

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

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8 SYNOPSIS: This bill would authorize county and  
9 municipal boards of education to approve in their  
10 jurisdiction a process of civil enforcement of  
11 offenses related to overtaking a school bus by  
12 using automated detection devices, and allowing a  
13 civil notice of violation to be issued by mail. It  
14 would provide that the owner of the vehicle is  
15 presumptively responsible but provide procedures to  
16 transfer responsibility or to contest the notice of  
17 violation.

18 This bill would allow a law enforcement  
19 agency or a local governing entity, in consultation  
20 with a school system, to enter an agreement with a  
21 private contractor for the installation, operation,  
22 notice processing, and administration of a school  
23 bus automated device.

24 This bill would grant subject matter  
25 jurisdiction to district and municipal courts to  
26 adjudicate the civil notice.

1                   This bill would provide procedures for civil  
2                   action taken pursuant to this act.

3                   This bill would provide for the destruction  
4                   of all images and other recorded information within  
5                   certain time periods.

6                   This bill would provide for appeals.

7                   This bill would authorize civil fines.

8                   This bill would provide that a person who  
9                   becomes responsible for payment of the civil fine  
10                  would not have the violation entered on his or her  
11                  driver's history and not suffer other adverse  
12                  consequences if the civil fine is timely paid.

13                  This bill would provide that insurance  
14                  companies could not use a violation to set or  
15                  change insurance rates.

16                  This bill would provide that failure to  
17                  timely pay a civil fine would result in civil  
18                  collection efforts by a county or a municipal board  
19                  of education.

20  
21                                   A BILL

22                                   TO BE ENTITLED

23                                   AN ACT

24  
25                   Authorizing automated enforcement related to  
26                   overtaking a school bus in counties and municipalities as a  
27                   civil offense; authorizing a county or municipal board of

1 education to approve, in their respective jurisdiction, a  
2 civil process of automated detection device of a school bus  
3 violation enforcement; requiring certain procedures to be  
4 followed by a county or municipal board of education using  
5 automated school bus enforcement; making the owner of the  
6 vehicle involved in a violation presumptively responsible for  
7 payment of a civil fine, but providing procedures to contest  
8 responsibility or transfer responsibility to another person;  
9 providing for jurisdiction in district courts and in municipal  
10 courts over the civil offenses; providing for procedures for  
11 administrating this act; allowing a law enforcement agency or  
12 a local governing entity to enter agreements with contractors  
13 providing automated devices; providing for the destruction of  
14 recorded information after certain time periods; and allowing  
15 appeals to the circuit court.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

25 Section 2. The following definitions and provisions  
26 shall apply to this act:

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

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

9           (3) CONTRACTOR. A company that provides services to  
10 a board or governing body including, but not limited to,  
11 automated devices, citation processing, and collection of the  
12 civil fines. None of the activities of the contractor shall be  
13 construed as an agent providing or participating in private  
14 investigative services or acting as a statutory authority  
15 under open records laws.

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

19           (5) GOVERNING BODY. A county commission, city  
20 council, or city commission.

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

25           (7) OWNER. The meaning ascribed to "owner" in  
26 Section 32-1-1.1, Code of Alabama 1975, except that the term  
27 shall not include a motor vehicle rental or leasing company

1 when a motor vehicle registered by the company is being  
2 operated by another person under a rental or lease agreement  
3 with the company, in which event "owner" shall mean the person  
4 to whom the vehicle is rented or leased; nor shall the term  
5 include motor vehicles displaying a dealer license plate, in  
6 which event "owner" shall mean the person to whom the vehicle  
7 is assigned for use; nor shall the term include the owner of a  
8 vehicle that has been reported stolen to a law enforcement  
9 agency prior to the time of the violation, in which event  
10 "owner" shall mean the person who is found guilty of stealing  
11 the motor vehicle.

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

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

18 Section 3. (a) A board may approve the use of  
19 automated devices to detect school bus violations by voting at  
20 a meeting of the board to approve the adoption of an automated  
21 school bus enforcement program.

22 The school board may elect to operate the program  
23 authorized in this act without the involvement of the  
24 governing body or sheriff through the utilization of a trained  
25 technician. In such case, all references in this act to  
26 governing body, county, or city shall apply to the school  
27 board.

1 (b) In the alternative, if approved by a board and  
2 authorized by ordinance or resolution enacted by the governing  
3 body, the board may enter into an agreement with a contractor  
4 for the installation, operation, notice processing,  
5 administration and maintenance of school bus automated devices  
6 on buses within the school system's fleet whether owned or  
7 leased. Prior to entering into a contract for the  
8 installation, operation, notice processing, administration,  
9 and maintenance of school bus automated devices, the board  
10 shall have entered into an intergovernmental agreement with  
11 the appropriate law enforcement agencies (municipal police  
12 department and/or county sheriff) and the local governing body  
13 providing that the appropriate law enforcement agency is  
14 willing to review any violation occurring in its respective  
15 jurisdiction.

16 (c) A civil fine of three hundred dollars (\$300) for  
17 each offense shall be imposed for a school bus violation for  
18 which a notice of violation is issued pursuant to this act.  
19 All such fines shall be paid, after deducting costs to  
20 administer, operate, and maintain the program, as follows: 40  
21 percent to the county or municipal governing body which  
22 contracted for the operation of a school bus violation program  
23 through an intergovernmental agreement with the board pursuant  
24 to paragraph (b); 40 percent to the school system where the  
25 offense was committed; 10 percent to the State Department of  
26 Education for school bus safety initiatives; and 10 percent to

1 the Alabama Department of Public Safety for highway safety  
2 enforcement.

3 Section 4. (a) After review of the violation by law  
4 enforcement or trained technician, the governing body or  
5 contractor shall send the owner of a vehicle that has been  
6 detected by the device as being involved in a school bus  
7 violation a notice of violation by U. S. mail. A notice of  
8 violation shall be mailed no later than 14 days after being  
9 reviewed by law enforcement. In the event there is more than  
10 one owner, the notice may be issued to the first person listed  
11 on the title or other evidence of ownership, or jointly to all  
12 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 and the online video of  
23 the vehicle that are captured by the automated device. The  
24 image or video shall be reviewed by a law enforcement officer  
25 or trained technician who shall electronically certify the  
26 notice of violation. The image or video may not contain images  
27 of the face of the driver or passengers in the vehicle.



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

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

9           (8) The date by which the local governing body must  
10 receive payment of the civil fine, receive notice by the owner  
11 that responsibility is being transferred to another, or  
12 receive notice by the owner that the notice of violation is  
13 being contested, shall be clearly and prominently stated on  
14 the notice of violation. The time may not be less than 30 days  
15 after the notice of violation is mailed.

16           (c) All recorded video images and other photographic  
17 information obtained through the use of school bus violation  
18 detection monitoring systems authorized in this act that do  
19 not identify a violation shall be destroyed by any city, town,  
20 school system or contractor within 90 days of the date the  
21 image was recorded, unless otherwise ordered by a court of  
22 competent jurisdiction. All photographic and other recorded  
23 information that identifies a violation shall be destroyed  
24 within 30 days of final disposition of proceedings related to  
25 the enforcement or defense of a violation, unless otherwise  
26 ordered by a court of competent jurisdiction.

1 (d) All photographic evidence regardless of whether  
2 it is a still photograph or video shall remain the sole  
3 property of the board and shall be available to a third party,  
4 other than the alleged violator, pursuant only to a valid  
5 court order.

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

10 Section 5. The owner of a vehicle that has been  
11 issued a notice of violation shall be responsible for payment  
12 of the civil fine unless the owner successfully transfers  
13 responsibility, there is an adjudication that no violation  
14 occurred, or there is an otherwise lawful determination that  
15 no civil penalty shall be imposed. All owners of a vehicle who  
16 are mailed or receive a notice of violation shall be jointly  
17 and severally liable for payment of the civil fine. The county  
18 or municipality may collect the civil fine in the same manner  
19 as any other debt owed to the county or municipality.

20 Section 6. (a) The owner shall not be responsible  
21 for payment of the civil fine resulting from a notice of  
22 violation if each of the following conditions apply:

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

26 (2) The owner signs and timely transmits to the  
27 governing body on the form provided with the notice of

1 violation and in accordance with the procedure set out on the  
2 notice of violation a statement that he or she was not  
3 operating the vehicle at the time of the violation, and that  
4 the person who was operating the vehicle was not the agent or  
5 employee of the owner.

6 (3) The owner timely transmits to the governing body  
7 on the form provided with the notice of violation and in  
8 accordance with the procedure set out on the notice of  
9 violation the name and mailing address of the person who was  
10 operating the vehicle.

11 (4) The civil fine is paid by any person, unless  
12 there is adjudication that no violation occurred or there is  
13 otherwise a lawful determination that no civil penalty shall  
14 be imposed.

15 (b) Whenever a county or municipality timely  
16 receives the information required from the owner to transfer  
17 responsibility, the county, municipality, or its contractor  
18 shall issue a new notice of violation to the person to whom  
19 the owner transferred responsibility with an explanation as to  
20 why the person is receiving the notice of violation, in the  
21 same manner as if the person were the owner of the vehicle.  
22 The person shall be responsible for payment of the civil fine  
23 unless the person either:

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

1           (2) Admits to being the operator but denies  
2 committing a violation, in which case the person may contest  
3 the notice of violation in the same manner as the owner may  
4 contest the notice of violation.

5           (c) In cases in which a person other than the owner  
6 denies he or she was the operator and declines responsibility,  
7 a new notice shall be issued to the owner stating that the  
8 other person declined responsibility and giving the owner the  
9 option of paying the civil fine or contesting the violation by  
10 a stated date that shall be not less than 20 days from the  
11 mailing of the new notice. The owner may not attempt to  
12 transfer responsibility more than one time using this  
13 procedure. If the owner chooses to contest the notice of  
14 violation after the owner has unsuccessfully attempted to  
15 transfer responsibility using this procedure, and the owner  
16 claims in defense that another person was the operator of the  
17 vehicle, the court may take appropriate action to cause the  
18 owner and the other person to appear at the same hearing to  
19 determine responsibility.

20           Section 7. (a) No person shall be responsible for  
21 payment of a civil fine for a notice of violation issued under  
22 this act if the operator of the vehicle that is the subject of  
23 the notice of violation is adjudicated to have not committed a  
24 violation or there is otherwise a lawful determination that no  
25 civil penalty may be imposed. Any person receiving a notice of  
26 violation pursuant to this act, in accordance with the  
27 procedure set out in this act and on the notice of violation,

1 may contest the notice of violation by obtaining a hearing in  
2 the court.

3 (b) District and municipal courts of this state are  
4 hereby vested with the power and jurisdiction to adjudicate a  
5 notice of violation issued pursuant to this act as a civil  
6 offense whenever the offense is alleged to have occurred  
7 within the geographic jurisdiction of the court.

8 (c) The following procedures shall apply to  
9 proceedings to contest a notice of violation issued pursuant  
10 to this act:

11 (1) Upon receipt of a timely notice that the person  
12 receiving the notice of violation is contesting the notice,  
13 the governing body shall cause the case to be docketed in  
14 court and shall issue notice of the hearing date.

15 (2) The issuance of a notice of violation shall be  
16 prima facie evidence that the person who received the notice  
17 of violation was operating the vehicle at the time of the  
18 violation.

19 (3) In the event there is a dispute between the  
20 owner and another as to which person was operating the vehicle  
21 at the time of the alleged violation, or a dispute between  
22 joint owners, it shall be presumed that the owner was  
23 operating the vehicle, and in the event there are joint  
24 owners, the presumption shall follow the order the owners are  
25 listed on the title or other evidence of ownership. However, a  
26 court may determine the identity of the operator of the  
27 vehicle based on any admitted evidence.

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

5           (5) All other matters of evidence and procedure not  
6 specifically addressed in this act shall be subject to the  
7 rules of procedure as provided in this act. On any appeal in  
8 the circuit court the procedures shall be as for any civil  
9 case in circuit court.

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

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

15          (8) A civil fine in the amount of three hundred  
16 dollars (\$300) for each offense and court costs shall be  
17 assessed only in contested cases in the same manner and in the  
18 same amounts prescribed for a violation prosecuted as a  
19 misdemeanor under Section 32-5A-154, Code of Alabama 1975.  
20 Court costs collected pursuant to this act shall be  
21 distributed in the same manner as prescribed by law for the  
22 distribution of court costs for misdemeanor violations. An  
23 additional fee of ten dollars (\$10) shall be collected by the  
24 district or municipal court in connection with notices issued  
25 under this act to be paid to the Alabama Criminal Justice  
26 Information Center and deposited in the State Treasury to the  
27 credit of the Criminal Justice Information System Automation

1 Fund as compensation for record keeping and transaction  
2 processing with respect to violation notices issued under this  
3 act. Any civil fine assessed under this act and collected by  
4 the court shall be remitted pursuant to subsection (d) of  
5 Section 3.

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

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

15 (2) The person appealing must, as a condition  
16 precedent to appeal, pay the civil fine in full, and failure  
17 to do so shall divest the circuit court of jurisdiction. If on  
18 appeal the circuit court finds that the person is not  
19 responsible for payment of the civil fine, the county or  
20 municipality shall refund the same without interest within 15  
21 days of receipt of notice of the disposition from the circuit  
22 court. If the person is adjudicated by the circuit court to be  
23 responsible for payment of the civil fine, then no additional  
24 fine may be imposed by the circuit court, but court costs of  
25 the circuit court shall be owed by the person adjudicated  
26 responsible with 100 percent of the court costs retained by  
27 the circuit court. Court costs in the circuit court shall be

1 calculated as are court costs for criminal appeals from the  
2 district or municipal court, and in the event the circuit  
3 court finds the person appealing not to be responsible, no  
4 court costs shall be owed by the county or municipal board of  
5 education.

6 (3) Regardless of the civil nature of the  
7 proceedings, the circuit court, in its discretion and for its  
8 administrative convenience, may assign case numbers as for  
9 criminal appeals and place the appeals on criminal dockets in  
10 the same manner as criminal appeals from a district or  
11 municipal court.

12 Section 9. In the event the evidence produced by an  
13 automated device does not produce an image or video of the  
14 license plate with sufficient clarity for a law enforcement  
15 officer or trained technician to determine the identity of the  
16 owner, and if the identity cannot otherwise be reliably  
17 established, then no notice of violation may be issued  
18 pursuant to this act.

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

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

24 Section 11. Adoption by a board of the procedures  
25 under this act and the enforcement of this act by a governing  
26 body shall not affect current procedure and prosecutions  
27 commenced by issuance of a uniform traffic ticket and



1 complaint by a law enforcement officer or otherwise. The  
2 issuance of a notice of violation as authorized by this act  
3 shall be subordinate to the issuance of a uniform traffic  
4 ticket and complaint for the same action if issued by a sworn  
5 law enforcement officer, and issuance of a uniform traffic  
6 ticket and complaint for a school bus violation shall preclude  
7 issuance of a notice of violation as authorized by this act.  
8 In the event both a uniform traffic ticket and complaint and a  
9 notice of violation as authorized by this act are issued for  
10 the same action, the one issued by a sworn law enforcement  
11 officer pursuant to Section 32-5A-154, Code of Alabama 1975,  
12 shall control and shall constitute a defense to the other.

13 Section 12. (a) Any person who is held responsible  
14 for payment of a civil fine as provided herein, but who was  
15 not actually operating the involved vehicle, who timely and  
16 properly followed the procedure to transfer responsibility but  
17 is ultimately held responsible because of the person's  
18 ownership of the vehicle, and who actually pays the civil  
19 fine, shall have a cause of action against the person who was  
20 operating the vehicle for the amount of the civil fine  
21 actually paid plus a reasonable attorney fee, without regard  
22 to the rules regarding joint and several liability,  
23 contribution, or indemnity.

24 (b) As a condition precedent to the bringing of a  
25 civil action under subsection (a), the person held responsible  
26 for payment of the civil fine shall first make written demand  
27 on the other person for reimbursement of the civil fine,

1 giving a minimum of 60 days to remit payment, and if  
2 reimbursement is fully made within the 60 day period then the  
3 cause of action shall be extinguished and no attorney fees or  
4 other damages shall attach to the reimbursement.

5 Section 13. The provisions of this act are  
6 severable. If any part of this act is declared invalid or  
7 unconstitutional, that declaration shall not affect the part  
8 which remains.

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