

1 HB815
2 120433-1
3 By Representatives Salaam and Thomas (J) (N & P)
4 RFD: Local Legislation
5 First Read: 06-APR-10

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the City of Selma, Alabama, in Dallas
14 County; authorizing automated traffic light enforcement in the
15 City of Selma, Alabama, as a civil violation; providing
16 certain procedures to be followed by the city using automated
17 photographic traffic light enforcement; providing that the
18 owner of the vehicle involved in running a traffic light is
19 presumptively liable for a civil violation and the payment of
20 a civil fine, but providing procedures to contest liability;
21 providing for jurisdiction in the Selma Municipal Court over
22 the civil violations and allowing appeals to the Dallas County
23 Circuit Court for trial de novo; and creating a cause of
24 action for any person held responsible for payment of the
25 civil fine against the person who was actually operating a
26 vehicle during the running of a traffic light.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. (a) This act shall be known and may be
2 cited as the "Selma Red Light Safety Act."

3 (b) The City of Selma, Alabama, may, by ordinance,
4 adopt the procedures set out in this act.

5 Section 2. The Legislature finds and declares the
6 following:

7 (1) Accident data establishes that vehicles running
8 red lights have been and are a dangerous problem in Selma,
9 Alabama.

10 (2) Studies have found that automated traffic camera
11 enforcement in a municipal area is a highly accurate method
12 for detecting red light violations and is very effective in
13 reducing the number of red light violations and decreasing the
14 number of traffic accidents, deaths, and injuries.

15 (3) Current Alabama law provides that failing to
16 stop and remain stopped at a traffic-control signal which is
17 emitting a steady red signal is a criminal misdemeanor. Under
18 Alabama law one who commits such a misdemeanor is subject to
19 prosecution only if the misdemeanor was witnessed by either a
20 duly empowered police officer or other witness who makes a
21 verified complaint to a sworn magistrate.

22 (4) Many jurisdictions have adopted laws that allow
23 use of automated photographic traffic enforcement, and the
24 Legislature finds that it should adopt legislation
25 implementing a program for automated photographic enforcement
26 of traffic signal violations, which the Legislature finds is
27 consistent with this act.

1 (5) By allowing a program for use of automated
2 traffic cameras in traffic signal enforcement by the City of
3 Selma, the Legislature hopes to both decrease the rate of
4 traffic signal violations and learn more about the
5 effectiveness and fairness involved in the use of the
6 automated systems.

7 Section 3. As used in this act, the following terms
8 shall have the following meanings:

9 (1) CIRCUIT COURT or COUNTY CIRCUIT COURT. The
10 Dallas County Circuit Court.

11 (2) CITY. The City of Selma, Alabama.

12 (3) CIVIL FINE. The monetary amount assessed by the
13 city pursuant to this act for an adjudication of civil
14 liability for a traffic signal violation, including municipal
15 court costs associated with the infraction.

16 (4) CIVIL VIOLATION. There is hereby created a
17 noncriminal category of state law called a civil violation
18 created and existing for the sole purpose of carrying out the
19 terms of this act. The penalty for violation of a civil
20 violation shall be the payment of a civil fine, the
21 enforceability of which shall be accomplished through civil
22 action. The prosecution of a civil violation created hereby
23 shall carry reduced evidentiary requirements and burden of
24 proof as set out in Section 6, and in no event shall an
25 adjudication of liability for a civil violation be punishable
26 by a criminal fine or imprisonment.

1 (5) OWNER. The owner of a motor vehicle as shown on
2 the motor vehicle registration records of the Alabama
3 Department of Revenue or the analogous department or agency of
4 another state or country. The term shall not include a motor
5 vehicle rental or leasing company when a motor vehicle
6 registered by the company is rented or leased to another
7 person under a rental or lease agreement with the company, in
8 which event "owner" shall mean the person to whom the vehicle
9 is rented or leased; nor shall the term include motor vehicles
10 displaying dealer license plates, in which event "owner" shall
11 mean the person to whom the vehicle is assigned for use; nor
12 shall the term include the owner of any stolen motor vehicle,
13 in which event "owner" shall mean the person who is guilty of
14 stealing the motor vehicle.

15 (6) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM.

16 A camera system which is designed and installed to work in
17 conjunction with an electrically operated traffic-control
18 device using vehicle sensors synchronized to automatically
19 record, either by conventional film or digital imaging,
20 sequenced photographs or full motion video of the rear of a
21 motor vehicle while proceeding through a signalized
22 intersection. The device shall be capable of producing at
23 least two recorded images, at least one of which is capable of
24 clearly depicting the license plate of a motor vehicle that is
25 not operated in compliance with the instructions of the
26 traffic-control signal.

1 (7) TRAFFIC-CONTROL SIGNAL. Any device, whether
2 manually, electrically, or mechanically operated, by which
3 traffic is alternately directed to stop and permitted to
4 proceed as defined in Section 32-1-1.1, Code of Alabama 1975.

5 (8) TRAFFIC SIGNAL VIOLATION. Any violation of
6 Section 32-5A-31, Section 32-5A-32, or Section 32-5A-35, Code
7 of Alabama 1975, or of any combination thereof, wherein a
8 vehicle proceeds into a signalized intersection at a time
9 while the traffic-control signal for that vehicle's lane of
10 travel is emitting a steady red signal. A traffic signal
11 violation shall be a civil violation as defined in this act.

12 (9) TRAINED TECHNICIAN. A sworn law enforcement
13 officer employed by the City of Selma, who alternatively:

14 a. Is a professional engineer in the field of civil
15 engineering.

16 b. Has received instruction and training in the
17 proper use of the photographic traffic signal enforcement
18 system to be used by the city by the city's traffic engineer
19 or his or her designee.

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

25 Section 4. (a) The city is empowered to utilize an
26 automated photographic traffic signal enforcement system to
27 detect and record traffic signal violations, to issue notices

1 of civil violations by mail, and to prosecute civil violations
2 for the recorded traffic signal violations which may occur
3 within the corporate limits of the city as provided in this
4 act. A civil fine assessed under this act shall not exceed one
5 hundred dollars (\$100), and municipal court costs shall be
6 assessed only in contested cases in the same manner and in the
7 same amounts prescribed for a municipal criminal
8 traffic-control device violation prosecuted as a misdemeanor
9 under Sections 32-5A-31, 32-5A-32, 32-5A-35, Code of Alabama
10 1975, or any combination thereof. An additional fee of ten
11 dollars (\$10) shall be added to the municipal court costs
12 authorized to be collected in connection with notices issued
13 under this act. Court costs collected pursuant to this act
14 shall be distributed in the same manner as prescribed by law
15 for the distribution of municipal court costs for misdemeanor
16 violations. The additional ten dollars (\$10) authorized by
17 this act shall be paid to the Alabama Criminal Justice
18 Information Center as compensation for record keeping with
19 respect to violation notices issued under this act.

20 (b) The city shall cause a sign to be posted at each
21 of a minimum of five roadway entry points to the city to
22 provide motorists with notice that photographic traffic signal
23 enforcement systems are in use. The sign will comply with this
24 requirement if it states substantially the following:
25 "AUTOMATED CAMERAS USED IN RED LIGHT ENFORCEMENT," or if it
26 otherwise gives sufficient notice.

1 (c) Prior to operating a photographic traffic signal
2 enforcement system, the city shall make a public announcement
3 and conduct a public awareness campaign of the use of a
4 photographic traffic signal enforcement system a minimum of 30
5 days before using the devices. The city may place photographic
6 traffic signal enforcement systems at locations without public
7 notice of the specific location, may change locations without
8 public notice, and may install and move as needed decoy
9 devices designed to resemble photographic traffic signal
10 enforcement systems.

11 (d) The city shall post a sign or signs at each
12 intersection at which a device is located informing motorists
13 that a photographic traffic signal enforcement system is in
14 operation at the intersection.

15 Section 5. (a) Prior to imposing a civil penalty
16 under this act, the city shall first mail via first class
17 United States mail a notice of violation to the owner of the
18 motor vehicle which is recorded by the photographic traffic
19 signal enforcement system while committing a traffic signal
20 violation. The notice shall be sent not later than the 30th
21 day after the date the traffic signal violation is recorded
22 to:

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

25 (2) If the vehicle is registered in another state or
26 country, to the owner's address as shown on the motor vehicle
27 registration records of the department or agency of the other

1 state or country analogous to the Alabama Department of
2 Revenue.

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

5 (1) Description of the violation alleged.

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

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

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

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

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

16 (7) Information that informs the person named in the
17 notice of violation:

18 a. Of the right to contest the imposition of the
19 civil penalty in an administrative adjudication.

20 b. Of the manner and time in which to contest the
21 imposition of the civil penalty.

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

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

26 (9) A statement that failure to pay the civil
27 penalty within the time allowed shall result in the imposition

1 of a late penalty not exceeding twenty-five dollars (\$25) for
2 each month after the issuance of the order imposing the civil
3 penalty.

4 (10) Any other information deemed necessary by the
5 department.

6 (c) A notice of violation under this act is presumed
7 to have been received on the 10th day after the date the
8 notice of violation is placed in the United States mail.

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

12 (e) It shall be within the discretion of the trained
13 technician to determine which of the recorded traffic signal
14 violations are prosecuted based upon the quality and
15 legibility of the recorded image. In lieu of issuing a notice
16 of violation, the city may mail a warning notice to the owner.

17 Section 6. (a) The municipal court is vested with
18 the power and jurisdiction to hear and adjudicate the civil
19 violations provided for in this act, and to issue orders
20 imposing the civil fines and costs set out in this act.

21 (b) A person who receives a notice of violation may
22 contest the imposition of the civil fine by submitting a
23 request for a hearing on the adjudication of the civil
24 violation, in writing, within 15 days of the 10th day after
25 the date the notice of violation is mailed. Upon receipt of a
26 timely request, the city shall notify the person of the date
27 and time of the adjudicative hearing.

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

5 (d) The civil fine and court costs shall not be
6 assessed if, after a hearing, the municipal court judge enters
7 a finding of no liability.

8 (e) If an adjudicative hearing is requested, the
9 city shall have the burden of proving the traffic signal
10 violation by a preponderance of the evidence. The reliability
11 of the photographic traffic signal enforcement system used to
12 produce the recorded image of the violation may be attested to
13 by affidavit of a trained technician. An affidavit of a
14 trained technician that alleges a violation based on an
15 inspection of the pertinent recorded image is admissible in a
16 proceeding under this act and is evidence of the facts
17 contained in the affidavit.

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

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

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

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

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

23 1. The traffic-control signal was not in proper
24 position and sufficiently visible to an ordinarily observant
25 person.

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

4 3. The operator of the motor vehicle violated the
5 instructions of the traffic-control signal so as to yield the
6 right-of-way to an immediately approaching authorized
7 emergency vehicle.

8 4. The motor vehicle was being operated as an
9 authorized emergency vehicle under Sections 32-5A-7 and
10 32-5-213 of the Code of Alabama 1975, and that the operator
11 was acting in compliance with that chapter.

12 5. The motor vehicle was stolen or being operated by
13 a person other than the owner of the vehicle without the
14 effective consent of the owner.

15 6. The license plate depicted in the recorded image
16 of the violation was a stolen plate and being displayed on a
17 motor vehicle other than the motor vehicle for which the plate
18 had been issued.

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

23 8. The person who received the notice of violation
24 was not the owner of the motor vehicle at the time of the
25 violation.

26 (k) To demonstrate that at the time of the violation
27 the motor vehicle was a stolen vehicle or the license plate

1 displayed on the motor vehicle was a stolen plate, the owner
2 must submit proof acceptable to the hearing officer that the
3 theft of the vehicle or license plate, prior to the time of
4 the violation, had been timely reported to the appropriate law
5 enforcement agency.

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

10 1. The person files an affidavit with the hearing
11 officer stating the date on which the person received the
12 notice of violation that was mailed to the person, if not
13 received by the 10th day after same is mailed as set out in
14 subsection (a) of Section 5.

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

17 Section 7. (a) Following an adjudicative hearing,
18 the municipal court judge shall issue an order stating:

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

21 (2) The amount of the civil fine assessed against
22 the person, along with the fees and costs of court provided
23 for herein.

24 (b) The orders issued under this section may be
25 filed in the office of the Probate Judge of Dallas County,
26 Alabama, and shall operate as a judicial lien in the same

1 manner and with the same weight and effect as any other civil
2 judgment filed therein.

3 (c) A person who is found liable after an
4 adjudicative hearing may appeal that finding of civil
5 liability to the circuit court, by filing a notice of appeal
6 with the clerk of the municipal court. The notice of appeal
7 must be filed not later than the 14th day after the date on
8 which the municipal court judge entered the finding of civil
9 liability. The filing of a notice of appeal shall stay the
10 enforcement of the civil fine penalty. An appeal shall be
11 determined by the circuit court by trial de novo.

12 Section 8. (a) The circuit court hearing an appeal
13 shall use the procedures that apply to criminal convictions in
14 municipal court with the following qualifications:

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

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

1 (3) Regardless of the civil nature of the
2 proceedings, the circuit court, in its discretion and for its
3 administrative convenience, may assign case numbers as for
4 criminal appeals and place the appeals on criminal dockets in
5 the same manner as criminal appeals from municipal court.

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

8 (5) The city shall be responsible for providing an
9 attorney to represent the city and to prosecute the civil
10 proceedings in the circuit court.

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

22 Section 10. The city may provide by ordinance that
23 late fees not exceeding twenty-five dollars (\$25) per month
24 for each month after the issuance of the order imposing the
25 civil fine shall attach to untimely paid civil fines that are
26 authorized in this act. No person may be arrested or
27 incarcerated for nonpayment of a civil fine or late fee. No

1 record of an adjudication of civil violation made under this
2 act shall be listed, entered, or reported on any criminal
3 record or driving record, whether the record is maintained by
4 the city or an outside agency. An adjudication of civil
5 violation provided for in this act shall not be considered a
6 conviction for any purpose, shall not be used to increase or
7 enhance punishment for any subsequent offense of a criminal
8 nature, shall not be considered a moving violation, and shall
9 not be used by any insurance company to determine or affect
10 premiums or rates. The fact that a person is held liable or
11 responsible for a civil fine for a red light violation shall
12 not be used as evidence that the person was guilty of
13 negligence or other culpable conduct, and any evidence
14 generated by a photographic traffic signal enforcement system
15 may only be used as evidence in other proceedings if it is or
16 becomes admissible under the rules of evidence applicable
17 therein.

18 Section 11. The city shall adopt the procedures
19 authorized by this act, and shall keep statistical data
20 regarding the effectiveness of photographic traffic signal
21 enforcement systems in reducing traffic-control device
22 violations and intersectional collisions and shall communicate
23 the data on an annual basis to the Alabama Department of
24 Transportation and the Alabama Criminal Justice Information
25 Center.

26 Section 12. The placement of control devices and
27 timing of yellow lights and red light clearance intervals,

1 adopted by the city, shall conform to the most recent edition
2 of the Traffic Engineering Handbook. It shall be presumed that
3 the city is in compliance with this section unless the
4 contrary is shown by a preponderance of the evidence.

5 Section 13. No civil penalty may be imposed and no
6 adjudication of liability for a civil violation may be made
7 under this act if the operator of the vehicle was arrested or
8 was issued a citation and notice to appear by a sworn police
9 officer for a criminal violation of any portion of Article II,
10 Chapter 5A, Title 32 including, but not limited to, Sections
11 32-5A-31, 32-5A-34, and 32-5A-35 of the Code of Alabama 1975,
12 or any other municipal ordinance which embraces and
13 incorporates the statutes contained in that article, and which
14 occurred simultaneously with and under the same set of
15 circumstances which were recorded by the photographic traffic
16 signal enforcement system.

17 Section 14. Any person against whom an adjudication
18 of liability for a civil violation is made under this act, or
19 the ordinance passed pursuant hereto, and who actually pays
20 the civil fine imposed thereby shall have a cause of action
21 against any person who may be shown to have been operating the
22 vehicle recorded at the time of the violation for the amount
23 of the civil fine actually paid plus any consequential or
24 compensatory damages and a reasonable attorney fee, without
25 regard to the rules regarding joint and several liability,
26 contribution, or indemnity. Provided, however, that as a
27 condition precedent to the bringing of a civil action, that

1 the person held responsible for payment of the civil fine must
2 first make written demand on the other person for
3 reimbursement of the civil fine, giving a minimum of 60 days
4 to remit payment, and if reimbursement is fully made within
5 the 60-day period then the cause of action shall be
6 extinguished and no attorney fees or other damages shall
7 attach to the reimbursement. Any cause of action brought
8 pursuant to this section must be commenced within two years
9 from the date of the payment of the civil fine for a red light
10 violation.

11 Section 15. The provisions of this act are
12 severable. If any part of this act is declared invalid or
13 unconstitutional, that declaration shall not affect the part
14 which remains.

15 Section 16. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.