

1 HB575
2 135842-2
3 By Representative Vance (N & P)
4 RFD: Local Legislation
5 First Read: 20-MAR-12

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ENROLLED, An Act,

Relating to the City of Phenix City, Alabama, in Russell and Lee Counties; authorizing automated traffic light enforcement in the City of Phenix City, Alabama, as a civil violation; providing certain procedures to be followed by the city using automated photographic traffic light enforcement; providing that the owner of the vehicle involved in running a traffic light is presumptively liable for a civil violation and the payment of a civil fine, but providing procedures to contest liability; providing for jurisdiction in Russell County and the Phenix City Municipal Court over the civil violations and allowing appeals to the Russell County Circuit Court for trial de novo; creating a cause of action for any person held responsible for payment of the civil fine against the person who was actually operating a vehicle during the running of a traffic light; and prohibiting the tampering with a photographic traffic signal enforcement system, except by authorized persons.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

1 Section 2. The Legislature finds and declares the
2 following:

3 (1) Accident data establishes that vehicles running
4 red lights have been and are a dangerous problem in the City
5 of Phenix City, Alabama.

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

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

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

24 (5) By allowing a program for use of automated
25 traffic cameras in traffic signal enforcement by the City of

1 Phenix City, the Legislature hopes to both decrease the rate
2 of traffic signal violations and learn more about the
3 effectiveness and fairness involved in the use of the
4 automated systems.

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

7 (1) CITY. The City of Phenix City, Alabama.

8 (2) CIVIL FINE. The monetary amount assessed by the
9 City of Phenix City pursuant to this act for an adjudication
10 of civil liability for a traffic signal violation, including
11 municipal court costs associated with the infraction.

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

23 (4) OWNER. The owner of a motor vehicle as shown on
24 the motor vehicle registration records of the Alabama
25 Department of Revenue or the analogous department or agency of

1 another state or country. The term shall not include a motor
2 vehicle rental or leasing company when a motor vehicle
3 registered by the company is rented or leased to another
4 person under a rental or lease agreement with the company, in
5 Russell and which event "owner" shall mean the person to whom
6 the vehicle is rented or leased; nor shall the term include
7 motor vehicles displaying dealer license plates, in which
8 event "owner" shall mean the person to whom the vehicle is
9 assigned for use; nor shall the term include the owner of any
10 stolen motor vehicle, in which event "owner" shall mean the
11 person who is guilty of stealing the motor vehicle.

12 (5) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM.

13 A camera system which is designed and installed to work in
14 conjunction with an electrically operated traffic-control
15 device using vehicle sensors synchronized to automatically
16 record, either by conventional film or digital imaging,
17 sequenced photographs or full motion video of the rear of a
18 motor vehicle while proceeding through a signalized
19 intersection.

20 (6) TRAFFIC-CONTROL SIGNAL. Any device, whether
21 manually, electrically, or mechanically operated, by which
22 traffic is alternately directed to stop and permitted to
23 proceed as defined in Section 32-1-1.1, Code of Alabama 1975.
24 The device shall be capable of producing at least two recorded
25 images, at least one of which is capable of clearly depicting

1 the license plate of a motor vehicle that is not operated in
2 compliance with the instructions of the traffic-control
3 signal.

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

11 (8) TRAINED TECHNICIAN. A sworn law enforcement
12 officer employed by the City of Phenix City, who
13 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.

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

23 (b) The City of Phenix City shall cause a sign to be
24 posted at each of a minimum of five roadway entry points to
25 the city to provide motorists with notice that photographic

1 traffic signal enforcement systems are in use. The sign will
2 comply with this requirement if it states substantially the
3 following: "AUTOMATED CAMERAS USED IN RED LIGHT ENFORCEMENT,"
4 or if it otherwise gives sufficient notice.

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

15 (d) The city shall post a sign or signs at each
16 intersection at which a device is located informing motorists
17 that a photographic traffic signal enforcement system is in
18 operation at the intersection.

19 Section 5. (a) Prior to imposing a civil penalty
20 under this act, the City of Phenix City shall first mail via
21 first class United States mail a notice of violation to the
22 owner of the motor vehicle which is recorded by the
23 photographic traffic signal enforcement system while
24 committing a traffic signal violation. The notice shall be

1 sent not later than the 30th day after the date the traffic
2 signal violation is recorded to:

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

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

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

12 (1) A description of the violation alleged.

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

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

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

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

20 (6) A statement that the person named in the notice
21 of violation may pay the civil penalty in Russell County and
22 lieu of appearing at an administrative adjudication hearing.

23 (7) Information that informs the person named in the
24 notice of violation of all of the following:

1 a. Of the right to contest the imposition of the
2 civil penalty in an administrative adjudication.

3 b. Of the manner and time in which to contest the
4 imposition of the civil penalty.

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

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

9 (9) A statement that failure to pay the civil
10 penalty within the time allowed shall result in the imposition
11 of a late penalty not exceeding twenty-five dollars (\$25) for
12 each month after the issuance of the order imposing the civil
13 penalty.

14 (10) Any other information deemed necessary by the
15 department or the city.

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

19 (d) The civil penalty imposed shall be paid within
20 30 days of the 10th day after the date notice of violation is
21 mailed.

22 (e) It shall be within the discretion of the trained
23 technician to determine which of the recorded traffic signal
24 violations are prosecuted based upon the quality and

1 legibility of the recorded image. In lieu of issuing a notice
2 of violation, the city may mail a warning notice to the owner.

3 Section 6. (a) The Phenix City Municipal Court is
4 vested with the power and jurisdiction to hear and adjudicate
5 the civil violations provided for in this act, and to issue
6 orders imposing the civil fines and costs set out in this
7 act.

8 (b) A person who receives a violation may contest
9 the imposition of the civil fine by submitting a request for a
10 hearing on the adjudication of the civil violation, in
11 writing, within 15 days of the 10th day after the date the
12 notice of violation is mailed. Upon receipt of a timely
13 request, the city shall notify the person of the date and time
14 of the adjudicative hearing.

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

19 (d) The civil fine and court costs shall not be
20 assessed if, after a hearing, the Phenix City Municipal Judge
21 enters a finding of no liability.

22 (e) If an adjudicative hearing is requested, the
23 city shall have the burden of proving the traffic signal
24 violation by a preponderance of the evidence. The reliability
25 of the photographic traffic signal enforcement system used to

1 produce the recorded image of the violation may be attested to
2 by affidavit of a trained technician. An affidavit of a
3 trained technician that alleges a violation based on an
4 inspection of the pertinent recorded image is admissible in a
5 proceeding under this act and is evidence of the facts
6 contained in the affidavit.

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

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

24 (h) A person who is found liable for the civil
25 violation after an adjudicative hearing or who requests an

1 adjudicative hearing and thereafter fails to appear at the
 2 time and place of the hearing is liable for court costs and
 3 fees set out herein in addition to the amount of the civil
 4 fine assessed for the violation. A person who is found liable
 5 for a civil violation after an adjudicative hearing shall pay
 6 the civil fine and costs within 10 days of the hearing.

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

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

14 1. The traffic-control signal was not in proper
 15 position and sufficiently visible to an ordinarily observant
 16 person.

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

20 3. The operator of the motor vehicle violated the
 21 instructions of the traffic-control signal so as to yield the
 22 right-of-way to an immediately approaching authorized
 23 emergency vehicle.

24 4. The motor vehicle was being operated as an
 25 authorized emergency vehicle under Sections 32-5A-7 and

1 32-5-213, Code of Alabama 1975, and that the operator was
2 acting in compliance with that chapter.

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

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

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

14 8. The person who received the notice of violation
15 was not the owner of the motor vehicle at the time of the
16 violation.

17 (k) To demonstrate that at the time of the violation
18 the motor vehicle was a stolen vehicle or the license plate
19 displayed on the motor vehicle was a stolen plate, the owner
20 must submit proof acceptable to the hearing officer that the
21 theft of the vehicle or license plate, prior to the time of
22 the violation, had been timely reported to the appropriate law
23 enforcement agency.

24 (l) Notwithstanding anything in his act to the
25 contrary, a person who fails to pay the amount of a civil fine

1 or to contest liability in a timely manner is entitled to an
2 adjudicative hearing on the violation if:

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

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

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

12 (1) Whether the person charged with the civil
13 violation is liable for the violation.

14 (2) If the person is found to be liable, the amount
15 of the civil fine assessed against the person, along with the
16 fees and costs of court provided for herein.

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

22 (c) A person who is found liable after an
23 adjudicative hearing may appeal that finding of civil
24 liability to the Circuit Court of Russell County, Alabama, by
25 filing a notice of appeal with the clerk of the municipal

1 court. The notice of appeal must be filed not later than the
2 14th day after the date on which the municipal court judge
3 entered the finding of civil liability. The filing of a notice
4 of appeal shall stay the enforcement of the civil fine
5 penalty. An appeal shall be determined by the circuit court by
6 trial de novo.

7 Section 8. The circuit court hearing an appeal shall
8 use the procedures that apply to criminal convictions in
9 municipal court with the following qualifications:

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

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

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

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

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

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

17 Section 10. The city may provide by ordinance that
18 late fees not exceeding twenty-five dollars (\$25) per month
19 for each month after the issuance of the order imposing the
20 civil fine shall attach to untimely paid civil fines that are
21 authorized in Russell and this act. No person may be arrested
22 or incarcerated for nonpayment of a civil fine or late fee. No
23 record of an adjudication of civil violation made under this
24 act shall be listed, entered, or reported on any criminal
25 record or driving record, whether the record is maintained by

1 the city or an outside agency. An adjudication of civil
2 violation provided for in this act shall not be considered a
3 conviction for any purpose, shall not be used to increase or
4 enhance punishment for any subsequent offense of a criminal
5 nature, shall not be considered a moving violation, and shall
6 not be used by any insurance company to determine or affect
7 premiums or rates. The fact that a person is held liable or
8 responsible for a civil fine for a red light violation shall
9 not be used as evidence that the person was guilty of
10 negligence or other culpable conduct, and as evidence in any
11 other proceedings if it is or becomes admissible under the
12 rules of evidence applicable therein.

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

21 Section 12. The placement of control devices and
22 timing of yellow lights and red light clearance intervals,
23 adopted by the city, shall conform to the most recent edition
24 of the Traffic Engineering Handbook. It shall be presumed that

1 the city is in compliance with this section unless the
2 contrary is shown by a preponderance of the evidence.

3 Section 13. No civil penalty may be imposed and no
4 adjudication of liability for a civil violation may be made
5 under this act if the operator of the vehicle was arrested or
6 was issued a citation and notice to appear by a sworn police
7 officer for a criminal violation of any portion of Article 2,
8 Chapter 5A, Title 32, including, but not limited to, Sections
9 32-5A-31, 32-5A-34, and 32-5A-35, Code of Alabama 1975, or any
10 other municipal ordinance which embraces and incorporates the
11 statutes contained in that article, and which occurred
12 simultaneously with and under the same set of circumstances
13 which were recorded by the photographic traffic signal
14 enforcement system.

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

1 the person held responsible for payment of a 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.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 19-APR-12.

Greg Pappas
Clerk

Senate

03-MAY-12

Passed