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1 SB238
2 ZUEMKWK-1
3 By Senator Carnley (N & P)
4 RFD: Local Legislation
5 First Read: 18-Mar-25



A BILL
TO BE ENTITLED
AN ACT

Relating to the Town of Kinston, Alabama, in Coffee County; authorizing automated speeding enforcement in the Town of Kinston as a civil violation; authorizing the town to adopt a municipal ordinance consistent with this act; providing certain procedures to be followed by using automated photographic speeding enforcement; providing that the owner of the vehicle involved is presumptively liable for a civil violation and the payment of a civil fine, but providing procedures to contest liability; providing for jurisdiction in the Kinston Municipal Court over the civil violations and allowing appeals to the Coffee County Circuit Court for trial de novo; creating a cause of action for any person held responsible for payment of the civil fine against the person who was actually operating a vehicle while speeding; and prohibiting the tampering with automated speeding enforcement devices or equipment systems, except by authorized persons.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This act shall be known and may be cited as the "Kinston Speed Limit Safety Act."

(b) The Town of Kinston, Alabama, by municipal



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ordinance, may adopt the procedures set out in this act.

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

(1) CIVIL FINE. The monetary amount assessed by the Town of Kinston pursuant to this act for an adjudication of civil liability for a speeding violation, including municipal court costs associated with the infraction.

(2) CIVIL VIOLATION. A noncriminal category of law called a civil violation created and existing for the sole purpose of carrying out the terms of this act. The penalty for violation of a civil violation shall be the payment of a civil fine, the enforceability of which shall be accomplished through civil action. The prosecution of a civil violation created hereby shall carry reduced evidentiary requirements and burden of proof as set out in this act, and in no event shall an adjudication of liability for a civil violation be punishable by a criminal fine or imprisonment.

(3) OWNER. The owner of a motor vehicle as shown on the motor vehicle registration records of the Alabama Department of Revenue or the analogous department or agency of another state or country. The term shall not include a motor vehicle rental or leasing company when a motor vehicle registered by the company is rented or leased to another person under a rental or lease agreement with the company, in which event "owner" shall mean the person to whom the vehicle is rented or leased; nor shall the term include motor vehicles displaying dealer license plates, in which event "owner" shall mean the individual to whom the vehicle is assigned for use; nor shall



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the term include the owner of any stolen motor vehicle, in which event "owner" shall mean the individual who is guilty of stealing the motor vehicle.

(4) PHOTOGRAPHIC SPEEDING ENFORCEMENT or AUTOMATED SPEEDING ENFORCEMENT SYSTEM. A camera system which is designed and installed to work in conjunction with an electrically operated speed detection device synchronized to automatically record digital imaging of a motor vehicle while speeding. The device shall be capable of producing at least two recorded images, at least one of which is capable of clearly depicting the license plate of a motor vehicle that is speeding.

(5) SPEEDING VIOLATION. Any violation of a motor vehicle at a speed that exceeds 10 miles per hour over the legal maximum speed limits presented in or adopted pursuant to Article 8, Chapter 5A, Title 32, Code of Alabama 1975; provided, however, that speed limits set by action of the Kinston Town Council as found in the municipal code of the Town of Kinston shall supersede the limits set in Article 8, Chapter 5A, Title 32, Code of Alabama 1975. A speeding violation shall be a civil violation as defined in this act.

(6) TOWN. The Town of Kingston, Alabama.

(7) TRAINED TECHNICIAN. A sworn law enforcement officer employed by the Town of Kinston, who alternatively:

a. Is a professional engineer in the field of civil engineering; or

b. Has received instruction and training in the proper use of the automated photographic speeding enforcement system to be used by the town's traffic engineer or his or her



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designee; or

c. Has been trained by the vendor installing the equipment. Under no circumstances shall the salary or other compensation of the trained technician be related to the number of notices of violation issued or amount of fines collected.

Section 3. (a) The Town of Kinston is authorized to use an automated photographic speeding enforcement system to detect and record speeding violations, to issue notices of civil violations by mail, and to prosecute civil violations for the recorded speeding violations which may occur within the corporate limits of the Town of Kinston as provided in this act. A civil fine assessed under this act shall not exceed one hundred dollars (\$100), and municipal court costs may be assessed in the same manner and in the same amounts prescribed for municipal criminal speeding violations prosecuted as a misdemeanor. An additional fee of ten dollars (\$10) shall be added to the Kinston Municipal Court costs authorized to be collected in connection with notices issued under this act. Court costs collected pursuant to this act shall be distributed in the same manner as prescribed by law for the distribution of municipal court costs for misdemeanor violations. The additional ten dollars (\$10) authorized by this act shall be paid to the Alabama Criminal Justice Information Center as compensation for recordkeeping with respect to speeding violation notices issued pursuant to this act.

(b) If an ordinance is adopted for automated speeding



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enforcement, the Town of Kinston shall cause a sign to be posted at each of a minimum of five roadway entry points to the town to provide motorists with notice that automated photographic speeding enforcement systems are in use. The sign shall comply with this requirement if it states substantially the following: "AUTOMATED CAMERAS USED IN SPEEDING ENFORCEMENT," or if it otherwise gives sufficient notice.

(c) Prior to operating such an enforcement system, the Town of Kinston shall make a public announcement and conduct a public awareness campaign of the use of an automated photographic speeding enforcement system a minimum of 30 days before using the devices. The Town of Kinston may place photographic speeding enforcement systems at locations without public notice of the specific location, may change locations without public notice, and may install and move as needed decoy devices designed to resemble photographic speeding enforcement systems.

(d) The town shall post signs warning of the use of an automated photographic device for speeding enforcement within 60 yards of every speed detection device used. Each sign shall be placed at least five feet from the edge of the road or street and shall be placed not lower than two feet and not higher than eight feet.

Section 4. (a) Prior to imposing a civil penalty pursuant to this act, the Town of Kinston shall first mail a notice of violation by certified U.S. mail, return receipt requested, to the owner of the motor vehicle which is recorded by the automated photographic speeding enforcement system that



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committed a speeding violation. The notice shall be sent not later than the 30th day after the date the speeding violation is recorded to the following:

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

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

(3) If a traffic violation is based on the vehicle identification number, and the registered owner of the vehicle is a rental car business, the law enforcement agency, before issuing a notice of violation, shall provide a written notice to the rental car business that a notice of violation to the rental car business if the rental car business does not, within 30 days of receiving written notice, provide to the issuing agency by return mail a statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the violation occurred.

(b) A notice of violation issued under this act shall contain all of the following:

(1) Description of the speeding violation alleged.

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

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

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



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169 (5) The date by which the civil penalty must be paid.

170 (6) A statement that the person named in the notice of
171 violation may pay the civil penalty in lieu of appearing at an
172 administrative adjudication hearing.

173 (7) Information that informs the person named in the
174 notice of violation of the following:

175 a. The right to contest the imposition of the civil
176 penalty in an administrative adjudication.

177 b. The manner and time in which to contest the
178 imposition of the civil penalty.

179 c. That failure to pay the civil penalty or to contest
180 liability is an admission of liability.

181 (8) A statement that a recorded image is evidence in a
182 proceeding for the imposition of a civil penalty.

183 (9) A statement that failure to pay the civil penalty
184 within the time allowed shall result in the imposition of a
185 late penalty not exceeding twenty-five dollars (\$25).

186 (10) Any other information deemed necessary by the
187 town.

188 (c) A notice of violation under this act is presumed to
189 have been received on the 10th day after the date the notice
190 of violation is placed in the U.S. mail.

191 (d) The civil penalty imposed shall be paid within 30
192 days of the 10th day after the date the notice of violation is
193 mailed.

194 (e) It shall be within the discretion of the trained
195 technician to determine which of the recorded speeding
196 violations are prosecuted based upon the quality and



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legibility of the recorded image. In lieu of issuing a notice of violation, the town may mail a warning notice to the owner during the initial warning period.

Section 5. (a) The Kinston Municipal Court is vested with the power and jurisdiction to hear and adjudicate the civil violations provided for in this act and to issue orders imposing the civil fines and costs set out in this act.

(b) A person who receives a notice of violation may contest the imposition of the civil fine by submitting a written request for a hearing on the adjudication of the civil violation within 15 days of the 10th day after the date the notice of violation is mailed. Upon receipt of a timely request, the town shall notify the person of the date and time of the adjudicative hearing by U.S. mail.

(c) Failure to pay a civil penalty or to contest liability in a timely manner is an admission of liability in the full amount of the civil fine assessed in the notice of violation.

(d) The civil fine shall not be assessed if, after a hearing, the Kinston Municipal Judge enters a finding of no liability.

(e) If an adjudicative hearing is requested, the town shall have the burden of proving the speeding violation by a preponderance of the evidence. The reliability of the automated photographic speeding enforcement system used to produce the recorded image of the violation may be attested to by affidavit of a trained technician. An affidavit of a trained technician that alleges a violation based on an



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inspection of the pertinent recorded image or video is admissible in a proceeding under this act and is evidence of the facts contained in the affidavit.

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

(g) All other matters of evidence and procedure not specifically addressed in this act shall be subject to the rules of evidence and the rules of procedure as they apply in the small claims courts of this state, except that on any appeal to Coffee County Circuit Court for trial de novo the evidence and procedures shall be as for any civil case in the circuit court except as otherwise provided in this act.

(h) A person who is found liable for the civil violation after an adjudicative hearing or who requests an adjudicative hearing and thereafter fails to appear at the time and place of the hearing is liable for court costs and fees as set out herein in addition to the amount of the civil fine assessed for the violation. A person who is found liable for a civil violation after an adjudicative hearing shall pay the civil fine and costs within 10 days of the hearing.



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(i) Whenever payment of a civil fine is owed to the town, the amount of the civil fine as set by ordinance may not be increased, decreased, or remitted by the municipal court, and the liability may be satisfied only by payment.

(j) It shall be an affirmative defense to the imposition of civil liability under this act, to be proven by a preponderance of the evidence, that any of the following apply:

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

(2) The motor vehicle was being operated as an authorized emergency vehicle under state law, and the operator was acting in compliance with that section.

(3) The motor vehicle was stolen or being operated by a person other than the owner of the vehicle without the effective consent of the owner.

(4) The license plate depicted in the recorded image of the violation was a stolen plate and being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued.

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

(k) To demonstrate that at the time of the violation the motor vehicle was a stolen vehicle or the license plate displayed on the motor vehicle was a stolen plate, the owner must submit proof acceptable to the hearing officer that the



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theft of the vehicle or license plate, prior to the time of the violation, had been timely reported to the appropriate law enforcement agency.

(1) Notwithstanding anything in this act to the contrary, a person who fails to pay the amount of a civil fine or to contest liability in a timely manner is entitled to an adjudicative hearing on the violation if:

(1) The person files an affidavit with the hearing officer stating the date on which the person received the notice of violation that was mailed to the person, if not received by the 10th day after the notice was mailed.

(2) Within the 15 days of the date of actual receipt, the person requests an administrative adjudicative hearing.

Section 6. (a) Following an adjudicative hearing, the municipal court shall issue an order stating the following:

(1) Whether the person charged with the civil violation is liable for the violation and, if so,

(2) The amount of the civil fine assessed against the person, along with the fees and costs of court provided for in this act.

(b) The orders issued under this section may be filed in the Office of the Judge of Probate of Coffee County, Alabama, and shall operate as a judicial lien in the same manner and with the same weight and effect as any other civil judgment filed therein.

(c) A person who is found liable after an adjudicative hearing may appeal that finding of civil liability to the Circuit Court of Coffee County, Alabama, by filing a notice of



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appeal with the clerk of the municipal court. The notice of appeal must be filed not later than the 14th day after the date on which the municipal court judge entered the finding of civil liability. The filing of a notice of appeal shall stay the enforcement of the civil fine penalty. An appeal shall be determined by the circuit court by trial de novo.

Section 7. The circuit court hearing an appeal shall use the procedures that apply to criminal convictions in municipal court with the following qualifications:

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

(2) If the person is adjudicated by the circuit court to be responsible for payment of the civil fine, circuit court costs shall be owed by the person adjudicated responsible, with 100 percent of those court costs retained by the circuit court. Court costs in the circuit court shall be calculated as are court costs for criminal appeals from the municipal court, and in the event the circuit court finds the person appealing not to be responsible, no municipal court costs shall be owed to the town.

(3) Regardless of the civil nature of the proceedings, the circuit court may assign case numbers as for criminal appeals and place the appeals on criminal dockets in the same manner as criminal appeals from municipal court.

(4) The circuit court shall sit as trier of both fact and law in the civil proceedings in the circuit court.

(5) The town shall be responsible for providing an



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attorney to represent the town and to prosecute the civil proceedings in the circuit court.

Section 8. In the event the evidence produced by an automated photographic speeding enforcement system does not produce an image of the license plate with sufficient clarity for a trained technician to determine the identity of the owner. If the identity of the owner cannot otherwise be reliably established, no notice of violation may be issued. If, however, a notice of violation is issued, to the degree constitutionally allowed, those issues related to the identity of the vehicle or its owner shall affect the weight to be accorded the evidence and shall not affect its admissibility.

Section 9. The town may provide by ordinance that a late fee not exceeding twenty-five dollars (\$25) shall be attached to untimely paid civil fines that are authorized in this act. No person may be arrested or incarcerated for nonpayment of a civil fine or late fee. No record of an adjudication of civil violation made under this act shall be listed, entered, or reported on any criminal record or driving record, whether the record is maintained by the town or an outside agency. An adjudication of civil violation provided for in this act shall not be considered a conviction for any purpose, shall not be used to increase or enhance punishment for any subsequent offense of a criminal nature, shall not be considered a moving violation, and shall not be used by any insurance company to determine or affect premiums or rates unless an accident occurred due to the violation. The fact that a person is held liable or responsible for a civil fine



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for a speeding violation shall not be used as evidence that the person was guilty of negligence or other culpable conduct, and any evidence generated by an automated photographic speeding enforcement system may only be used as evidence in other proceedings if it is or becomes admissible under the rules of evidence applicable therein.

Section 10. The town shall keep statistical data regarding the effectiveness of automated photographic speeding enforcement systems in reducing speeding violations and collisions and shall communicate the data on an annual basis to the Alabama Department of Transportation and the Alabama Criminal Justice Information Center.

Section 11. No civil penalty may be imposed and no adjudication of liability for a civil violation may be made under this act if the operator of the vehicle was arrested or was issued a citation and notice to appear by a sworn police officer for a criminal violation of any portion of Article 8, Chapter 5A of Title 32, Code of Alabama 1975, or any other municipal ordinance that incorporates the statutes contained in that article, and which occurred simultaneously with and under the same set of circumstances which were recorded by the automated photographic speeding enforcement system.

Section 12. This act shall become effective on October 1, 2025.