

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

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8 SYNOPSIS: Under existing law, a municipality is
9 authorized to use automated traffic enforcement
10 systems once an ordinance is passed.

11 This bill would require a municipality
12 receive approval from the Alabama State Law
13 Enforcement Agency prior to being authorized to use
14 automated traffic enforcement systems.

15 This bill would provide for the issuance of
16 notices and violations by municipalities; to
17 provide for civil fines and late fees for
18 violations.

19 This bill would further provide for
20 distribution of civil fines, fees, and court costs.

21 This bill would provide for adjudicative
22 hearings by municipal courts in contested cases.

23 This bill would further provide for appeals
24 from municipal courts to circuit courts.

25 This bill would provide that a violation
26 pursuant to this act is not a criminal conviction.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

22 (2) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM. A camera
23 system which is designed to record violations of traffic
24 safety laws and which may work in conjunction with a
25 traffic-control device using vehicle sensors synchronized to
26 record, either by conventional film or digital imaging,
27 sequenced photographs, or full motion video of the rear of a

1 motor vehicle failing to obey a traffic-control device, or in
2 conjunction with a speed detection device synchronized to
3 record digital imaging of a motor vehicle while speeding. The
4 system shall be capable of producing at least two recorded
5 images, at least one of which is capable of clearly depicting
6 the license plate of a motor vehicle that is in violation of
7 the traffic law.

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

11 (4) COMMISSION. The Alabama Justice Information
12 Commission.

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

15 (6) NLETS. Network provider for exchange of criminal
16 justice information among multiple state, federal, and
17 international law enforcement agencies.

18 (7) OWNER. The owner of a motor vehicle as shown on
19 the motor vehicle registration records of the Alabama
20 Department of Revenue or the analogous department or an agency
21 of another state or country. The term does not include any of
22 the following:

23 a. A motor vehicle rental or leasing company when a
24 motor vehicle registered by the company is rented or leased to
25 another person, in which event "owner" means the person who
26 rented or leased the vehicle.

1 b. Vehicles displaying dealer license plates, in
2 which event "owner" means the person to whom the vehicle is
3 assigned for use.

4 c. The owner of any stolen motor vehicle, in which
5 event "owner" means the person who is guilty of stealing the
6 motor vehicle.

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

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

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

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

1 a. Is a professional engineer in the field of civil
2 engineering.

3 b. Has received instruction and training in the
4 proper use of the automated traffic enforcement systems to be
5 used by the municipality's traffic engineer or his or her
6 designee.

7 c. Has been trained by the vendor installing the
8 equipment.

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

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

15 (c) The commission may deny a proposed plan or
16 suspend a previously approved plan if the commission
17 determines the plan may cause, or is causing, an unforeseen
18 danger, is demonstrably implemented with racial bias, or fails
19 to achieve safer driving environments.

20 (d) The commission, through ALEA, shall periodically
21 audit any municipality that has been approved and implemented
22 an automated traffic enforcement system. If the audit
23 determines that a municipality is not fully abiding by the law
24 or rules set forth by the commission, the commission may
25 suspend the authority of the municipality to operate an
26 automated traffic enforcement system until the municipality is
27 in full compliance with this act.

1 (e) The commission shall annually provide a summary
2 report to the Legislature on the automated traffic enforcement
3 systems within Alabama.

4 (f) The commission shall adopt rules for the
5 submission of plans, the approval process, and the suspension
6 of authority to a municipality for not abiding by the law or
7 rules of the commission in accordance with this act. The
8 commission shall also adopt rules for the collection,
9 retention, use, security, and privacy of the data collected by
10 the systems in accordance with the authority of the commission
11 as provided in Section 41-9-590 et. al, Code of Alabama 1975.

12 Section 4. (a) Once an implementation plan has been
13 approved by the commission, a municipality may provide by
14 ordinance, for the establishment of automated traffic
15 enforcement systems imposing a civil fine for a speeding
16 violation or traffic-control device violation.

17 (b) A civil fine assessed under this act may not
18 exceed one hundred ten dollars (\$110) and court costs may only
19 be assessed in contested cases. If applicable, court costs
20 shall be assessed and distributed in the same manner and in
21 the same amounts as prescribed by law for misdemeanor
22 violations. Ten dollars (\$10) of the fine shall be paid to
23 ALEA, after the municipal court has received payment of the
24 fine. The Alabama State Law Enforcement Agency shall deposit
25 the ten dollars (\$10) in the State Treasury to the credit of
26 the Public Safety Fund as compensation for record keeping,
27 transaction processing with respect to violation notices

1 issued under this act, technology costs, and other expenses
2 that may occur related to the oversight of the commission.

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

7 (d) If an ordinance is adopted for automated traffic
8 enforcement related to speeding, the ordinance may only apply
9 in the following locations within the corporate limits of the
10 municipality:

11 (1) School zones.

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

13 (3) Residential neighborhoods.

14 (e) If an ordinance is adopted for automated traffic
15 enforcement of a traffic-control device violation, the devices
16 may be placed at any location within the municipality that the
17 council finds is dangerous and which would improve the safety
18 of drivers from an enforcement system at the location. The
19 municipality shall post a sign or signs at each location where
20 a device is located informing motorists that an automated
21 traffic enforcement system is in operation at the location.

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

26 Section 5. (a) An owner shall be liable for the
27 civil fine imposed pursuant to this section if a driver of the

1 motor vehicle commits a speeding violation or traffic-control
2 device violation as evidenced by recorded images produced by
3 an automated traffic enforcement system.

4 (b) In order to impose a civil fine pursuant to this
5 section, a municipality shall mail a notice of the violation
6 by first class U.S. mail to the owner of the motor vehicle
7 liable for the civil fine. The notice shall be sent within 30
8 days of the violation. The notice shall be sent to either of
9 the following:

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

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

16 (c) A notice of violation shall contain all of the
17 following:

18 (1) Description of the violation alleged.

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

20 (3) A copy of two recorded images of the vehicle
21 involved in the violation.

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

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

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

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

7 a. The manner and time in which to contest the
8 imposition of the civil fine.

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

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

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

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

18 (10) Any other information deemed necessary by the
19 municipality.

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

23 (e) (1) It shall be within the discretion of the
24 trained technician to determine which of the recorded traffic
25 violations are prosecuted based upon the quality and
26 legibility of the recorded image. In lieu of issuing a notice

1 of violation, the municipality may mail a warning notice to
2 the owner.

3 (2) Under no circumstances shall the salary or other
4 compensation of the trained technician be related to the
5 number of notices of violation issued or amount of fines
6 collected.

7 Section 6. (a) An owner who receives a notice of
8 violation pursuant to this act may request an adjudicative
9 hearing to contest the imposition of the civil fine. A request
10 for an adjudicative hearing shall be made in writing and
11 mailed to the municipal court within 45 days of the violation.
12 Upon receipt of a timely request, the municipality shall
13 notify the person, by U.S. mail, of the date and time of the
14 adjudicative hearing.

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

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

20 (d) In an adjudicative hearing, the municipality
21 shall have the burden of proving the violation by a
22 preponderance of the evidence.

23 (e) The reliability of the automated traffic
24 enforcement system used to produce the recorded image of the
25 violation may be attested to by an affidavit of a trained
26 technician. An affidavit of a trained technician that alleges
27 a violation based on an inspection of the pertinent recorded

1 image or video is admissible in a proceeding under this act
2 and is evidence of the facts contained in the affidavit.

3 (f) The notice of violation, the recorded and
4 reproduced images of the violation, regardless of the media on
5 which they are recorded, accompanied by a certification of
6 authenticity of a trained technician, and evidence of
7 ownership of a vehicle as shown by copies or summaries of
8 official records shall be admissible into evidence without
9 foundation unless the municipal court finds there is an
10 indication of untrustworthiness, in which case the
11 municipality shall be given a reasonable opportunity to lay an
12 evidentiary foundation.

13 (g) All other matters of evidence and procedure not
14 specifically addressed in this act shall be subject to the
15 rules of evidence and the rules of civil procedure as they
16 apply in the courts of this state.

17 (h) After hearing the evidence, the municipal court
18 judge shall issue an order stating whether the person charged
19 with the civil violation is liable for the violation and if
20 so, the amount of the civil fine and court costs assessed. The
21 amount of the civil fine may not be increased, decreased, or
22 remitted by the municipal court, and shall be satisfied only
23 by payment.

24 (i) Except as provided in subsection (l), a person
25 who is found liable for the violation at an adjudicative
26 hearing or a person who fails to appear after requesting a
27 hearing shall be assessed the civil fine and court costs. The

1 civil fine and court costs shall be paid within 10 days of the
2 municipal court's order following the hearing.

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

6 (k) Any of the following shall be an affirmative
7 defense to a violation, if proven by a preponderance of the
8 evidence:

9 (1) The operator of the motor vehicle was acting in
10 compliance with the lawful order or direction of a police
11 officer.

12 (2) The motor vehicle was being operated as an
13 authorized emergency vehicle under Sections 32-5A-7 and
14 32-5-213, Code of Alabama 1975, and that the operator was
15 acting in compliance with those sections.

16 (3) The motor vehicle was stolen or being operated
17 by a person other than the owner of the vehicle without the
18 effective consent of the owner. To establish the motor vehicle
19 was stolen at the time of the violation, the owner must submit
20 proof that the theft of the vehicle had been timely reported
21 to the appropriate law enforcement agency, prior to the
22 violation.

23 (4) The license plate depicted in the recorded image
24 of the violation was a stolen plate and being displayed on a
25 motor vehicle other than the motor vehicle for which the plate
26 had been issued. To establish the license plate displayed on
27 the motor vehicle was a stolen plate, the owner must submit

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

4 (5) The person who received the notice of violation
5 was not the owner of the motor vehicle at the time of the
6 violation.

7 (6) The official traffic-control device was not in
8 proper position and sufficiently visible to an ordinarily
9 observant person.

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

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

17 (1) An owner who fails to pay the amount of a civil
18 fine or to contest liability in a timely manner is entitled to
19 an adjudicative hearing on the violation if he or she does all
20 of the following:

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

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

26 (m) Orders issued under this section may be filed in
27 the office of the judge of probate of the county issuing the

1 order and shall operate as a judicial lien in the same manner
2 and with the same weight and effect as any other civil
3 judgment filed therein. The municipality may be responsible
4 for any applicable fees associated with the filing of the lien
5 subject to a determination by the judge of probate.

6 Section 7. An owner who is found liable after an
7 adjudicative hearing may appeal that finding of civil
8 liability to the circuit court with jurisdiction over the
9 location of the violation, by filing a notice of appeal with
10 the clerk of the municipal court. The notice of appeal must be
11 filed not later than the 14th day after the date on which the
12 municipal court judge entered the finding of civil liability.
13 The filing of a notice of appeal shall stay the enforcement of
14 the civil fine. An appeal shall be determined by the circuit
15 court by trial de novo.

16 Section 8. (a) An owner who is found liable after an
17 adjudicative hearing may appeal that finding of civil
18 liability to the circuit court of the county where the
19 violation occurred, by filing a notice of appeal with the
20 clerk of the municipal court. The notice of appeal must be
21 filed not later than the 14th day after the date on which the
22 municipal court judge entered the finding of civil liability.
23 The filing of a notice of appeal shall stay the enforcement of
24 the civil fine. An appeal shall be determined by the circuit
25 court by trial de novo.

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

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

7 (2) If the circuit court finds the owner liable, the
8 owner shall be required to pay the civil fine and court costs.
9 Court costs shall be assessed and distributed in the same
10 manner and in the same amounts as prescribed by law for
11 appeals from the municipal court.

12 (3) The municipality shall be responsible for
13 providing an attorney to represent the municipality and to
14 prosecute the civil proceedings in the circuit court.

15 Section 9. In the event the evidence produced by an
16 automated traffic enforcement system does not produce an image
17 of the license plate with sufficient clarity for a trained
18 technician to determine the identity of the owner, and if the
19 identity cannot otherwise be reliably established, then no
20 notice of violation may be issued pursuant to this act. If,
21 however, a notice of violation is issued, to the degree
22 constitutionally allowed, those issues related to the identity
23 of the vehicle or its owner shall affect the weight to be
24 accorded the evidence and shall not affect its admissibility.

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

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

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

7 (d) The fact that a person is held liable for a
8 civil fine for a violation of this act may not be considered a
9 conviction for any purpose, may not be used to increase or
10 enhance punishment for any subsequent offense of a criminal
11 nature, may not be considered a moving violation, and may not
12 be used by any insurance company to determine or affect
13 premiums or rates unless an accident occurred due to the
14 violation.

15 (e) The fact that a person is held liable for a
16 civil fine for a speeding violation may not be used as
17 evidence that the person was guilty of negligence or other
18 culpable conduct, and any evidence generated by an automated
19 traffic enforcement system may only be used as evidence in
20 other proceedings if it is or becomes admissible under the
21 rules of 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) Any jurisdiction with such systems currently in
25 place shall automatically be deemed to have received approval
26 by the commission; however, beginning forthwith on the
27 effective date of this act, the municipality shall follow this

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

3 Section 16. This act shall become effective 90 days
4 following its passage and approval by the Governor, or its
5 otherwise becoming law.