

1 SB440
2 138774-2
3 By Senators Bedford, Figures, Irons, Fielding, Waggoner,
4 Holley and Smith
5 RFD: Governmental Affairs
6 First Read: 22-MAR-12

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8 SYNOPSIS: Under existing law, the State Fire Marshal
9 is required to charge certain fees for performing
10 certain tasks and issuing certain licenses and
11 permits.

12 This bill would provide further for permits;
13 fees; the use of pyrotechnic devices before a
14 proximate audience; permissible use of fireworks;
15 sale of fireworks; authorization for retail sales
16 of permissible items of fireworks; authority of the
17 State Fire Marshal to seize and destroy illegal
18 fireworks, and the validity of city ordinances.

19 This bill would provide for the governing
20 body of any municipality to authorize law
21 enforcement to issue a summons when any municipal
22 ordinance prohibits the sale or use of aerial
23 devices and audible devices pursuant to law.

24
25 A BILL
26 TO BE ENTITLED

1 AN ACT

2
3 To amend Sections 8-17-210, 8-17-211, 8-17-216,
4 8-17-216.1, 8-17-217, 8-17-218, 8-17-219, 8-17-220, 8-17-222,
5 8-17-225, 8-17-226, and 11-45-9.1, of the Code of Alabama
6 1975, relating to the State Fire Marshal; to provide further
7 for permits; to increase fees; to provide further for the use
8 of pyrotechnic devices before a proximate audience; to provide
9 further for the permissible use of fireworks; to provide
10 further for the sale of fireworks; to provide further for the
11 authorization for retail sales of permissible items of
12 fireworks; to provide further for the authority of the State
13 Fire Marshal to seize and destroy illegal fireworks; to
14 provide further for definitions; and to provide further for
15 the effect on the validity of city ordinances; and to amend
16 Section 11-45-9.1 of the Code of Alabama 1975, relating to
17 issuance of summons; to allow when a municipal ordinance
18 prohibits the sale or use of aerial devices and audible
19 devices pursuant to law.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 8-17-210, 8-17-211, 8-17-216,
22 8-17-216.1, 8-17-217, 8-17-218, 8-17-219, 8-17-220, 8-17-222,
23 8-17-225, 8-17-226, and 11-45-9.1 of the Code of Alabama 1975,
24 are amended to read as follows:

25 "§8-17-210.

1 "As used in this article, the following terms shall
2 have the meanings ascribed to them in this section, unless
3 clearly indicated otherwise:

4 "(1) AERIAL DEVICES. Any type of DOT Class C,
5 Consumer Firework listed in the APA 87-1, Section 3.1.2 and
6 3.5.

7 "(2) ANNUAL RETAILER. Any person engaged in the
8 business of making sales of fireworks to consumers within the
9 State of Alabama throughout the entire calendar year from
10 January 1 through December 31.

11 "(3) APA 87-1. The 2001 American Pyrotechnic
12 Standard for Construction and Approval for Transportation of
13 Fireworks, Novelties, and Theatrical Pyrotechnics.

14 "(4) AUDIBLE GROUND DEVICES. Any type of DOT Class C
15 Consumer Firework listed in APA 87-1, Section 3.1.3.

16 "~~(1)~~ (5) DISTRIBUTOR. Any person engaged in the
17 business of making sales of fireworks for resale to all
18 holders of the required Alabama permits who in turn shall
19 resell to any permit holder; or any person who receives,
20 brings, or imports any fireworks of any kind into the State of
21 Alabama, except to a holder of an Alabama manufacturer's or
22 distributor's permit.

23 "~~(2)~~ (6) D.O.T. CLASS C ~~COMMON~~ Consumer FIREWORKS.
24 All articles of fireworks as are now or hereafter classified
25 as D.O.T. Class C ~~common~~ 1.4G Consumer fireworks in the
26 regulations of the U.S. Department of Transportation for the

1 transportation of explosive and other dangerous articles
2 including aerial devices, audible devices, and non-aerial
3 devices.

4 "(7) INSURANCE. Any current commercial general
5 liability and product liability insurance, including
6 contractual liability insurance, with minimum primary policy
7 limits of not less than two million dollars (\$2,000,000)
8 insuring against personal injury, bodily injury, and property
9 damage. All insurers shall be admitted carriers in the United
10 States, and licensed to do business in each state in which it
11 operates. All insurance shall be A.M. Best rating of at least
12 an A-VIII.

13 "(3)(8) MANUFACTURER. Any person engaged in the
14 making, manufacture, or construction of fireworks of any kind
15 within the State of Alabama.

16 "(9) NFPA 1123. The National Fire Protection
17 Association, Code for Fireworks Display, as adopted by the
18 State Fire Marshal.

19 "(10) NFPA 1124. The National Protection
20 Association, Code for the Manufacture, Transportation,
21 Storage, and Retail Sales of Fireworks and Pyrotechnic
22 Articles, 2006 Edition, or later edition adopted by the State
23 Fire Marshal.

24 "(11) NON-AERIAL DEVICES. Any type of DOT Class C
25 Consumer Firework that is a ground-based or handheld sparkling

1 device, including items listed in APA 87-1, Sections 3.1.1,
2 and 3.5.

3 "(12) NOVELTIES. Any device listed in APA 87-1,
4 Section 3.2, including, without limitation, the following:

5 "a. Party poppers.

6 "b. Snappers.

7 "c. Toy smoke devices.

8 "d. Snake, glow worms.

9 "e. Wire sparklers, dipped sticks.

10 "~~(4)~~ (13) PERMIT. The written authority of the State
11 Fire Marshal issued under the authority of this article.

12 "~~(5)~~ (14) PERSON. Includes any corporation,
13 association, copartnership or one or more individuals.

14 "~~(6) RETAILER. Any person engaged in the business of~~
15 ~~making sales of fireworks to consumers within the State of~~
16 ~~Alabama during a calendar year from January 1 through December~~
17 ~~31.~~

18 "~~(7)~~ (15) SALE. An exchange of articles or fireworks
19 for money, including barter, exchange, gift, or offer thereof,
20 and each such transaction made by any person, whether as
21 principal proprietor, salesman, agent, association,
22 copartnership, or one or more individuals.

23 "~~(8)~~ (16) FIREWORKS SEASONS. The dates of June 20
24 through July 10 and December 15 through January 2 of each year
25 shall be the only periods when seasonal retailers may sell
26 fireworks.

1 "~~(9)~~(17) SEASONAL RETAILER. Any person engaged in
2 the business of making sales of fireworks to consumers within
3 the State of Alabama during the fireworks season(s) only, from
4 permanent buildings or temporary or moveable stands.

5 "~~(10)~~(18) SPECIAL FIREWORKS. All articles of
6 fireworks that are classified as Class B explosives, 1.3G
7 display fireworks, in the regulations of the U.S. Department
8 of Transportation, including all articles classified as
9 fireworks other than those classified as Class C Consumer
10 Fireworks.

11 "(19) THEATRICAL FIREWORKS. All theatrical
12 pyrotechnics that are approved as UN0431, Articles Pyrotechnic
13 and are commonly referred to as professional 1.4G Indoor
14 Pyrotechnics.

15 "~~(11)~~(20) WHOLESALER. Any person engaged in the
16 business of making sales of fireworks to any other person
17 engaged in the business of making sales at seasonal retail.

18 "§8-17-211.

19 "(a) It shall be unlawful for any person to
20 manufacture, sell, offer for sale, or ship or cause to be
21 shipped into or within the State of Alabama, except as herein
22 provided, any item of fireworks or pyrotechnics for use before
23 a proximate audience, without first having secured the
24 required applicable permit, as a manufacturer, distributor,
25 wholesaler, annual retailer, or seasonal retailer, from the
26 State Fire Marshal. Possession of a permit is a condition

1 prerequisite to manufacturing, selling, or offering for sale,
2 or shipping or causing to be shipped any fireworks or
3 pyrotechnics for use before a proximate audience into or
4 within the State of Alabama, except as herein provided. This
5 provision applies to nonresidents as well as residents of the
6 State of Alabama. Mail orders where consumers purchase any
7 fireworks or pyrotechnics for use before a proximate audience
8 through the mail or receive any fireworks or pyrotechnics for
9 use before a proximate audience in Alabama by mail, parcel
10 service, or other carrier are prohibited. A sales clerk must
11 be on duty to serve consumers at the time of purchase or
12 delivery. All fireworks or pyrotechnics for use before a
13 proximate audience sold and delivered to consumers within the
14 State of Alabama must take place within the State of Alabama
15 and be sold and delivered only by an individual, firm,
16 partnership, or corporation holding the proper Alabama permit
17 and all fireworks or pyrotechnics for use before a proximate
18 audience coming into the state, manufactured, sold, or stored
19 within the state shall be under the supervision of the State
20 Fire Marshal as provided for in this article.

21 "(b) Prior to engaging in the manufacture or sale
22 within the State of Alabama, or shipment into the State of
23 Alabama, of any fireworks or pyrotechnics for use before a
24 proximate audience, each person making shipment or delivery or
25 receiving any fireworks or pyrotechnics for use before a
26 proximate audience into or within the State of Alabama, must

1 make application on forms secured from the State Fire Marshal
2 for a permit or permits required under this article for each
3 location at which fireworks or pyrotechnics for use before a
4 proximate audience are to be offered for sale.

5 "(c) A manufacturer's permit issued under this
6 article shall be subject to rules and regulations promulgated
7 by the State Fire Marshal to govern the manufacture of
8 fireworks or pyrotechnics for use before a proximate audience
9 as in the judgment of the State Fire Marshal the public
10 welfare may require.

11 "(d) The decision of the State Fire Marshal as to
12 what type of permit or permits shall be required of each
13 person shall be final. The State Fire Marshal may deny a
14 permit to an applicant or revoke a permit if the State Fire
15 Marshal has knowledge or reason to believe the safety
16 standards and conditions of this article are not or cannot be
17 met by the applicant. No permit shall be issued to a person
18 under the age of 18 years. All permits shall be for the
19 calendar year or any fraction thereof and shall expire on
20 December 31 of each year, two days of grace shall be allowed
21 holders of permits after expiration thereof. Only one seasonal
22 retailer permit shall be required for a full calendar year and
23 it shall be valid for both fireworks seasons, provided that
24 the building is not moved from the location where it was
25 originally permitted and no substantial structural or
26 environmental changes have occurred. A seasonal retailer

1 permit may be issued after July tenth for the remaining
2 fireworks season of that calendar year. All permits issued
3 must be displayed in their place of business. No permit
4 provided for herein shall be transferable nor shall a person
5 be permitted to operate under a permit issued to any other
6 person or under a permit issued for another location, unless
7 transfer shall have been approved by the State Fire Marshal.
8 The holder of an annual retailer permit shall not be required
9 to obtain a seasonal retailer permit.

10 "(e) The State Fire Marshal shall charge and collect
11 for permits ~~issued as follows:~~ and shall retain the permit
12 fees be paid to the State Fire Marshal's Fund. The proceeds
13 shall be used to enforce the provisions of this law.

14 "(f) The permits shall be issued as follows:

15 "(1) Manufacturer, two thousand dollars (\$2,000).

16 "(2) Distributor, two thousand dollars (\$2,000).

17 "(3) Wholesaler, seven hundred dollars (\$700).

18 "(4) Annual Retailer, two hundred dollars (\$200).:

19 "a. Annual retailer of aerial devices, non-aerial
20 devices, and novelties, two hundred fifty dollars (\$250) per
21 location.

22 "b. Annual retailer of non-aerial devices and
23 novelties, one hundred dollars (\$100) per location.

24 "c. Annual retailer of novelties, fifty dollars
25 (\$50) per location.

26 "(5) Seasonal Retailer, ~~two hundred dollars (\$200).~~:

1 "a. Seasonal retailer of aerial devices, non-aerial
2 devices, and novelties, two hundred dollars (\$200).

3 "b. Seasonal retailer of non-aerial devices and
4 novelties, fifty dollars (\$50) per location.

5 "c. Seasonal retailer of novelties, twenty-five
6 dollars (\$25) per location.

7 "d. All seasonal retailer permits obtained after
8 July 10 of any calendar year shall be half of the permit fee
9 listed herein.

10 ~~"(6) Seasonal Retailer after July 10, one hundred~~
11 ~~dollars (\$100).~~

12 ~~"(7)(6) Display permit for proximate audiences of~~
13 ~~special or theatrical fireworks, fifty dollars (\$50).~~

14 "(7) Shooter's permit, required for the display of
15 special or theatrical fireworks, one hundred dollars (\$100). A
16 shooter's permit shall be valid for a two-year period from the
17 date of issuance.

18 ~~"(f)(g) Only holders of a an annual retailer or~~
19 ~~seasonal retailer permit may engage in the retail sale of~~
20 ~~permitted items as defined in Section 8-17-217 aerial devices,~~
21 ~~non-aerial devices, and novelties, in any quantity, to~~
22 ~~consumers.~~

23 ~~"(g)(h) A holder of a manufacturer's permit is not~~
24 ~~required to have any additional permit or permits in order to~~
25 ~~sell to distributors, wholesalers, retailers, or seasonal~~
26 ~~retailers.~~

1 "~~(h)~~(i) A record of all sales by manufacturers,
2 distributors, or wholesalers must be kept showing the names
3 and addresses of purchasers. All fees collected for the
4 permits shall be paid into the Fire Marshal Revolving Fund for
5 the enforcement of this article. The State Fire Marshal may
6 designate a deputy fire marshal as the "fireworks enforcement
7 officer" who shall have the responsibility of directing
8 enforcement of the state fireworks laws.

9 "~~(i)~~(j) The State Fire Marshal is charged with the
10 enforcement of this article and may call upon any state or
11 county or city peace officer for assistance in the enforcement
12 of this article. The fire marshal is not authorized to
13 promulgate rules or regulations in conflict with or that go
14 beyond the scope or intent of this article.

15 "§8-17-216.

16 "(a) Nothing in this article shall be construed as
17 applying to the shipping, sale, possession, and use of special
18 fireworks for public displays by holders of a permit for a
19 public display to be conducted in accordance with the rules
20 and regulations governing this type of fireworks by the
21 Alcohol, Tobacco, and Firearms Division of the United States
22 Treasury Department, and their requirements met and any permit
23 or license required by them secured before application for a
24 state display permit is made.

25 "(b) The State Fire Marshal shall have the sole and
26 exclusive authority to issue permits for Special Fireworks or

1 Professional 1.4G Pyrotechnics and may establish a training
2 program which holders of such permit shall successfully
3 complete to receive a permit.

4 ~~"(b)(c)~~ Application for a state permit for public
5 display of special fireworks ~~must be made~~ shall:

6 "(1) Be made in writing to the State Fire Marshal at
7 least 10 days before the display date.

8 "(2) Include proof of training as a professional
9 operator for special fireworks or professional 1.4G indoor
10 pyrotechnics satisfactory to the State Fire Marshal's Office.

11 "(3) Include proof of insurance of at least two
12 million dollars (\$2,000,000) for the special fireworks
13 operator with additional insureds for the property where the
14 display is to occur, the city, the county, the group or entity
15 sponsoring the display, and other additional insureds may be
16 required per the State Fire Marshal's Office.

17 "The State Fire Marshal may accept an application
18 for a state permit for public display of special fireworks
19 less than 10 days before the display date if accompanied by a
20 fee of double the amount otherwise required. The application
21 shall show that the proposed display is to be so located and
22 supervised that it shall not be hazardous to property and that
23 it shall not endanger human lives. If the display is to be
24 performed within the limits of a municipality, the application
25 shall so state and shall bear the signed approval of the chief
26 supervisory officials of the fire and police departments of

1 such municipality. Permits issued shall be limited to the time
2 specified therein and shall not be transferable.

3 "(d) All special fireworks and 1.4G indoor
4 pyrotechnics shall be stored, handled, and used in accordance
5 with NFPA 1123.

6 ~~"(c)~~ (e) Possession and sale of special fireworks
7 shall be limited to a holder of a federal license issued for
8 display fireworks. Possession of special fireworks for resale
9 to holders of a permit for public display shall be confined to
10 holders of a distributor's permit only. Provided, however, a
11 distributor's permit shall not be required where the special
12 fireworks are for public display to be performed solely for
13 The Alabama June Jam, Inc.; and provided further that the
14 application for the state permit for public display shall show
15 that the proposed display is to be performed solely for The
16 Alabama June Jam, Inc.

17 ~~"(d)~~ (f) Nothing in this article shall apply to Class
18 C firework displays.

19 "§8-17-216.1.

20 "(a) The use of pyrotechnics before a proximate
21 audience shall comply with the requirements set out in the
22 latest edition of the National Fire Protection Association's
23 Standard for the Use of Pyrotechnics Before a Proximate
24 Audience (NFPA 1126) as shall be adopted by the State Fire
25 Marshal. For purposes of this article, the term "proximate
26 audience" shall mean an indoor audience closer to pyrotechnic

1 devices than permitted by the ~~National Fire Protection~~
2 ~~Association's Code for Fireworks Display (NFPA 1123)~~ NFPA
3 1123.

4 "(b) No person shall use pyrotechnics before a
5 proximate audience without first obtaining a permit therefor
6 from the State Fire Marshal. An application for a permit for
7 the use of pyrotechnics at an event with a proximate audience
8 shall be filed with the State Fire Marshal not less than 10
9 days prior to the planned date of the event. The State Fire
10 Marshal may accept an application for a permit under this
11 section less than 10 days before the planned date of the event
12 if accompanied by a fee of double the amount otherwise
13 required.

14 "(c) The request for a permit under subsection (b)
15 shall be in the form and manner prescribed by the State Fire
16 Marshal. The permit shall be in addition to any locally
17 required permit or approval.

18 "(d) A fee of one hundred dollars (\$100) per event
19 shall be submitted with each application.

20 "(e) Where more than one event is to take place at
21 the same location during the same calendar date, a separate
22 application shall be filed for each event. The application fee
23 for the second and subsequent events on the same calendar date
24 shall be fifty dollars (\$50) per event.

25 "(f) The State Fire Marshal may prescribe such other
26 and additional requirements associated with the use of

1 pyrotechnics before a proximate audience as are deemed
2 necessary for the safety of property and persons present at
3 the proximate event location.

4 "(g) All pyrotechnics found at an event with a
5 proximate audience which does not have a permit shall be
6 confiscated and destroyed by the State Fire Marshal or his or
7 her designee.

8 "(h) All fees collected pursuant to this section
9 shall be paid into the Fire Marshal Revolving Fund for the
10 enforcement of this article.

11 "§8-17-217.

12 "(a) It shall be unlawful for an individual, firm,
13 partnership, or corporation to possess, sell, or use within
14 the State of Alabama, or ship into the State of Alabama,
15 except as provided in Section 8-17-216, any pyrotechnics
16 commonly known as "fireworks" other than items now or
17 hereafter classified as Class C ~~common~~ consumer fireworks by
18 the United States Department of Transportation including
19 aerial devices, audible devices, and non-aerial devices and/or
20 those items that comply with the construction, chemical
21 composition, and labeling regulations promulgated by the
22 United States Consumer Product Safety Commission and permitted
23 for use by the general public under their regulations.

24 "(b) Permitted items designed to produce an audible
25 effect are confined to small ground items which include
26 firecrackers containing not over 50 milligrams of explosive

1 composition and aerial devices containing not over 130
2 milligrams of explosive composition. Propelling or expelling
3 charge consisting of a mixture of charcoal, sulfur and
4 potassium nitrate are not considered as designed to produce an
5 audible effect.

6 "(c) Items permitted and for which a permit is
7 required shall include related items not classified by the
8 United States Department of Transportation as ~~common~~ consumer
9 fireworks, but identified under their regulations as trick
10 noisemakers, toy novelties, toy smoke devices and sparklers
11 and shall include toy snakes, snappers, auto burglar alarms,
12 smoke balls, smoke novelty items, and wire sparklers
13 containing not over 100 grams of composition per item.
14 Sparklers containing any chlorate or perchlorate salts may not
15 exceed five grams of composition per item.

16 "§8-17-218.

17 "All items of fireworks which exceed the two grain
18 limit of D.O.T. Class C ~~common~~ Consumer fireworks as to
19 explosive composition, such items being commonly referred to
20 as "illegal ground salutes" designed to produce an audible
21 effect, are expressly prohibited from shipment into,
22 manufacture, possession, sale, and use within the State of
23 Alabama for any purpose. This subsection shall not affect
24 display fireworks authorized by this article~~7~~.

25 "§8-17-219.

1 "No permissible article of fireworks or related
2 items defined in Section 8-17-217 shall be sold, offered for
3 sale or possessed within the state or used within the state,
4 except as provided in Section 8-17-216 unless it shall be
5 properly named to conform to the nomenclature of Section
6 8-17-217. Items must be identified on the shipping cases and
7 by imprinting on the article or retail sales container or unit
8 "D.O.T. Class C ~~Common~~ Consumer Fireworks" or other
9 appropriate classification or identification as may be
10 applicable or required by any federal agency having
11 jurisdiction over fireworks on related items; such imprint to
12 be of sufficient size and so positioned as to be readily
13 recognized by law enforcement authorities and the general
14 public.

15 "§8-17-220.

16 "Permissible items of fireworks, defined in Section
17 8-17-217, may be sold at retail to residents of the State of
18 Alabama. The term "fireworks" shall not include toy paper
19 pistol caps which contain less than twenty-five hundredths
20 grains of explosive compounds, model rockets, emergency signal
21 flares, matches, ~~cone, bottle, tube, and other type serpentine~~
22 ~~pop-off novelties,~~ trick matches and cigarette loads, the sale
23 and use of which shall be permitted at all times without a
24 special fireworks permit.

25 "§8-17-222.

1 "It shall be unlawful to offer for sale or to sell
2 any fireworks to children under the age of 16 years unless
3 accompanied by an adult or to any intoxicated or irresponsible
4 person. Any person purchasing fireworks shall be required to
5 show a valid driver's license or state approved identification
6 card. It shall be unlawful to explode or ignite fireworks
7 within ~~600~~ 300 feet of any church, hospital, asylum, public
8 school, or any enclosed building, ~~or within 200 feet of where~~
9 ~~fireworks are stored, sold, or offered for sale~~ except as
10 provided for in this section. Any display of pyrotechnics at a
11 school or on school grounds shall be licensed as a public
12 display by the State Fire Marshal pursuant to Section
13 8-17-216. No person shall ignite or discharge any permissible
14 articles of fireworks within or throw the same from a motor
15 vehicle while within nor shall any person place or throw any
16 ignited article of fireworks into or at such a motor vehicle,
17 or at or near any person or group of people.

18 "§8-17-225.

19 "The State Fire Marshal shall seize as contraband
20 any fireworks other than the permitted "Class C ~~Common~~
21 Consumer Fireworks" and related items defined in Section
22 8-17-217 or "special fireworks" for public displays as
23 provided in Section 8-17-216, which are sold, displayed, used
24 or possessed in violation of this article. The fire marshal is
25 authorized to destroy any illegal fireworks so seized.

26 "§8-17-226.

1 "This article shall in no wise affect the validity
2 of any city ordinance further restricting the sale or use of
3 ~~fireworks~~ aerial devices and audible devices, including the
4 authority to cite violations in accordance with Section
5 11-45-9.1; provided, however, no city or county ordinance
6 shall conflict with the provisions related in this amendatory
7 act to the transportation, storage, retail, sale, possession,
8 or use of non-aerial devices or novelties.

9 "§11-45-9.1.

10 " (a) By ordinance, the governing body of any
11 municipality may authorize any law enforcement officer of a
12 municipality or any law enforcement officer of the state, in
13 lieu of placing persons under custodial arrest, to issue a
14 summons and complaint to any person charged with violating any
15 municipal littering ordinance; municipal ordinance which
16 prohibits animals from running at large, which shall include
17 leash laws and rabies control laws; any municipal ordinance
18 which prohibits the sale or use of aerial devices and audible
19 devices prescribed in Section 8-17-10 et seq. or any Class C
20 misdemeanor or violation not involving violence, threat of
21 violence, or alcohol or drugs.

22 " (b) Such summons and complaint shall be on a form
23 approved by the governing body of the municipality and shall
24 contain the name of the court; the name of the defendant; a
25 description of the offense, including the municipal ordinance
26 number; the date and time of the offense; the place of the

1 offense; signature of the officer issuing the citation; the
2 scheduled court date and time; an explanation to the person
3 cited of the ways in which he may settle his case; and a
4 signature block for the magistrate to sign upon the officer's
5 oath and affirmation given prior to trial.

6 "(c) Whenever any person is arrested for a violation
7 of any of the enumerated offenses, the arresting officer shall
8 take the name and address of such person and any other
9 identifying information and issue a summons and complaint to
10 the person charged. Such officer shall release the person from
11 custody upon his written promise to appear in court at the
12 designated time and place as evidenced by his signature on the
13 summons and complaint, without any condition relating to the
14 deposit of security.

15 "(d) If any person refuses to give a written
16 recognizance to appear by placing his signature on the summons
17 and complaint, the officer shall take that person into custody
18 and bring him before any officer or official who is authorized
19 to approve bond.

20 "(e) Before implementation of the summons and
21 complaint procedure, the governing body shall adopt a schedule
22 of fines for first, second, and subsequent offenders of the
23 alleged violation of such ordinances, which shall be posted in
24 a place conspicuous to the public within the court clerk's
25 office and the police department.

1 "(f) (1) When a person is charged with one of the
2 enumerated ordinance violations, he may elect to appear before
3 the municipal court magistrate, or where the municipal court
4 has been abolished, the district court magistrate, within the
5 time specified in the summons and complaint, and upon entering
6 a plea of guilty, pay the fine and court costs. A plea of
7 guilty shall only be accepted by the magistrate after the
8 defendant has executed a notice and waiver of rights form.

9 "(2) In the alternative, the defendant shall have
10 the option of depositing the required bail, and upon a plea of
11 not guilty, shall be entitled to a trial as authorized by law.

12 "(g) The court clerk or magistrate shall receive and
13 issue receipts for cash bail from persons who wish to be heard
14 in court; enter the time of their appearance on the court
15 docket; and notify the arresting officer and witnesses, if
16 any, to be present.

17 "(h) If the defendant fails to appear as specified
18 in the summons and complaint, the judge or magistrate having
19 jurisdiction of the offense may issue a warrant for his arrest
20 commanding that he be brought before the court to answer the
21 charge contained on the summons and complaint. In addition,
22 any person who willfully violates his written promise or bond
23 to appear, given in accordance with this section, shall be
24 guilty of the separate offense of failing to appear, a
25 misdemeanor, regardless of the disposition of the charge upon
26 which he was originally arrested.

1 "(i) All fines and forfeitures collected upon a
2 conviction or upon the forfeiture of bail of any person
3 charged with a violation of such ordinances, shall be remitted
4 to the general fund of the municipality; provided, however,
5 fines, forfeitures, and court costs assessed and collected in
6 district court shall be distributed as now provided by law."

7 Section 2. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.