

The Senate Committee on Public Safety offered the following substitute to HB 348:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use  
2 of speed detection devices and red light cameras, so as to revise a definition; to provide for  
3 times when a school zone speed limit may be enforced through the use of an automated  
4 traffic enforcement safety device; to authorize a local governing body to apply for a permit  
5 to operate such devices; to provide for admissible evidence for proof of a violation of speed  
6 limit through the use of speed detection devices; to provide for investigations of unauthorized  
7 use by local governing bodies or agents and penalties; to provide for procedures, conditions,  
8 and limitations for issuing citations for the violation of speed limit through the use of  
9 automated traffic enforcement safety devices; to provide for procedures for contesting such  
10 citations; to provide for nonrenewal eligibility of motor vehicle registration in certain  
11 instances; to provide for the use of collected civil monetary penalties; to amend Title 15 of  
12 the Official Code of Georgia Annotated, relating to courts, so as to authorize district  
13 attorneys, solicitors-general, and prosecuting attorneys to enforce civil monetary penalties  
14 relative to the enforcement of laws regarding speeding in a school zone using recorded  
15 images; to amend Code Section 40-6-163 of the Official Code of Georgia Annotated, relating  
16 to duty of driver of vehicle meeting or overtaking school bus, reporting of violations, and  
17 civil monetary penalty for violations captured by school bus camera, so as to revise penalties  
18 for failure to pay a civil monetary penalty relating to illegal passing of a school bus; to revise

19 procedures for contesting such citations; to provide for nonrenewal eligibility of motor  
 20 vehicle registration in certain instances; to provide for the use of such collected civil  
 21 monetary penalties; to provide for related matters; to repeal conflicting laws; and for other  
 22 purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **SECTION 1.**

25 Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use of speed  
 26 detection devices and red light cameras, is amended in Code Section 40-14-1.1, relating to  
 27 definitions, by revising paragraph (5) as follows:

28 "(5) 'School zone' means the area ~~within 1,000 feet of the boundary of~~ defined in an  
 29 existing master state order or local ordinance as a school zone area for any public or  
 30 private elementary or secondary school."

31 **SECTION 2.**

32 Said chapter is further amended by revising Code Section 40-14-8, relating to when case may  
 33 be made and conviction had, as follows:

34 "40-14-8.

35 (a) No county, city, or campus officer shall be allowed to make a case based on the use of  
 36 any speed detection device, unless the speed of the vehicle exceeds the posted speed limit  
 37 by more than ten miles per hour and no conviction shall be had thereon unless such speed  
 38 is more than ten miles per hour above the posted speed limit.

39 (b) The limitations contained in subsection (a) of this Code section shall not apply in:  
 40 ~~properly marked school zones one hour before, during, and one hour after the normal hours~~  
 41 ~~of school operation or programs for care and supervision of students before school, after~~  
 42 ~~school, or during vacation periods as provided for under Code Section 20-2-65,~~

43 (1) School zones properly marked with warning signs while the reduction of the speed  
 44 limit for the school zone is in effect, when the speed detection device is operated by an  
 45 on-site law enforcement officer;

46 (2) Properly in properly marked historic districts; and

47 (3) Properly in properly marked residential zones.

48 (c) For purposes of this chapter, thoroughfares with speed limits of 35 miles per hour or  
 49 more shall not be considered residential ~~districts~~ zones. For purposes of this Code section,  
 50 the term 'historic district' means a historic district as defined in ~~paragraph (5)~~ of Code  
 51 Section 44-10-22 and which is listed on the Georgia Register of Historic Places or as  
 52 defined by ordinance adopted pursuant to a local constitutional amendment."

53

### SECTION 3.

54 Said chapter is further amended by revising Code Section 40-14-9, relating to certain  
 55 evidence inadmissible and use of device on hill, as follows:

56 "40-14-9.

57 Evidence obtained by county or municipal law enforcement officers in using speed  
 58 detection devices, other than automated traffic enforcement safety devices, within 300 feet  
 59 of a reduction of a speed limit inside an incorporated municipality or within 600 feet of a  
 60 reduction of a speed limit outside an incorporated municipality or consolidated city-county  
 61 government shall be inadmissible in the prosecution of a violation of any municipal  
 62 ordinance, county ordinance, or state law regulating speed; nor shall such evidence be  
 63 admissible in the prosecution of a violation as aforesaid when such violation has occurred  
 64 within 30 days following a reduction of the speed limit in the area where the violation took  
 65 place, except that this 30 day limitation shall not apply to a speeding violation within a  
 66 highway work zone, as defined in Code Section 40-6-188, or in an area with variable speed  
 67 limits, as defined in Code Section 40-6-182. No speed detection device shall be employed  
 68 by county, municipal, or campus law enforcement officers on any portion of any highway

69 which has a grade in excess of 7 percent. No automated traffic enforcement safety device  
70 shall be employed by any county, municipal, or campus law enforcement or any agent  
71 thereof other than as provided for in this chapter."

72

#### SECTION 4.

73 Said chapter is further amended by revising Code Section 40-14-11, relating to investigations  
74 by commissioner of public safety, issuance of order suspending or revoking permit, and ratio  
75 of speeding fines to agency's budget, as follows:

76 "40-14-11.

77 (a) Upon a complaint being made to the commissioner of public safety that any county,  
78 municipality, college, or university is employing speed detection devices for purposes other  
79 than the promotion of the public health, welfare, and safety or in a manner which violates  
80 this chapter or violates its speed detection device permit, the commissioner or the  
81 commissioner's designee is authorized and empowered to conduct an investigation into the  
82 acts and practices of such county, municipality, college, or university with respect to speed  
83 detection devices. If, as a result of this investigation, the commissioner or the  
84 commissioner's designee finds that there is probable cause to suspend or revoke the speed  
85 detection device permit of such county, municipality, college, or university, he or she shall  
86 issue an order to that effect. When the speed detection device is an automated traffic  
87 enforcement safety device, the commissioner shall send a copy of such order to the  
88 Department of Transportation.

89 (b) Upon the suspension or revocation of any speed detection device permit, other than one  
90 issued for an automated traffic enforcement safety device, for the reasons set forth in this  
91 Code section, the commissioner of public safety shall notify the executive director of the  
92 Georgia Peace Officer Standards and Training Council of the action taken.

93 (c) Upon receipt from the executive director of the Georgia Peace Officer Standards and  
94 Training Council that an officer's certification to operate speed detection devices has been

95 withdrawn or suspended pursuant to Code Section 35-8-12, the commissioner of public  
96 safety or the commissioner's designee shall suspend the speed detection device permit for  
97 the employing agency. The period of suspension or revocation shall be consistent with the  
98 action taken by the Georgia Peace Officer Standards and Training Council.

99 (c) Upon the conclusion of an investigation conducted pursuant to subsection (a) of this  
100 Code section, the governing body of a county or municipality found to have violated any  
101 provision of this chapter relating to automated traffic enforcement safety devices,  
102 including, but not limited to, the unauthorized issuance of a civil monetary penalty for a  
103 violation of this title other than as provided for in this chapter, shall be subject to the  
104 withholding of state funding.

105 (d) There shall be a rebuttable presumption that a law enforcement agency is employing  
106 speed detection devices for purposes other than the promotion of the public health, welfare,  
107 and safety if the fines levied based on the use of speed detection devices for speeding  
108 offenses are equal to or greater than 35 percent of a municipal or county law enforcement  
109 agency's budget. For purposes of this Code section, fines collected for citations issued for  
110 violations of Code Section 40-6-180 shall be included when calculating total speeding fine  
111 revenue for the agency; provided, however, that fines for speeding violations exceeding 20  
112 miles per hour over the established speed limit and civil monetary penalties for speeding  
113 violations issued pursuant to Code Section 40-14-18 shall not be considered when  
114 calculating total speeding fine revenue for the agency."

115

#### **SECTION 5.**

116 Said chapter is further amended by revising Code Section 40-14-18, relating to enforcement  
117 of speed limit in school zones with recorded images, civil monetary penalty, and vehicle  
118 registration and transfer of title restrictions for failure to pay penalty, as follows:

119 "40-14-18.

120 (a)(1) The speed limit within any school zone ~~as provided for in Code Section 40-14-8~~  
121 ~~and~~ marked pursuant to Code Section 40-14-6 may be enforced by using photographically  
122 recorded images for violations which occurred ~~only~~ 60 minutes prior to and 30 minutes  
123 after the school's official starting time and 30 minutes prior to and 60 minutes after the  
124 school's official dismissal time and when such violations are in excess of ten miles per  
125 hour over the speed limit; provided, however, that, when any portion of a school's  
126 property is bisected by a highway, such enforcement may occur on a school day during  
127 the time in which instructional classes are taking place and one hour before such classes  
128 are scheduled to begin and for one hour after such classes have concluded when such  
129 violations are in excess of ten miles per hour over the speed limit.

130 (2) Prior to the placement of a device within a school zone, ~~each school within whose~~  
131 ~~school zone such~~ the governing body of the county or municipality whose law  
132 enforcement agency shall be authorized to enforce the speed limit where an automated  
133 traffic enforcement safety device is to be placed shall first apply for and secure a permit  
134 from the Department of Transportation for the use of such automated traffic enforcement  
135 safety device. Such permit shall be awarded based upon need. The Department of  
136 Transportation shall promulgate rules and regulations for the implementation of this  
137 paragraph.

138 (b) For the purpose of enforcement pursuant to this Code section:

139 (1) The owner of a motor vehicle shall be liable for a civil monetary penalty to the  
140 governing body of the law enforcement agency provided for in paragraph (2) of this  
141 subsection if such vehicle is found, as evidenced by photographically recorded images,  
142 to have been operated in disregard or disobedience of the speed limit within any school  
143 zone and such disregard or disobedience was not otherwise authorized by law. The  
144 amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00  
145 for a second or any subsequent violation, in addition to fees associated with the electronic

146 processing of such civil monetary penalty which shall not exceed \$25.00; provided,  
147 however, that for a period of 30 days after the first automated traffic enforcement safety  
148 device is introduced by a law enforcement agency within a school zone, the driver of a  
149 motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil  
150 warning for disregard or disobedience of the speed limit within the school zone;

151 (2) A law enforcement agency authorized to enforce the speed limit of a school zone, or  
152 an agent working on behalf of a law enforcement agency or governing body, shall send  
153 by ~~first-class~~ first-class mail addressed to the owner of the motor vehicle within 30 days  
154 after obtaining the name and address of the owner of the motor vehicle from the  
155 Department of Revenue but no later than 60 days after the date of the alleged violation:

156 (A) A citation for the alleged violation, which shall include the date and time of the  
157 violation, the location of the infraction, the maximum speed at which such motor  
158 vehicle was traveling in photographically recorded images, the maximum speed  
159 applicable within such school zone, the civil warning or the amount of the civil  
160 monetary penalty imposed, ~~and~~ the date by which a civil monetary penalty shall be  
161 paid, and a statement that informs the recipient of the consequences for failure to pay  
162 the civil monetary penalty;

163 (B) An image taken from the photographically recorded images showing the vehicle  
164 involved in the infraction;

165 (C) A website address where photographically recorded images showing the vehicle  
166 involved in the infraction and a duplicate of the information provided for in this  
167 paragraph may be viewed;

168 (D) A copy of a certificate sworn to or affirmed by a certified peace officer employed  
169 by a law enforcement agency authorized to enforce the speed limit of the school zone  
170 and stating that, based upon inspection of photographically recorded images, the  
171 owner's motor vehicle was operated in disregard or disobedience of the speed limit in

172 the marked school zone and that such disregard or disobedience was not otherwise  
173 authorized by law;

174 (E) A statement of the inference provided by paragraph (4) of this subsection and of  
175 the means specified therein by which such inference may be rebutted;

176 (F) Information advising the owner of the motor vehicle of the manner in which  
177 liability as alleged in the citation may be contested ~~through an administrative hearing~~  
178 which shall include an assigned hearing date to contest liability that shall be no later  
179 than 60 days from the date of issuance of the citation; and

180 (G) A warning that failure to pay the civil monetary penalty or to contest liability in  
181 ~~a timely manner~~ through the submission of a sworn notarized statement or at the  
182 assigned hearing as provided for in subsection (d) of this Code section shall waive any  
183 right to contest liability;

184 (3) Proof that a motor vehicle was operated in disregard or disobedience of the speed  
185 limit of the marked school zone shall be evidenced by photographically recorded images.  
186 A copy of a certificate sworn to or affirmed by a certified peace officer employed by a  
187 law enforcement agency and stating that, based upon inspection of photographically  
188 recorded images, a motor vehicle was operated in disregard or disobedience of the speed  
189 limit in the marked school zone and that such disregard or disobedience was not  
190 otherwise authorized by law shall be prima-facie evidence of the facts contained therein;  
191 and

192 (4) Liability under this Code section shall be determined based upon a preponderance of  
193 the evidence. Prima-facie evidence that the vehicle described in the citation issued  
194 pursuant to this Code section was operated in violation of the speed limit of the school  
195 zone, together with proof that the defendant was, at the time of such violation, the  
196 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that  
197 such owner of the vehicle was the driver of the vehicle at the time of the alleged  
198 violation. Such an inference may be rebutted if the owner of the vehicle:



199 ~~(A) Testifies~~ testifies under oath in open court or submits to the court prior to the  
200 assigned hearing date a sworn notarized statement that he or she was not the operator  
201 of the vehicle at the time of the alleged violation;

202 ~~(B) Presents to the court a certified copy of a police report showing that the vehicle had~~  
203 ~~been reported to the police as stolen prior to the time of the alleged violation.~~

204 (c) A violation for which a civil warning or a civil monetary penalty is imposed pursuant  
205 to this Code section shall not be considered a moving traffic violation for the purpose of  
206 points assessment under Code Section 40-5-57. Such violation shall be deemed  
207 noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this  
208 Code section shall not be deemed a conviction and shall not be made a part of the operating  
209 record of the person upon whom such liability is imposed, nor shall it be used for any  
210 insurance purposes in the provision of motor vehicle insurance coverage. A civil monetary  
211 penalty imposed pursuant to this Code section shall not be taxed nor shall any additional  
212 fine, penalty, fee, or surcharge be assessed upon such penalty except as authorized by this  
213 Code section.

214 (d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section  
215 fails to pay the civil monetary penalty for the violation or fails to appear on the assigned  
216 hearing date to contest liability or has not ~~filed a police report or submitted a~~ notarized  
217 statement pursuant to paragraph (4) of subsection (b) of this Code section ~~in no less than~~  
218 ~~30 nor more than 60 days after,~~ within 60 days of the date of such mailing as determined  
219 and noticed by the law enforcement agency, the agent or law enforcement agency shall  
220 send to such person by ~~first-class~~ first-class mail a second notice of any unpaid civil  
221 monetary penalty, except in cases where there is an adjudication that no violation occurred  
222 or there is otherwise a lawful determination that no civil monetary penalty shall be  
223 imposed. No more than a \$5.00 late fee shall be imposed for any unpaid civil monetary  
224 penalty imposed under this Code section. The second notice shall include all information  
225 required in paragraph (2) of subsection (b) of this Code section except for an assigned

226 hearing date and shall include a new date of return which shall be no less than 30 days after  
227 such mailing as determined and noticed by the law enforcement agency. If such person  
228 notified by second notice again fails to pay the civil monetary penalty or ~~file a police report~~  
229 ~~or~~ submit a notarized statement pursuant to paragraph (4) of subsection (b) of this Code  
230 section by the new date of return, such person shall have waived the right to contest the  
231 violation and shall be liable for the civil monetary penalty provided for under this Code  
232 section, except in cases where there is an adjudication that no violation occurred or there  
233 is otherwise a lawful determination that no civil monetary penalty shall be imposed.

234 (e) Notices mailed by ~~first class~~ first-class mail pursuant to this Code section shall be  
235 adequate notification of the fees and penalties imposed by this Code section. No other  
236 notice shall be required for the purposes of this Code section.

237 (f) Any court having jurisdiction over traffic violations ~~of subsection (a) of this Code~~  
238 ~~section or traffic ordinances~~ shall have jurisdiction over cases arising under this ~~subsection~~  
239 Code section and shall be authorized to impose the civil monetary penalty provided by this  
240 ~~subsection~~ Code section. Except as otherwise provided in this ~~subsection~~ Code section, the  
241 provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and  
242 payment and distribution of penalties otherwise applicable to traffic violations ~~of~~  
243 ~~subsection (a) of this Code section~~ or traffic ordinances shall apply to enforcement under  
244 this Code section except as otherwise provided in subsection (b) of this Code section;  
245 provided, however, that any appeal from superior or state court shall be by application in  
246 the same manner as that provided by Code Section 5-6-35.

247 (g) If a violation has not been contested and the assessed penalty has not been paid, the  
248 agent or governing body shall send to the person who is the registered owner of the motor  
249 vehicle a final notice of any unpaid civil monetary penalty authorized by this Code section,  
250 except in cases where there is an adjudication that no violation occurred or there is  
251 otherwise a lawful determination that no civil monetary penalty shall be imposed. The  
252 notice shall inform the registered owner that the agent or governing body shall send a

253 referral to the Department of Revenue if the assessed penalty is not paid within 30 days  
 254 after the final notice was mailed and ~~such that such referral shall result in the nonrenewal~~  
 255 ~~of the registration of such motor vehicle and shall prohibit the title transfer of such motor~~  
 256 ~~vehicle within this state~~ of the consequences for failure to pay such penalty and any late  
 257 fee.

258 (h) The agent or governing body shall send a referral to the Department of Revenue not  
 259 sooner than 30 days after the final notice required under subsection (g) was mailed if a  
 260 ~~violation of an ordinance or resolution adopted under this article~~ has not been contested and  
 261 the assessed penalty has not been paid, except in cases where there is an adjudication that  
 262 no violation occurred or there is otherwise a lawful determination that no civil monetary  
 263 penalty shall be imposed. The referral to the Department of Revenue shall include the  
 264 following:

265 (1) Any information known or available to the agent or governing body concerning the  
 266 license plate number, year of registration, and the name of the owner of the motor  
 267 vehicle;

268 (2) The date on which the violation occurred;

269 (3) The citation number issued for the violation; and

270 ~~(3)(4) The date when the notice required under this Code section was mailed; and~~

271 ~~(4) The seal, logo, emblem, or electronic seal of the governing body.~~

272 (i) If the Department of Revenue receives a referral under subsection (h) of this Code  
 273 section, such referral shall be entered into the motor vehicle ~~database~~ data base within five  
 274 days of receipt and the Department of Revenue shall refuse to renew the registration of the  
 275 motor vehicle ~~and shall prohibit the title transfer of such vehicle within this state~~ unless and  
 276 until the civil monetary penalty plus any late fee is paid to the agent or governing body.  
 277 ~~The Department of Revenue shall mail a notice to the registered owner:~~

278 ~~(1) That the registration of the vehicle involved in the violation will not be permitted to~~  
 279 ~~be renewed;~~

280 ~~(2) That the title of the vehicle involved in the violation will not be permitted to be~~  
281 ~~transferred in this state;~~

282 ~~(3) That the aforementioned penalties are being imposed due to the failure to pay the~~  
283 ~~civil monetary penalty and any late fee for an ordinance violation adopted under the~~  
284 ~~authority of this Code section; and~~

285 ~~(4) Of the procedure that the person may follow to remove the penalties.~~

286 (j) The Department of Revenue shall remove the ~~penalties~~ penalty on a vehicle registration  
287 if any person presents the Department of Revenue with adequate proof from the agent or  
288 governing body that the penalty and any late fee, if applicable, has been paid.

289 (k) Recorded images made for purposes of this Code section shall not be a public record  
290 for purposes of Article 4 of Chapter 18 of Title 50.

291 (l) A civil warning or civil monetary penalty under this Code section on the owner of a  
292 motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued a  
293 citation and notice to appear by a certified peace officer for the same violation.

294 (m) The money collected and remitted to the governing body pursuant to paragraph (1) of  
295 subsection (b) of this Code section shall be remitted by the governing body to the Peace  
296 Officers' Annuity and Benefit Fund provided for under Chapter 17 of Title 47 toward such  
297 governing body's responsibilities thereto; provided, however, that once such governing  
298 body's responsibilities to the Peace Officers' Annuity and Benefit Fund have been met, the  
299 remainder of any moneys collected and remitted to the governing body shall only be used  
300 by such governing body to fund local law enforcement or public safety initiatives. This  
301 subsection shall not preclude the appropriation of a greater amount than collected and  
302 remitted under this subsection."

303

**SECTION 6.**

304 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Code  
305 Section 15-9-155, relating to prosecuting attorney's duties and authority in probate courts in  
306 counties in which there are no state courts, by revising subparagraph (a)(1)(A) as follows:

307 "(A) In the prosecution of any violation of the laws or ordinances of such county which  
308 is within the jurisdiction of such probate court and punishable by confinement or a fine  
309 or both or by a civil penalty authorized by Code Section 40-6-163 or 40-14-18;"

310

**SECTION 7.**

311 Said title is further amended in Code Section 15-18-6, relating to duties of district attorney,  
312 by revising paragraph (5) as follows:

313 "(5) To prosecute civil actions to enforce any civil penalty set forth in Code  
314 Section 40-6-163 or 40-14-18 and to prosecute or defend any other civil action in the  
315 prosecution or defense of which the state is interested, unless otherwise specially  
316 provided for;"

317

**SECTION 8.**

318 Said title is further amended in Code Section 15-18-66, relating to duties and authority of  
319 solicitors-general of state courts, by revising paragraph (4) of subsection (b) as follows:

320 "(4) To prosecute civil actions to enforce any civil penalty set forth in Code  
321 Section 40-6-163 or 40-14-18 and when authorized by law to prosecute or defend any  
322 civil action in the state court in the prosecution or defense of which the state is interested,  
323 unless otherwise specially provided for;"

324

**SECTION 9.**

325 Said title is further amended in Code Section 15-18-96, relating to authority of prosecuting  
326 attorney of municipal courts, by revising subparagraph (a)(1)(A) as follows:

327 "(A) In the prosecution of any violation of the laws or ordinances of such municipality  
328 which is within the jurisdiction of such municipal court and punishable by confinement  
329 or a fine or both or by a civil penalty authorized by Code Section 40-6-163 or 40-14-18;  
330 and"

331

**SECTION 10.**

332 Code Section 40-6-163 of the Official Code of Georgia Annotated, relating to duty of driver  
333 of vehicle meeting or overtaking school bus, reporting of violations, and civil monetary  
334 penalty for violations captured by school bus camera, is amended by revising subsection (d)  
335 as follows:

336 "(d)(1) As used in this subsection, the term:

337 (A) 'Agent' means a person or entity that is authorized by a law enforcement agency  
338 or governing body to administer the procedures contained herein and:

339 (i) Provides services to such law enforcement agency or governing body;

340 (ii) Operates, maintains, leases, or licenses a video recording device; or

341 (iii) Is authorized by such law enforcement agency or governing body to review and  
342 assemble the recorded images.

343 (B) 'Owner' means the registrant of a motor vehicle, except that such term shall not  
344 include a motor vehicle rental company when a motor vehicle registered by such  
345 company is being operated by another person under a rental agreement with such  
346 company.

347 (C) 'Recorded images' means images recorded by a video recording device mounted  
348 on a school bus with a clear view of vehicles passing the bus on either side and showing  
349 the date and time the recording was made and an electronic symbol showing the  
350 activation of amber lights, flashing red lights, stop arms, and brakes.

351 (D) 'Video recording device' means a camera capable of recording digital images  
352 showing the date and time of the images so recorded.

353 (2) Subsection (a) of this Code section may be enforced by using recorded images as  
354 provided in this subsection.

355 (3) For the purpose of enforcement pursuant to this subsection:

356 (A) The owner of a motor vehicle shall be liable for a civil monetary penalty to the  
357 governing body of the law enforcement agency provided for in subparagraph (B) of this  
358 paragraph if such vehicle is found, as evidenced by recorded images, to have been  
359 operated in disregard or disobedience of subsection (a) of this Code section and such  
360 disregard or disobedience was not otherwise authorized by law. The amount of such  
361 civil monetary penalty shall be \$250.00;

362 (B) The law enforcement agency authorized to enforce the provisions of this Code  
363 section shall send by ~~first-class~~ first-class mail addressed to the owner of the motor  
364 vehicle not later than ten days after obtaining the name and address of the owner of the  
365 motor vehicle from the Department of Revenue:

366 (i) A citation for the alleged violation, which shall include the date and time of the  
367 violation, the location of the infraction, the amount of the civil monetary penalty  
368 imposed, ~~and~~ the date by which the civil monetary penalty shall be paid, and a  
369 statement that informs the recipient of the consequences for failure to pay the civil  
370 monetary penalty;

371 (ii) An image taken from the recorded image showing the vehicle involved in the  
372 infraction;

373 (iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed  
374 by a law enforcement agency authorized to enforce this Code section and stating that,  
375 based upon inspection of recorded images, the owner's motor vehicle was operated  
376 in disregard or disobedience of subsection (a) of this Code section and that such  
377 disregard or disobedience was not otherwise authorized by law;

378 (iv) A statement of the inference provided by subparagraph (D) of this paragraph and  
379 of the means specified therein by which such inference may be rebutted;

380 (v) Information advising the owner of the motor vehicle of the manner ~~and time~~ in  
381 which liability as alleged in the citation may be contested in court which shall include  
382 an assigned hearing date no later than 60 days from the date of issuance of the  
383 citation; and

384 (vi) A warning that failure to pay the civil monetary penalty or to contest liability ~~in~~  
385 ~~a timely manner~~ through the submission of a sworn notarized statement or at the  
386 assigned hearing shall waive any right to contest liability and result in a civil  
387 monetary penalty;

388 (C) Proof that a motor vehicle was operated in disregard or disobedience of  
389 subsection (a) of this Code section shall be evidenced by recorded images. A copy of  
390 a certificate sworn to or affirmed by a certified peace officer employed by a law  
391 enforcement agency and stating that, based upon inspection of recorded images, a  
392 motor vehicle was operated in disregard or disobedience of subsection (a) of this Code  
393 section and that such disregard or disobedience was not otherwise authorized by law  
394 shall be prima-facie evidence of the facts contained therein; and

395 (D) Liability under this subsection shall be determined based upon preponderance of  
396 the evidence. Prima-facie evidence that the vehicle described in the citation issued  
397 pursuant to this subsection was operated in violation of subsection (a) of this Code  
398 section, together with proof that the defendant was at the time of such violation the  
399 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that  
400 such owner of the vehicle was the driver of the vehicle at the time of the alleged  
401 violation. Such an inference may be rebutted if the owner of the vehicle:

402 (i) ~~Testifies~~ testifies under oath in open court or submits to the court prior to the  
403 assigned hearing date a sworn notarized statement that he or she was not the operator  
404 of the vehicle at the time of the alleged violation ~~and identifies the name of the~~  
405 ~~operator of the vehicle at the time of the alleged violation~~; or



406 ~~(ii) Presents to the court a certified copy of a police report showing that the vehicle~~  
407 ~~had been reported to the police as stolen prior to the time of the alleged violation.~~

408 (4) A violation for which a civil penalty is imposed pursuant to this subsection shall not  
409 be considered a moving traffic violation for the purpose of points assessment under Code  
410 Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil  
411 penalty pursuant to this subsection shall not be deemed a conviction and shall not be  
412 made a part of the operating record of the person upon whom such liability is imposed,  
413 nor shall it be used for any insurance purposes in the provision of motor vehicle insurance  
414 coverage. A civil monetary penalty imposed pursuant to this subsection shall not be  
415 taxed nor shall any additional fine, penalty, fee, or surcharge be assessed upon such  
416 penalty except as authorized by this subsection.

417 (5) If a person is mailed a citation by ~~first-class~~ first-class mail pursuant to  
418 subparagraph (B) of paragraph (3) of this subsection, such person may pay the penalty  
419 or ~~request a court date~~ contest the citation on the assigned hearing date or submit a  
420 notarized statement for rebuttal. Any citation executed pursuant to this paragraph shall  
421 provide to the person issued the citation at least ~~30~~ 60 business days from the mailing of  
422 the citation to inspect information collected by the video recording device in connection  
423 with the violation. If the person ~~requesting a court date~~ issued a citation fails to appear  
424 on the date and time of ~~such~~ the assigned hearing or if a person has not paid the penalty  
425 for the violation or ~~filed a police report or~~ submitted a notarized statement pursuant to  
426 subparagraph (D) of paragraph (3) of this subsection, such person shall then be sent a  
427 second citation by ~~first-class~~ first-class mail. No more than a \$5.00 late fee shall be  
428 imposed for any unpaid civil monetary penalty imposed under this subsection. The  
429 second citation shall include all information required in subparagraph (B) of paragraph  
430 (3) of this subsection for the initial citation ~~and shall include a~~ except for an assigned  
431 hearing date and time. If a person fails to appear on the date and time of such hearing set  
432 ~~out in the second citation or if the person has failed to pay the penalty or file~~ submit an

433 appropriate document for rebuttal, the person issued the second citation shall have waived  
434 the right to contest the violation and shall be liable for the civil monetary penalty  
435 provided in paragraph (3) of this subsection.

436 (6) Any court having jurisdiction over violations of subsection (a) of this Code section  
437 shall have jurisdiction over cases arising under this subsection. Any person receiving a  
438 notice pursuant to subparagraph (B) of paragraph (3) of this subsection shall have the  
439 right to contest such liability for the civil monetary penalty in the magistrate court or  
440 other court of competent jurisdiction for a traffic violation. Except as otherwise provided  
441 in this subsection, the provisions of law governing jurisdiction, procedure, defenses,  
442 adjudication, appeal, and payment and distribution of penalties otherwise applicable to  
443 violations of subsection (a) of this Code section shall apply to enforcement under this  
444 subsection except as provided in subparagraph (A) of paragraph (3) of this subsection;  
445 provided, however, that any appeal from superior or state court shall be by application  
446 in the same manner as that provided by Code Section 5-6-35.

447 (7) If a violation has not been contested and the assessed penalty has not been paid, the  
448 agent or governing body shall send to the person who is the registered owner of the motor  
449 vehicle a final notice of any unpaid civil monetary penalty authorized by this Code  
450 section, except in cases where there is an adjudication that no violation occurred or there  
451 is otherwise a lawful determination that no civil monetary penalty shall be imposed. The  
452 notice shall inform the registered owner that the agent or governing body shall send a  
453 referral to the Department of Revenue if the assessed penalty and any late fee is not paid  
454 within 30 days after the final notice was mailed and ~~that such referral shall result in the~~  
455 ~~nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer~~  
456 ~~of such motor vehicle within this state~~ of the consequences for failure to pay such penalty  
457 and any late fee.

458 (8) The agent or governing body shall send a referral to the Department of Revenue not  
459 sooner than 30 days after the final notice required under paragraph (7) of this subsection

460 was mailed if a violation of an ordinance or resolution adopted under this article has not  
 461 been contested and the assessed penalty has not been paid, except in cases where there  
 462 is an adjudication that no violation occurred or there is otherwise a lawful determination  
 463 that no civil monetary penalty shall be imposed. The referral to the Department of  
 464 Revenue shall include the following:

465 (A) Any information known or available to the agent or governing body concerning the  
 466 license plate number, year of registration, and the name of the owner of the motor  
 467 vehicle;

468 (B) The date on which the violation occurred;

469 (C) The citation number issued for the violation; and

470 ~~(C)(D)~~ The date when the notice required under this Code section was mailed; ~~and~~

471 ~~(D) The seal, logo, emblem, or electronic seal of the governing body.~~

472 (9) If the Department of Revenue receives a referral under paragraph (8) of this  
 473 subsection, such referral shall be entered into the motor vehicle data base within five days  
 474 of receipt and the Department of Revenue shall refuse to renew the registration of such  
 475 motor vehicle ~~and shall prohibit the title transfer of such vehicle within this state unless~~  
 476 ~~and until the civil monetary penalty plus any late fee is paid to the agent or governing~~  
 477 ~~body. The Department of Revenue shall mail a notice to the registered owner of such~~  
 478 ~~motor vehicle that informs such owner:~~

479 ~~(A) That the registration of the vehicle involved in the violation will not be permitted~~  
 480 ~~to be renewed;~~

481 ~~(B) That the title of the vehicle involved in the violation will not be permitted to be~~  
 482 ~~transferred in this state;~~

483 ~~(C) That the aforementioned penalties are being imposed due to the failure to pay the~~  
 484 ~~civil monetary penalty plus any late fee for an ordinance violation adopted under the~~  
 485 ~~authority of this Code section; and~~

486 ~~(D) Of the procedure that the person may follow to remove the penalties.~~

487 (10) The Department of Revenue shall remove the ~~penalties~~ penalty on a vehicle  
488 registration if any person presents the Department of Revenue with adequate proof from  
489 the agent or governing body that the penalty and any late fee, if applicable, has been paid.

490 (11) Recorded images made for purposes of this subsection shall not be a public record  
491 for purposes of Article 4 of Chapter 18 of Title 50.

492 (12) A governing authority shall not impose a civil penalty under this subsection on the  
493 owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation  
494 and notice to appear by a certified peace officer for the same violation.

495 (13) A local school system may enter into an intergovernmental agreement with a local  
496 governing authority to offset expenses regarding the implementation and ongoing  
497 operation of video recording devices serving the purpose of capturing recorded images  
498 of motor vehicles unlawfully passing a school bus.

499 (14) Any school bus driver operating a vehicle equipped with an activated video  
500 recording device shall be exempt from the recording provisions of subsection (c) of this  
501 Code section.

502 (15) The money collected and remitted to the governing body pursuant to  
503 subparagraph (B) of paragraph (3) of this subsection shall be remitted by the governing  
504 body to the Peace Officers' Annuity and Benefit Fund provided for under Chapter 17 of  
505 Title 47 toward such governing body's responsibilities thereto; provided, however, that  
506 once such governing body's responsibilities to the Peace Officers' Annuity and Benefit  
507 Fund have been met, the remainder of any moneys collected and remitted to the  
508 governing body shall only be used by such governing body to fund local law enforcement  
509 or public safety initiatives. This paragraph shall not preclude the appropriation of a  
510 greater amount than collected and remitted under this subsection."

511

## **SECTION 11.**

512 All laws and parts of laws in conflict with this Act are repealed.