

1 HB376
2 166361-5
3 By Representatives Wilcox, Sessions, Davis, Gaston, Williams
4 (JW), Drummond, Clarke, Buskey and Bracy (N & P)
5 RFD: Mobile County Legislation
6 First Read: 31-MAR-15

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ENROLLED, An Act,

Relating to Mobile County; to authorize electronic enforcement related to overtaking a school bus in the county or municipalities located in the county; to provide that the unauthorized overtaking of a school bus would be a civil offense; to authorize a county or city board of education located in the county to approve, in its respective jurisdiction, a civil process of electronic detection device of a school bus violation enforcement; to require certain procedures to be followed by a county or city board of education using electronic school bus enforcement; to make the owner of the vehicle involved in a violation presumptively responsible for payment of a civil fine; to provide procedures to contest responsibility or transfer responsibility to another person; to provide for the jurisdiction of district courts and municipal courts over the civil offenses; to provide for procedures for administering this act; to allow a law enforcement agency or a local governing entity to enter agreements with vendors of electronic devices; to provide for the destruction of recorded information after certain time periods; to allow appeals to the Circuit Court of Mobile County.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall be known and may be cited
2 as the Mobile County School Bus Safety Act.

3 Section 2. The following definitions and provisions
4 shall apply to this act:

5 (1) BOARD. A county or city board of education, or
6 the governing body of a school system located in Mobile
7 County, Alabama.

8 (2) COURT. A district court located in Mobile
9 County, Alabama, if a school bus violation occurs in an
10 unincorporated area, or a municipal court located in Mobile
11 County, Alabama, if a violation occurs in an incorporated
12 municipality.

13 (3) ELECTRONIC DEVICE. Any camera or recording
14 device that uses a vehicle sensor and camera synchronized to
15 automatically record by video, photograph, or full motion
16 streaming video, a motor vehicle approaching or overtaking a
17 school bus that is stopped for the purpose of receiving or
18 discharging school children in violation of Section 32-5A-154,
19 Code of Alabama 1975.

20 (4) LAW ENFORCEMENT AGENCY. A law enforcement agency
21 of a local political subdivision or local governing body
22 located in Mobile County, Alabama, or a county or city school
23 system located in Mobile County, Alabama, that is authorized
24 to issue a citation for a violation of the state vehicle law
25 or of local traffic laws or regulations.

1 (5) OWNER. The meaning ascribed to "owner" in
2 Section 32-1-1.1, Code of Alabama 1975, except that the term
3 may not include a motor vehicle rental or leasing company when
4 a motor vehicle registered by the company is being operated by
5 another person under a rental or lease agreement with the
6 company, in which event "owner" shall mean the person to whom
7 the vehicle is rented or leased; nor shall the term include
8 motor vehicles displaying a dealer license plate, in which
9 event "owner" shall mean the person to whom the vehicle is
10 assigned for use; nor shall the term include the owner of a
11 vehicle that has been reported stolen to a law enforcement
12 agency prior to the time of the violation, in which event
13 "owner" shall mean the person who is found guilty of stealing
14 the motor vehicle.

15 (6) SCHOOL BUS VIOLATION or VIOLATION. Any violation
16 of Section 32-5A-154, Code of Alabama 1975.

17 Section 3. Any county or city board of education
18 located in Mobile County, Alabama, may authorize a process of
19 civil enforcement of a school bus violation pursuant to the
20 procedures set out in this act.

21 Section 4. (a) A county or city board of education
22 located in Mobile County, Alabama, may approve the use of
23 electronic devices to detect school bus violations by voting
24 at a public meeting of the board to approve the adoption of an
25 electronic school bus enforcement program.

1 (b) If approved by the county, city, or other school
2 district governing board located in Mobile County, Alabama,
3 and authorized by ordinance or resolution enacted by the
4 governing body of a local political subdivision, a law
5 enforcement agency or a political subdivision in consultation
6 with a school system, as the case may be, may enter into an
7 agreement with a private vendor for the installation,
8 operation, notice processing, and administration and
9 maintenance of school bus electronic devices on buses within
10 the school system's fleet whether owned or leased.

11 (c) A county or city board of education located in
12 Mobile County, Alabama, may contract for the operation of a
13 school bus violation enforcement program authorized by this
14 act through intergovernmental agreements with the Alabama Law
15 Enforcement Agency (ALEA), the county or municipal law
16 enforcement offices and the district and municipal courts
17 located in Mobile County, Alabama.

18 (d) A civil fine, not to exceed three hundred
19 dollars (\$300), may be imposed for a school bus violation for
20 which a notice of violation is issued pursuant to this act.
21 All such fines shall be paid, less the costs to administer,
22 operate, and maintain the program, as follows: 20 percent of
23 the remainder, after costs of operation identified above, to
24 the county or municipal governing body located in Mobile
25 County, Alabama, where the offense was committed; ~~60~~ 50

1 percent of the remainder, after costs of operation identified
 2 above, to the school system where the offense was committed;
 3 10 percent of the remainder, after costs of operation
 4 identified above, ~~to the license commissioner~~ Alabama Law
 5 Enforcement Agency; and ~~10~~ 20 percent of the remainder, after
 6 costs of operation identified above, to the ~~sheriff for~~
 7 ~~highway safety enforcement~~ Mobile County: South Regional
 8 Highway Safety Office.

9 Section 5. (a) After review of the violation by law
 10 enforcement, any county or municipal governing body or law
 11 enforcement office located in Mobile County, Alabama,
 12 operating an electronic device shall send the owner of a
 13 vehicle that has been detected by the device as being involved
 14 in a school bus violation, a notice of violation by U. S.
 15 mail. If there is more than one owner, the notice may be
 16 issued to the first person listed on the title or other
 17 evidence of ownership, or jointly to all listed owners.

18 (b) The notice of violation shall include at a
 19 minimum each of the following items of information:

20 (1) The name and address of the person alleged to be
 21 liable as the owner of the motor vehicle involved in the
 22 violation.

23 (2) The license tag number of the vehicle.

24 (3) The violation charged.

1 (4) The date, time, and location where the violation
2 occurred.

3 (5) The photographic images or video of the vehicle
4 and vehicle license plate only that are captured by the
5 electronic device. The image or video shall be reviewed by a
6 law enforcement officer of Mobile County or municipality
7 located in Mobile County, Alabama, who shall certify the
8 notice of violation. Under no circumstances may the image or
9 video contain images of the face of the driver or passengers
10 in the vehicle.

11 (6) The amount of the civil fine along with the
12 time, place, and manner for payment of the fine.

13 (7) The procedure under which the notice of
14 violation may be contested, or the procedure and conditions
15 under which responsibility for payment of the civil fine may
16 be transferred to another individual who was operating the
17 vehicle at the time of the violation.

18 (8) That failure to timely pay, contest, or transfer
19 responsibility to another shall constitute an admission that
20 the owner is responsible, ~~and that failure to pay a fine for~~
21 ~~which the owner is determined to be responsible shall result~~
22 ~~in the inability to obtain or renew in Alabama the license of~~
23 ~~the vehicle involved or to obtain or transfer its title in~~
24 ~~Alabama, or for the person held to be responsible to obtain or~~

1 ~~renew an Alabama driver's license, unless and until the civil~~
2 ~~fine is paid to the local governing body.~~

3 (9) The date by which the local governing body must
4 receive payment of the civil fine, receive notice by the owner
5 that responsibility is being transferred to another, or
6 receive notice by the owner that the notice of violation is
7 being contested, shall be clearly and prominently stated on
8 the notice of violation. The time may not be less than 30 days
9 after the notice of violation is mailed or personally
10 delivered.

11 (c) All recorded video images and other photographic
12 information obtained through the use of school bus violation
13 detection monitoring systems authorized in this act that do
14 not identify a violation shall be destroyed by any city, town,
15 school system or vendor within 30 days of the date the image
16 was recorded, unless otherwise ordered by a court of competent
17 jurisdiction. All photographs and other recorded information
18 that identify a violation shall be destroyed within 30 days of
19 final disposition of proceedings related to the enforcement or
20 defense of a violation, unless otherwise ordered by a court of
21 competent jurisdiction.

22 (d) All photographic evidence regardless of whether
23 it is a still photograph or video shall remain the sole
24 property of ALEA or Mobile County or municipal law enforcement
25 agency which reviews the photographic evidence and shall be

1 available to a third party, other than the alleged violator,
2 pursuant only to a valid court order.

3 (e) Except as expressly provided, all civil actions
4 based on evidence produced by a school bus violation detection
5 monitoring system shall follow the procedures set out in this
6 act.

7 Section 6. The owner of a vehicle that has been
8 issued a notice of violation shall be responsible for payment
9 of the civil fine unless the owner successfully transfers
10 responsibility, there is an adjudication that no violation
11 occurred, or there is an otherwise lawful determination that
12 no civil penalty shall be imposed. All owners of a vehicle who
13 are mailed or receive a notice of violation shall be jointly
14 and severally liable for payment of the civil fine. The county
15 or municipality may collect the civil fine in the same manner
16 as any other debt owed to Mobile County or municipality
17 located in Mobile County, Alabama.

18 Section 7. (a) The owner may not be responsible for
19 payment of the civil fine resulting from a notice of violation
20 if each of the following conditions apply:

21 (1) The vehicle was operated at the time of the
22 violation by a person who was not the owner, or an agent or
23 employee of the owner.

24 (2) The owner signs and timely transmits to the
25 county or municipality on the form provided with the notice of

1 violation and in accordance with the procedure set out on the
 2 notice of violation a statement that he or she was not
 3 operating the vehicle at the time of the violation, and that
 4 the person who was operating the vehicle was not the agent or
 5 employee of the owner.

6 (3) The owner timely transmits to the county or
 7 municipality on the form provided with the notice of violation
 8 and in accordance with the procedure set out on the notice of
 9 violation the name and mailing address of the person who was
 10 operating the vehicle.

11 (4) The civil fine is paid by any person, unless
 12 there is adjudication that no violation occurred or there is
 13 otherwise a lawful determination that no civil penalty shall
 14 be imposed.

15 (b) Whenever a county or municipality located in
 16 Mobile County, Alabama, or ALEA timely receives the
 17 information required from the owner to transfer
 18 responsibility, it shall issue a new notice of violation to
 19 the person to whom the owner transferred responsibility with
 20 an explanation as to why the person is receiving the notice of
 21 violation, in the same manner as if the person were the owner
 22 of the vehicle. The person shall be responsible for payment of
 23 the civil fine unless the person either:

24 (1) Timely returns a signed statement on a form
 25 provided with the notice of violation that he or she was not

1 the operator and declining responsibility, in which case
2 responsibility shall fall back to the owner.

3 (2) Admits to being the operator but denies
4 committing a violation, in which case the person may contest
5 the notice of violation in the same manner as the owner may
6 contest the notice of violation.

7 (c) In cases in which a person other than the owner
8 denies he or she was the operator and declines responsibility,
9 a new notice shall be issued to the owner stating that the
10 other person declined responsibility and giving the owner the
11 option of paying the civil fine or contesting the violation by
12 a stated date that shall be not less than 30 days from the
13 mailing of the new notice. The owner may not attempt to
14 transfer responsibility more than one time using this
15 procedure. If the owner chooses to contest the notice of
16 violation after the owner has unsuccessfully attempted to
17 transfer responsibility using this procedure, and the owner
18 claims in defense that another person was the operator of the
19 vehicle, the court may take appropriate action to cause the
20 owner and the other person to appear at the same hearing to
21 determine responsibility.

22 Section 8. (a) No person shall be responsible for
23 payment of a civil fine for a notice of violation issued under
24 this act if the operator of the vehicle that is the subject of
25 the notice of violation is adjudicated to have not committed a

1 violation or there is otherwise a lawful determination that no
 2 civil penalty may be imposed. Any person receiving a notice of
 3 violation pursuant to this act, in accordance with the
 4 procedure set out in this act and on the notice of violation,
 5 may contest the notice of violation by obtaining a hearing in
 6 the court.

7 (b) District and municipal courts of Mobile County,
 8 Alabama, are hereby vested with the power and jurisdiction to
 9 adjudicate a notice of violation issued pursuant to this act
 10 as a civil offense whenever the offense is alleged to have
 11 occurred within the geographic jurisdiction of the court.

12 (c) The following procedures shall apply to
 13 proceedings to contest a notice of violation issued pursuant
 14 to this act:

15 (1) Upon receipt of a timely notice that the person
 16 receiving the notice of violation is contesting the notice,
 17 Mobile County or a municipality located in Mobile County shall
 18 cause the case to be docketed in court and shall issue notice
 19 of the hearing date.

20 (2) The issuance of a notice of violation shall be
 21 prima facie evidence that the person who received the notice
 22 of violation was operating the vehicle at the time of the
 23 violation.

24 (3) If there is a dispute between the owner and
 25 another as to which person was operating the vehicle at the

1 time of the alleged violation, or a dispute between joint
2 owners, it shall be presumed that the owner was operating the
3 vehicle, and if there are joint owners, the presumption shall
4 follow the order the owners are listed on the title or other
5 evidence of ownership. However, a court may determine the
6 identity of the operator of the vehicle based on any admitted
7 evidence.

8 (4) The notice of violation, any evidence of the
9 violation produced by a device, and evidence of ownership of a
10 vehicle as shown by copies or summaries of official records
11 shall be admissible into evidence without foundation unless a
12 court otherwise requires a foundation.

13 (5) All other matters of evidence and procedure not
14 specifically addressed in this act shall be subject to the
15 rules of procedure as provided in this act. On any appeal to
16 the Circuit Court of Mobile County, Alabama, the procedures
17 shall be as for any civil case in the Circuit Court of Mobile
18 County, Alabama.

19 (6) The court shall apply the preponderance of the
20 evidence standard in adjudicating any notice of violation.

21 (7) Whenever payment of a civil fine is due, the
22 amount of the civil fine may not be increased, decreased, or
23 remitted by the court, and the liability may be satisfied only
24 by payment.

1 (8) A civil fine assessed under this act may not
2 exceed three hundred dollars (\$300) and court costs shall be
3 assessed only in contested cases in the same manner and in the
4 same amounts prescribed for a violation prosecuted as a
5 misdemeanor under Section 32-5A-154, Code of Alabama 1975.
6 Court costs collected pursuant to this act shall be
7 distributed in the same manner as prescribed by law for the
8 distribution of court costs for misdemeanor violations. An
9 additional fee of ten dollars (\$10) shall be collected by the
10 district or the appropriate municipal court located Mobile
11 County, Alabama, in connection with notices issued under this
12 act to be paid to the Alabama Criminal Justice Information
13 Center and deposited in the State Treasury to the credit of
14 the Criminal Justice Information System Automation Fund as
15 compensation for record keeping and transaction processing
16 with respect to violation notices issued under this act. Any
17 civil fine assessed under this act and collected by the court
18 shall be remitted to the county or municipality in which the
19 violation occurred

20 Section 9. A person who contests a notice of
21 violation and is adjudicated by the court to be responsible
22 for the civil fine may appeal the adjudication for a trial de
23 nova to the Circuit Court of Mobile County, Alabama, in which
24 the district or municipal court is located using the

1 procedures that apply to criminal convictions with the
2 following qualifications:

3 (1) The proceedings shall retain their civil nature
4 on appeal with the Circuit Court applying the preponderance of
5 the evidence standard.

6 (2) The person appealing must, as a condition
7 precedent to appeal, pay the civil fine in full, and failure
8 to do so shall divest the Circuit Court of Mobile County,
9 Alabama. If, on appeal the Circuit Court finds that the person
10 is not responsible for payment of the civil fine, the county
11 or municipality located in Mobile County, Alabama, or ALEA
12 shall refund the same without interest within 15 days of
13 receipt of notice of the disposition from the Circuit Court.
14 If the person is adjudicated by the Circuit Court to be
15 responsible for payment of the civil fine, then no additional
16 fine may be imposed by the Circuit Court, but court costs of
17 the Circuit Court shall be owed by the person adjudicated
18 responsible with 100 percent of the court costs retained by
19 the Circuit Court. Court costs in the Circuit Court shall be
20 calculated as are court costs for criminal appeals from the
21 district or municipal court of Mobile County, Alabama, and if
22 the Circuit Court finds the person appealing to not be
23 responsible, no court costs shall be owed by the county or
24 city boards of education located in Mobile County, Alabama.

1 (3) Regardless of the civil nature of the
2 proceedings, the Circuit Court of Mobile County, Alabama, in
3 its discretion and for its administrative convenience, may
4 assign case numbers as for criminal appeals and place the
5 appeals on criminal dockets in the same manner as criminal
6 appeals from district or municipal court of Mobile County,
7 Alabama.

8 Section 10. If the evidence produced by an
9 electronic device does not produce an image or video of the
10 license plate with sufficient clarity for a law enforcement
11 officer to determine the identity of the owner, and if the
12 identity cannot otherwise be reliably established, then no
13 notice of violation may be issued pursuant to this act.

14 Section 11. ~~(a) Except in cases where there is an~~
15 ~~adjudication that no violation occurred or there is otherwise~~
16 ~~a lawful determination that no civil penalty shall be imposed,~~
17 ~~any unpaid civil fine authorized by this act:~~

18 ~~(1) Shall result in nonissuance or nonrenewal of an~~
19 ~~Alabama vehicle license for the vehicle involved in the~~
20 ~~violation.~~

21 ~~(2) Shall cause title of the vehicle involved in the~~
22 ~~violation to not be transferred in Alabama.~~

23 ~~(3) Shall cause the person held responsible for the~~
24 ~~violation to be ineligible to obtain or renew an Alabama~~

1 ~~driver's license, unless and until the civil fine plus any~~
 2 ~~late fee is paid to the county or municipal governing body.~~

3 ~~(b) No person may be arrested or incarcerated for~~
 4 ~~nonpayment of a civil fine.~~

5 ~~(c) Any state or county official charged with~~
 6 ~~issuance or transfer of vehicle licenses or titles, or~~
 7 ~~issuance of driver's licenses, may not issue or renew the~~
 8 ~~vehicle license, issue or transfer title of the vehicle, or~~
 9 ~~issue or renew the driver's license of the responsible person,~~
 10 ~~so long as the official has notice that a civil fine~~
 11 ~~authorized by this act is or remains unpaid. In cases in which~~
 12 ~~Mobile County or a municipality of Mobile County, Alabama, has~~
 13 ~~given a notice of nonpayment to the appropriate licensing~~
 14 ~~official and when thereafter the civil fine has been paid,~~
 15 ~~Mobile County or a municipality of Mobile County, Alabama,~~
 16 ~~shall transmit notice of the payment to the appropriate~~
 17 ~~licensing official.~~

18 Section 12. (a) A civil violation of this act may
 19 not result in any punishment of a criminal nature, may not
 20 count as points and may not be entered into any person's
 21 official driving history, may not be considered a criminal
 22 conviction for any purpose, may not be used to increase or
 23 enhance punishment for a subsequent offense of a civil or
 24 criminal nature, ~~and~~ may not be considered a moving violation,
 25 ~~and~~ may not be used by any insurance company to determine or

1 ~~affect premiums or rates.~~, and no person may be arrested or
2 incarcerated for non-payment of a civil fine.

3 (b) The fact that a person is held liable or
4 responsible for a civil fine for a violation may not be used
5 as evidence that the person was guilty of negligence or other
6 culpable conduct, but this fact may not preclude evidence
7 generated by a device from being used as evidence in other
8 proceedings.

9 Section 13. Adoption by a county or city board of
10 education located in Mobile County, Alabama, of the procedures
11 under this act and the enforcement of this act by Mobile
12 County or a municipality located in Mobile County, Alabama,
13 may not affect current procedure and prosecutions commenced by
14 issuance of a uniform traffic ticket and complaint by a law
15 enforcement officer or otherwise. The issuance of a notice of
16 a violation as authorized by this act shall be subordinate to
17 the issuance of a uniform traffic ticket and complaint for the
18 same action if issued by a sworn law enforcement officer, and
19 issuance of a uniform traffic ticket and complaint for a
20 school bus violation shall preclude issuance of a notice of
21 violation as authorized by this act. If both a uniform traffic
22 ticket and complaint and a notice of violation as authorized
23 by this act are issued for the same action, the one issued by
24 a sworn law enforcement officer pursuant to Section 32-5A-154,

1 Code of Alabama 1975, shall control and shall constitute a
2 defense to the other.

3 Section 14. (a) Any person who is held responsible
4 for payment of a civil fine as provided herein, but who was
5 not actually operating the involved vehicle, who timely and
6 properly followed the procedure to transfer responsibility but
7 is ultimately held responsible because of the person's
8 ownership of the vehicle, and who actually pays the civil
9 fine, shall have a cause of action against the person who was
10 operating the vehicle for the amount of the civil fine
11 actually paid plus a reasonable attorney fee, without regard
12 to the rules regarding joint and several liability,
13 contribution, or indemnity.

14 (b) As a condition precedent to the bringing of a
15 civil action under subsection (a), the person held responsible
16 for payment of the civil fine must first make written demand
17 on the other person for reimbursement of the civil fine,
18 giving a minimum of 60 days to remit payment, and if
19 reimbursement is fully made within the 60-day period then the
20 cause of action shall be extinguished and no attorney fees or
21 other damages shall attach to the reimbursement.

22 Section 15. The provisions of this act are
23 severable. If any part of this act is declared invalid or
24 unconstitutional, that declaration may not affect the part
25 which remains.

1 Section 16. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the 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 14-APR-15, as amended and was
passed again as amended by Executive Amendment 26-MAY-15.
Yeas 97, Nays 0

Jeff Woodard
Clerk

Senate	14-MAY-15	Passed
Senate	26-MAY-15	Passed, as amended by Executive Amendment Yeas 20, Nays 0, Ab- stains 1
