, the board may enter into an agreement with a contractor
18 for the installation, operation, notice processing,
19 administration and maintenance of school bus automated devices
20 on buses within the school system's fleet whether owned or
21 leased. Prior to entering into a contract for the
22 installation, operation, notice processing, administration,
23 and maintenance of school bus automated devices, the board
24 shall have entered into an intergovernmental agreement with
25 the appropriate law enforcement agencies (municipal police
26 department and/or county sheriff) and the local governing body
27 providing that the appropriate law enforcement agency is

1 willing to review any violation occurring in its respective
2 jurisdiction.

3 (c) A civil fine of three hundred dollars (\$300) for
4 each offense shall be imposed for a school bus violation for
5 which a notice of violation is issued pursuant to this act.
6 All such fines shall be paid, after deducting costs to
7 administer, operate, and maintain the program, as follows: 40
8 percent to the county or municipal governing body which
9 contracted for the operation of a school bus violation program
10 through an intergovernmental agreement with the board pursuant
11 to paragraph (b); 40 percent to the school system where the
12 offense was committed; 10 percent to the State Department of
13 Education for school bus safety initiatives; and 10 percent to
14 the Alabama Department of Public Safety for highway safety
15 enforcement.

16 Section 4. (a) After review of the violation by law
17 enforcement or trained technician, the governing body or
18 contractor shall send the owner of a vehicle that has been
19 detected by the device as being involved in a school bus
20 violation a notice of violation by U. S. mail. A notice of
21 violation shall be mailed no later than 14 days after being
22 reviewed by law enforcement. In the event there is more than
23 one owner, the notice may be issued to the first person listed
24 on the title or other evidence of ownership, or jointly to all
25 listed owners.

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

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

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

5 (3) The violation charged.

6 (4) The date, time, and location where the violation
7 occurred.

8 (5) The photographic images and the online video of
9 the vehicle that are captured by the automated device. The
10 image or video shall be reviewed by a law enforcement officer
11 or trained technician who shall electronically certify the
12 notice of violation. The image or video may not contain images
13 of the face of the driver or passengers in the vehicle.

14 (6) The amount of the civil fine along with the
15 time, place, and manner for payment of the fine which shall
16 include the option to pay the fine by electronic means.

17 (7) The procedure under which the notice of
18 violation may be contested, or the procedure and conditions
19 under which responsibility for payment of the civil fine may
20 be transferred to another individual who was operating the
21 vehicle at the time of the violation.

22 (8) The date by which the local governing body must
23 receive payment of the civil fine, receive notice by the owner
24 that responsibility is being transferred to another, or
25 receive notice by the owner that the notice of violation is
26 being contested, shall be clearly and prominently stated on

1 the notice of violation. The time may not be less than 30 days
2 after the notice of violation is mailed.

3 (c) All recorded video images and other photographic
4 information obtained through the use of school bus violation
5 detection monitoring systems authorized in this act that do
6 not identify a violation shall be destroyed by any city, town,
7 school system or contractor within 90 days of the date the
8 image was recorded, unless otherwise ordered by a court of
9 competent jurisdiction. All photographic and other recorded
10 information that identifies a violation shall be destroyed
11 within 30 days of final disposition of proceedings related to
12 the enforcement or defense of a violation, unless otherwise
13 ordered by a court of competent jurisdiction.

14 (d) All photographic evidence regardless of whether
15 it is a still photograph or video shall remain the sole
16 property of the board and shall be available to a third party,
17 other than the alleged violator, pursuant only to a valid
18 court order.

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

23 Section 5. The owner of a vehicle that has been
24 issued a notice of violation shall be responsible for payment
25 of the civil fine unless the owner successfully transfers
26 responsibility, there is an adjudication that no violation
27 occurred, or there is an otherwise lawful determination that

1 no civil penalty shall be imposed. All owners of a vehicle who
2 are mailed or receive a notice of violation shall be jointly
3 and severally liable for payment of the civil fine. The county
4 or municipality may collect the civil fine in the same manner
5 as any other debt owed to the county or municipality.

6 Section 6. (a) The owner shall not be responsible
7 for payment of the civil fine resulting from a notice of
8 violation 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 governing body 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 governing body
20 on the form provided with the notice of violation and in
21 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 timely
2 receives the information required from the owner to transfer
3 responsibility, the county, municipality, or its contractor
4 shall issue a new notice of violation to the person to whom
5 the owner transferred responsibility with an explanation as to
6 why the person is receiving the notice of violation, in the
7 same manner as if the person were the owner of the vehicle.
8 The 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 20 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 7. (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 this state are
17 hereby vested with the power and jurisdiction to adjudicate a
18 notice of violation issued pursuant to this act as a civil
19 offense whenever the offense is alleged to have occurred
20 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 the governing body shall cause the case to be docketed in
27 court and shall issue notice of the hearing date.

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

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

14 (4) The notice of violation, any evidence of the
15 violation produced by a device, and evidence of ownership of a
16 vehicle as shown by copies or summaries of official records
17 shall be admissible into evidence without foundation.

18 (5) All other matters of evidence and procedure not
19 specifically addressed in this act shall be subject to the
20 rules of procedure as provided in this act. On any appeal in
21 the circuit court the procedures shall be as for any civil
22 case in circuit court.

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

25 (7) Whenever payment of a civil fine is due, the
26 amount of the civil fine may not be decreased and the
27 liability may be satisfied only by payment.

1 (8) A civil fine in the amount of three hundred
2 dollars (\$300) shall be assessed for each offense, and court
3 costs shall be assessed only in contested cases in the same
4 manner and in the same amounts prescribed for a violation
5 prosecuted as a misdemeanor under Section 32-5A-154, Code of
6 Alabama 1975. Court costs collected pursuant to this act shall
7 be distributed in the same manner as prescribed by law for the
8 distribution of court costs for misdemeanor violations. An
9 additional fee of ten dollars (\$10) shall be collected by the
10 district or municipal court in connection with notices issued
11 under this act to be paid to the Alabama Criminal Justice
12 Information Center and deposited in the State Treasury to the
13 credit of the Criminal Justice Information System Automation
14 Fund as compensation for record keeping and transaction
15 processing with respect to violation notices issued under this
16 act. Any civil fine assessed under this act and collected by
17 the court shall be remitted pursuant to subsection (c) of
18 Section 3.

19 Section 8. Persons who contest a notice of violation
20 and are adjudicated by the court to be responsible for the
21 civil fine may appeal the adjudication for a trial de novo to
22 the circuit court of the county in which the district or
23 municipal court is located, using the procedures that apply to
24 criminal convictions with the following qualifications:

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

1 (2) The person appealing must, as a condition
2 precedent to appeal, pay the civil fine in full, and failure
3 to do so shall divest the circuit court of jurisdiction. If on
4 appeal the circuit court finds that the person is not
5 responsible for payment of the civil fine, the county or
6 municipality shall refund the same without interest within 15
7 days of receipt of notice of the disposition from the circuit
8 court. If the person is adjudicated by the circuit court to be
9 responsible for payment of the civil fine, then no additional
10 fine may be imposed by the circuit court, but court costs of
11 the circuit court shall be owed by the person adjudicated
12 responsible with 100 percent of the court costs retained by
13 the circuit court. Court costs in the circuit court shall be
14 calculated as are court costs for criminal appeals from the
15 district or municipal court, and in the event the circuit
16 court finds the person appealing not to be responsible, no
17 court costs shall be owed by the county or municipal board of
18 education.

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

25 Section 9. In the event the evidence produced by an
26 automated device does not produce an image or video of the
27 license plate with sufficient clarity for a law enforcement

1 officer or trained technician to determine the identity of the
2 owner, and if the identity cannot otherwise be reliably
3 established, then no notice of violation may be issued
4 pursuant to this act.

5 Section 10. (a) No person may be arrested or
6 incarcerated for nonpayment of a civil fine.

7 (b) A governing body may contract with a collection
8 service for the purpose of collecting any unpaid civil fine
9 authorized by this act.

10 Section 11. Adoption by a board of the procedures
11 under this act and the enforcement of this act by a governing
12 body shall not affect current procedure and prosecutions
13 commenced by issuance of a uniform traffic ticket and
14 complaint by a law enforcement officer or otherwise. The
15 issuance of a notice of violation as authorized by this act
16 shall be subordinate to the issuance of a uniform traffic
17 ticket and complaint for the same action if issued by a sworn
18 law enforcement officer, and issuance of a uniform traffic
19 ticket and complaint for a school bus violation shall preclude
20 issuance of a notice of violation as authorized by this act.
21 In the event both a uniform traffic ticket and complaint and a
22 notice of violation as authorized by this act are issued for
23 the same action, the one issued by a sworn law enforcement
24 officer pursuant to Section 32-5A-154, Code of Alabama 1975,
25 shall control and shall constitute a defense to the other.

26 Section 12. (a) Any person who is held responsible
27 for payment of a civil fine as provided herein, but who was

1 not actually operating the involved vehicle, who timely and
2 properly followed the procedure to transfer responsibility but
3 is ultimately held responsible because of the person's
4 ownership of the vehicle, and who actually pays the civil
5 fine, shall have a cause of action against the person who was
6 operating the vehicle for the amount of the civil fine
7 actually paid plus a reasonable attorney fee, without regard
8 to the rules regarding joint and several liability,
9 contribution, or indemnity.

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

18 Section 13. The provisions of this act are
19 severable. If any part of this act is declared invalid or
20 unconstitutional, that declaration shall not affect the part
21 which remains.

22 Section 14. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10

11
12
13
14
15
16
17

Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 11-FEB-16

Read for the second time and placed on the calen-
dar 2 amendments..... 16-FEB-16

Read for the third time and passed as amended 03-MAR-16

Yeas 22
Nays 0

Patrick Harris
Secretary