

1 SB348  
2 197853-2  
3 By Senator Allen  
4 RFD: Transportation and Energy  
5 First Read: 30-APR-19

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to automated traffic enforcement systems;  
12 to provide that the Alabama State Law Enforcement Agency give  
13 approval to a municipality before a municipality is authorized  
14 to use automated traffic enforcement systems; to provide for  
15 the issuance of notices of violations by municipalities; to  
16 provide for civil fines, late fees, and court costs for  
17 violations, and to provide for distribution of the fines,  
18 fees, and court costs; to provide for adjudication hearings by  
19 municipal courts in contested cases; to provide for appeals  
20 from municipal courts to circuit courts; and to provide that a  
21 violation is not a criminal conviction.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall be known and may be cited  
24 as the Alabama Automated Traffic Enforcement Safety Act.

25 Section 2. As used in this act, the following terms  
26 shall have the following meanings:

27 (1) ALEA. The Alabama State Law Enforcement Agency.

1           (2) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM. A camera  
2 system which is designed to record violations of traffic  
3 safety laws and which may work in conjunction with a  
4 traffic-control device using vehicle sensors synchronized to  
5 record, either by conventional film or digital imaging,  
6 sequenced photographs, or full motion video of the rear of a  
7 motor vehicle failing to obey a traffic-control device, or in  
8 conjunction with a speed detection device synchronized to  
9 record digital imaging of a motor vehicle while speeding. The  
10 system shall be capable of producing at least two recorded  
11 images, at least one of which is capable of clearly depicting  
12 the license plate of a motor vehicle that is in violation of  
13 the traffic law.

14           (3) CIVIL FINE. The monetary amount assessed by a  
15 municipality pursuant to this act for an adjudication of civil  
16 liability for a traffic violation.

17           (4) COMMISSION. The Alabama Justice Information  
18 Commission.

19           (5) MUNICIPALITY. An incorporated city or town  
20 within this state governed by an elected council.

21           (6) NLETS. Network provider for exchange of criminal  
22 justice information among multiple state, federal, and  
23 international law enforcement agencies.

24           (7) OWNER. The owner of a motor vehicle as shown on  
25 the motor vehicle registration records of the Alabama  
26 Department of Revenue or the analogous department or an agency

1 of another state or country. The term does not include any of  
2 the following:

3 a. A motor vehicle rental or leasing company when a  
4 motor vehicle registered by the company is rented or leased to  
5 another person, in which event "owner" means the person who  
6 rented or leased the vehicle.

7 b. Vehicles displaying dealer license plates, in  
8 which event "owner" means the person to whom the vehicle is  
9 assigned for use.

10 c. The owner of any stolen motor vehicle, in which  
11 event "owner" means the person who is guilty of stealing the  
12 motor vehicle.

13 (8) SPEEDING VIOLATION or VIOLATION. Any violation  
14 of a motor vehicle at a speed that exceeds the legal maximum  
15 speed limits presented in or adopted pursuant to Article 8,  
16 Chapter 5A, Title 32, Sections 32-5A-170 to 32-5A-178,  
17 inclusive, Code of Alabama 1975; provided, however, that speed  
18 limits set by action of the respective municipal council shall  
19 supersede the limits set in Article 8, Chapter 5A, Title 32,  
20 Sections 32-5A-170 to 32-5A-178, inclusive, Code of Alabama  
21 1975. For the purposes of this subdivision, a speeding  
22 violation is a civil violation as defined in this act.

23 (9) TRAFFIC-CONTROL DEVICE. All signs, signals,  
24 markings, and devices erected for the purpose of regulating,  
25 warning, or guiding traffic as defined in Section 32-1-1.1,  
26 Code of Alabama 1975.

1 (10) TRAFFIC-CONTROL DEVICE VIOLATION or VIOLATION.  
2 Any violation of Section 32-5A-31, 32-5A-32, or 32-5A-35, Code  
3 of Alabama 1975, or of any combination thereof. For purposes  
4 of this subdivision, a traffic-control device violation is a  
5 civil violation as defined in this act.

6 (11) TRAINED TECHNICIAN. A sworn law enforcement  
7 officer employed by the municipality, who either:

8 a. Is a professional engineer in the field of civil  
9 engineering.

10 b. Has received instruction and training in the  
11 proper use of the automated traffic enforcement systems to be  
12 used by the municipality's traffic engineer or his or her  
13 designee.

14 c. Has been trained by the vendor installing the  
15 equipment.

16 Section 3. (a) Prior to implementing an automated  
17 traffic enforcement system, a municipality shall submit an  
18 implementation plan to the commission for approval.

19 (b) Once the implementation plan is approved by the  
20 commission, a municipality may implement an automated traffic  
21 enforcement system within its corporate limits.

22 (c) The commission may deny a proposed plan or  
23 suspend a previously approved plan if the commission  
24 determines the plan may cause, or is causing, an unforeseen  
25 danger, is demonstrably implemented with racial bias, or fails  
26 to achieve safer driving environments.

1 (d) The commission, through ALEA, shall periodically  
2 audit any municipality that has been approved and implemented  
3 an automated traffic enforcement system. If the audit  
4 determines that a municipality is not fully abiding by the law  
5 or rules set forth by the commission, the commission may  
6 suspend the authority of the municipality to operate an  
7 automated traffic enforcement system until the municipality is  
8 in full compliance with this act.

9 (e) The commission shall annually provide a summary  
10 report to the Legislature on the automated traffic enforcement  
11 systems within Alabama.

12 (f) The commission shall adopt rules for the  
13 submission of plans, the approval process, and the suspension  
14 of authority to a municipality for not abiding by the law or  
15 rules of the commission in accordance with this act. The  
16 commission shall also adopt rules for the collection,  
17 retention, use, security, and privacy of the data collected by  
18 the systems in accordance with the authority of the commission  
19 as provided in Section 41-9-590 et. al, Code of Alabama 1975.

20 Section 4. (a) Once an implementation plan has been  
21 approved by the commission, a municipality may provide by  
22 ordinance, for the establishment of automated traffic  
23 enforcement systems imposing a civil fine for a speeding  
24 violation or traffic-control device violation.

25 (b) A civil fine assessed under this act may not  
26 exceed one hundred ten dollars (\$110) and court costs may only  
27 be assessed in contested cases. If applicable, court costs

1 shall be assessed and distributed in the same manner and in  
2 the same amounts as prescribed by law for misdemeanor  
3 violations. Ten dollars (\$10) of the fine shall be paid to  
4 ALEA, after the municipal court has received payment of the  
5 fine. The Alabama State Law Enforcement Agency shall deposit  
6 the ten dollars (\$10) in the State Treasury to the credit of  
7 the Public Safety Fund as compensation for record keeping,  
8 transaction processing with respect to violation notices  
9 issued under this act, technology costs, and other expenses  
10 that may occur related to the oversight of the commission.

11 (c) An owner who fails to timely pay a civil fine  
12 pursuant to this act shall be subject to a late payment  
13 penalty of twenty-five dollars (\$25) in addition to the  
14 original violation fine.

15 (d) If an ordinance is adopted for automated traffic  
16 enforcement related to speeding, the ordinance may only apply  
17 in the following locations within the corporate limits of the  
18 municipality:

19 (1) School zones.

20 (2) Road or highway construction zones or areas.

21 (3) Residential neighborhoods.

22 (e) If an ordinance is adopted for automated traffic  
23 enforcement of a traffic-control device violation, the devices  
24 may be placed at any location within the municipality that the  
25 council finds is dangerous and which would improve the safety  
26 of drivers from an enforcement system at the location. The  
27 municipality shall post a sign or signs at each location where

1 a device is located informing motorists that an automated  
2 traffic enforcement system is in operation at the location.

3 (f) Prior to operating the initial automated traffic  
4 enforcement system, a municipality shall make a public  
5 announcement and conduct a public awareness campaign for a  
6 minimum of 30 days before issuing violation notices.

7 Section 5. (a) An owner shall be liable for the  
8 civil fine imposed pursuant to this section if a driver of the  
9 motor vehicle commits a speeding violation or traffic-control  
10 device violation as evidenced by recorded images produced by  
11 an automated traffic enforcement system.

12 (b) In order to impose a civil fine pursuant to this  
13 section, a municipality shall mail a notice of the violation  
14 by first class U.S. mail to the owner of the motor vehicle  
15 liable for the civil fine. The notice shall be sent within 30  
16 days of the violation. The notice shall be sent to either of  
17 the following:

18 (1) The owner's address as shown on the registration  
19 records of the Department of Revenue.

20 (2) If the vehicle is registered in another state or  
21 country, to the owner's address as shown on the motor vehicle  
22 registration records of the department or agency of the other  
23 state or country analogous to the Department of Revenue.

24 (c) A notice of violation shall contain all of the  
25 following:

26 (1) Description of the violation alleged.

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



1                   (3) A copy of two recorded images of the vehicle  
2 involved in the violation.

3                   (4) The amount of the civil fine to be imposed for  
4 the violation.

5                   (5) A statement that the civil fine must be paid  
6 within 60 days of the violation.

7                   (6) A statement that failure to pay the civil fine  
8 within the time allowed will result in a late penalty of  
9 twenty-five dollars (\$25).

10                  (7) Information that informs an owner that he or she  
11 may contest the imposition of the civil fine by requesting an  
12 adjudicative hearing. This shall include all of the following:

13                   a. The manner and time in which to contest the  
14 imposition of the civil fine.

15                   b. That the failure to pay the civil fine or to  
16 contest liability is an admission of liability.

17                   c. That if a violation is contested, court costs  
18 will be imposed if there is a finding of liability.

19                  (8) A statement that the person named in the notice  
20 of violation may pay the civil penalty in lieu of appearing at  
21 an adjudicative hearing.

22                  (9) A statement that a recorded image is evidence in  
23 a proceeding for the imposition of a civil fine.

24                  (10) Any other information deemed necessary by the  
25 municipality.

1 (d) A notice of violation is presumed to have been  
2 received on the 10th day after the date the notice of  
3 violation is placed in the U.S. mail.

4 (e) (1) It shall be within the discretion of the  
5 trained technician to determine which of the recorded traffic  
6 violations are prosecuted based upon the quality and  
7 legibility of the recorded image. In lieu of issuing a notice  
8 of violation, the municipality may mail a warning notice to  
9 the owner.

10 (2) Under no circumstances shall the salary or other  
11 compensation of the trained technician be related to the  
12 number of notices of violation issued or amount of fines  
13 collected.

14 Section 6. (a) An owner who receives a notice of  
15 violation pursuant to this act may request an adjudicative  
16 hearing to contest the imposition of the civil fine. A request  
17 for an adjudicative hearing shall be made in writing and  
18 mailed to the municipal court within 45 days of the violation.  
19 Upon receipt of a timely request, the municipality shall  
20 notify the person, by U.S. mail, of the date and time of the  
21 adjudicative hearing.

22 (b) Failure to contest liability in a timely manner  
23 is an admission of liability and a waiver of the right to an  
24 appeal under Section 7.

25 (c) The municipal court may hear and decide any  
26 civil violations provided for in this act.

1 (d) In an adjudicative hearing, the municipality  
2 shall have the burden of proving the violation by a  
3 preponderance of the evidence.

4 (e) The reliability of the automated traffic  
5 enforcement system used to produce the recorded image of the  
6 violation may be attested to by an affidavit of a trained  
7 technician. An affidavit of a trained technician that alleges  
8 a violation based on an inspection of the pertinent recorded  
9 image or video is admissible in a proceeding under this act  
10 and is evidence of the facts contained in the affidavit.

11 (f) The notice of violation, the recorded and  
12 reproduced images of the violation, regardless of the media on  
13 which they are recorded, accompanied by a certification of  
14 authenticity of a trained technician, and evidence of  
15 ownership of a vehicle as shown by copies or summaries of  
16 official records shall be admissible into evidence without  
17 foundation unless the municipal court finds there is an  
18 indication of untrustworthiness, in which case the  
19 municipality shall be given a reasonable opportunity to lay an  
20 evidentiary foundation.

21 (g) All other matters of evidence and procedure not  
22 specifically addressed in this act shall be subject to the  
23 rules of evidence and the rules of civil procedure as they  
24 apply in the courts of this state.

25 (h) After hearing the evidence, the municipal court  
26 judge shall issue an order stating whether the person charged  
27 with the civil violation is liable for the violation and if

1 so, the amount of the civil fine and court costs assessed. The  
2 amount of the civil fine may not be increased, decreased, or  
3 remitted by the municipal court, and shall be satisfied only  
4 by payment.

5 (i) Except as provided in subsection (l), a person  
6 who is found liable for the violation at an adjudicative  
7 hearing or a person who fails to appear after requesting a  
8 hearing shall be assessed the civil fine and court costs. The  
9 civil fine and court costs shall be paid within 10 days of the  
10 municipal court's order following the hearing.

11 (j) No civil fine or any court costs shall be  
12 assessed if the municipal judge enters a finding of no  
13 liability.

14 (k) Any of the following shall be an affirmative  
15 defense to a violation, if proven by a preponderance of the  
16 evidence:

17 (1) The operator of the motor vehicle was acting in  
18 compliance with the lawful order or direction of a police  
19 officer.

20 (2) The motor vehicle was being operated as an  
21 authorized emergency vehicle under Sections 32-5A-7 and  
22 32-5-213, Code of Alabama 1975, and that the operator was  
23 acting in compliance with those sections.

24 (3) The motor vehicle was stolen or being operated  
25 by a person other than the owner of the vehicle without the  
26 effective consent of the owner. To establish the motor vehicle  
27 was stolen at the time of the violation, the owner must submit

1 proof that the theft of the vehicle had been timely reported  
2 to the appropriate law enforcement agency, prior to the  
3 violation.

4 (4) The license plate depicted in the recorded image  
5 of the violation was a stolen plate and being displayed on a  
6 motor vehicle other than the motor vehicle for which the plate  
7 had been issued. To establish the license plate displayed on  
8 the motor vehicle was a stolen plate, the owner must submit  
9 proof that the theft of the license plate had been timely  
10 reported to the appropriate law enforcement agency, prior to  
11 the violation.

12 (5) The person who received the notice of violation  
13 was not the owner of the motor vehicle at the time of the  
14 violation.

15 (6) The official traffic-control device was not in  
16 proper position and sufficiently visible to an ordinarily  
17 observant person.

18 (7) The operator of the motor vehicle committed the  
19 violation so as to yield the right-of-way to an immediately  
20 approaching authorized emergency vehicle.

21 (8) The presence of ice, snow, unusual amounts of  
22 rain, or other unusually hazardous road conditions existed  
23 that would make compliance with this act more dangerous under  
24 the circumstances than noncompliance.

25 (1) An owner who fails to pay the amount of a civil  
26 fine or to contest liability in a timely manner is entitled to

1 an adjudicative hearing on the violation if he or she does all  
2 of the following:

3 (1) Files an affidavit with the municipal court  
4 stating he or she did not receive notice in a timely manner as  
5 required in Section 5.

6 (2) Within 15 days of the date of actual receipt, he  
7 or she requests an adjudicative hearing.

8 (m) Orders issued under this section may be filed in  
9 the office of the judge of probate of the county issuing the  
10 order and shall operate as a judicial lien in the same manner  
11 and with the same weight and effect as any other civil  
12 judgment filed therein. The municipality may be responsible  
13 for any applicable fees associated with the filing of the lien  
14 subject to a determination by the judge of probate.

15 Section 7. An owner who is found liable after an  
16 adjudicative hearing may appeal that finding of civil  
17 liability to the circuit court with jurisdiction over the  
18 location of the violation, by filing a notice of appeal with  
19 the clerk of the municipal court. The notice of appeal must be  
20 filed not later than the 14th day after the date on which the  
21 municipal court judge entered the finding of civil liability.  
22 The filing of a notice of appeal shall stay the enforcement of  
23 the civil fine. An appeal shall be determined by the circuit  
24 court by trial de novo.

25 Section 8. (a) An owner who is found liable after an  
26 adjudicative hearing may appeal that finding of civil  
27 liability to the circuit court of the county where the

1 violation occurred, by filing a notice of appeal with the  
2 clerk of the municipal court. The notice of appeal must be  
3 filed not later than the 14th day after the date on which the  
4 municipal court judge entered the finding of civil liability.  
5 The filing of a notice of appeal shall stay the enforcement of  
6 the civil fine. An appeal shall be determined by the circuit  
7 court by trial de novo.

8 (b) The circuit court hearing an appeal de novo  
9 shall use the same procedures that applied in municipal court  
10 with the following qualifications:

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

14 (2) If the circuit court finds the owner liable, the  
15 owner shall be required to pay the civil fine and court costs.  
16 Court costs shall be assessed and distributed in the same  
17 manner and in the same amounts as prescribed by law for  
18 appeals from the municipal court.

19 (3) The municipality shall be responsible for  
20 providing an attorney to represent the municipality and to  
21 prosecute the civil proceedings in the circuit court.

22 Section 9. In the event the evidence produced by an  
23 automated traffic enforcement system does not produce an image  
24 of the license plate with sufficient clarity for a trained  
25 technician to determine the identity of the owner, and if the  
26 identity cannot otherwise be reliably established, then no  
27 notice of violation may be issued pursuant to this act. If,

1       however, a notice of violation is issued, to the degree  
2       constitutionally allowed, those issues related to the identity  
3       of the vehicle or its owner shall affect the weight to be  
4       accorded the evidence and shall not affect its admissibility.

5               Section 10. (a) A violation pursuant to this section  
6       shall not be considered a moving traffic violation.

7               (b) No person may be arrested or incarcerated for  
8       nonpayment of a civil fine or late fee under this act.

9               (c) No record of a civil violation made under this  
10       act shall be listed, entered, or reported on any criminal  
11       record or driving record, whether the record is maintained by  
12       the municipality or an outside agency.

13              (d) The fact that a person is held liable for a  
14       civil fine for a violation of this act may not be considered a  
15       conviction for any purpose, may not be used to increase or  
16       enhance punishment for any subsequent offense of a criminal  
17       nature.

18              (e) Any evidence generated by an automated traffic  
19       enforcement system may only be used as evidence in other  
20       proceedings if it is or becomes admissible under the rules of  
21       evidence applicable to the proceeding.

22              Section 11. (a) The Alabama State Law Enforcement  
23       Agency shall provide data as necessary to the municipality  
24       either directly or through Nlets to enable the proper  
25       identification of the vehicle and information related to its  
26       owner.



1 (b) The municipality shall keep statistical data  
2 regarding the effectiveness of automated traffic enforcement  
3 systems in reducing speeding violations, traffic-control  
4 device violations and collisions, and shall communicate the  
5 data to ALEA pursuant to rules adopted by the commission. The  
6 information may also be used by the Department of  
7 Transportation to assist in determining its administration of  
8 highway safety.

9 Section 12. The placement of traffic-control devices  
10 and timing of yellow lights and red light clearance intervals,  
11 adopted by the municipality, shall conform to the most recent  
12 edition of the Manual on Uniform Traffic Control Devices and  
13 the Alabama Department of Transportation Signal Design Guide  
14 and Timing Manual. It shall be presumed that the municipality  
15 is in compliance with this section unless the contrary is  
16 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 8,  
22 Chapter 5A, Title 32, including, but not limited to, Sections  
23 32-5A-31, 32-5A-34, 32-5A-35, 32-5A-170 to 32-5A-178,  
24 inclusive, Code of Alabama 1975, or any other municipal  
25 ordinance which embraces and incorporates the statutes  
26 contained in that article, and which occurred simultaneously

1 with and under the same set of circumstances which were  
2 recorded by the automated traffic enforcement system.

3 Section 14. (a) Any person against whom an  
4 adjudication of liability for a civil violation is made  
5 pursuant to this act, or an ordinance passed pursuant to this  
6 act, and who pays the civil fine imposed shall have a cause of  
7 action against the operator of the vehicle at the time of the  
8 violation, for the amount of the civil fine paid plus any  
9 consequential or compensatory damages and reasonable attorney  
10 fees, without regard to the rules regarding joint and several  
11 liability, contribution, or indemnity.

12 (b) Prior to bringing a civil action, the owner  
13 shall first make a written demand on the operator of the  
14 vehicle for reimbursement of the civil fine, giving the  
15 operator a minimum of 60 days to remit payment. If  
16 reimbursement is fully made within the 60-day period then  
17 there shall be no cause of action.

18 (c) Any cause of action brought pursuant to this  
19 section must be commenced within two years from the date of  
20 the payment of the civil fine for a traffic violation.

21 Section 15. (a) All local laws enacted prior to the  
22 effective date of this act enabling authority for automated  
23 traffic enforcement systems for a municipality are repealed.

24 (b) (1) Any jurisdiction with such systems currently  
25 in place shall automatically be deemed to have received  
26 approval by the commission; however, beginning forthwith on  
27 the effective date of this act, the municipality shall follow

1 this act for all operations and be subject to the oversight of  
2 the commission for continued operation.

3 (2) Notwithstanding Section 6, a municipality with a  
4 local law in effect authorizing the use of automated traffic  
5 enforcement systems prior to the effective date of this act  
6 allowing an administrative hearing officer to conduct hearings  
7 in contested cases, may continue to allow an administrative  
8 hearing officer to hear contested cases that would otherwise  
9 by heard by a municipal court.

10 Section 16. This act shall become effective 90 days  
11 following its passage and approval by the Governor, or its  
12 otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Transportation and Energy..... 30-APR-19

Read for the second time and placed on the calen-  
dar 3 amendments..... 09-MAY-19

Read for the third time and passed as amended .... 23-MAY-19

Yeas 30  
Nays 0

Patrick Harris,  
Secretary.