

1 SB215
2 173892-4
3 By Senators Holley, Dial and Scofield
4 RFD: Governmental Affairs
5 First Read: 11-FEB-16

1 SB215

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4 ENROLLED, An Act,

5 Authorizing automated enforcement related to
6 overtaking a school bus in counties and municipalities as a
7 civil offense; authorizing a county or municipal board of
8 education to approve, in their respective jurisdiction, a
9 civil process of automated detection device of a school bus
10 violation enforcement; requiring certain procedures to be
11 followed by a county or municipal board of education using
12 automated school bus enforcement; making the owner of the
13 vehicle involved in a violation presumptively responsible for
14 payment of a civil fine, but providing procedures to contest
15 responsibility or transfer responsibility to another person;
16 providing for jurisdiction in district courts and in municipal
17 courts over the civil offenses; providing for procedures for
18 administrating this act; allowing a law enforcement agency or
19 a local governing entity to enter agreements with contractors
20 providing automated devices; providing for the destruction of
21 recorded information after certain time periods; and allowing
22 appeals to the circuit court.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 1. (a) This act shall be known
25 and may be cited as the "Alabama School Bus Safety Act."

1 (b) Any board may authorize a process of civil
2 enforcement of a school bus violation pursuant to the
3 procedures set out in this act.

4 (c) The provisions of this act shall not compel a
5 governing body or board to participate in the safety program
6 created herein.

7 Section 2. The following definitions and provisions
8 shall apply to this act:

9 (1) AUTOMATED DEVICE. Any camera or recording device
10 that uses a vehicle sensor and camera synchronized to record
11 by photograph or video the rear of a motor vehicle approaching
12 or overtaking a school bus that is stopped for the purpose of
13 receiving or discharging school children in violation of
14 Section 32-5A-154, Code of Alabama 1975.

15 (2) BOARD. A board of education or the governing
16 body of a school system.

17 (3) CONTRACTOR. A company that provides services to
18 a board or governing body including, but not limited to,
19 automated devices, citation processing, and collection of the
20 civil fines. None of the activities of the contractor shall be
21 construed as an agent providing or participating in private
22 investigative services or acting as a statutory authority
23 under open records laws.

1 (4) COURT. A district court, if a school bus
2 violation occurs in an unincorporated area or a municipal
3 court if a violation occurs in an incorporated municipality.

4 (5) GOVERNING BODY. A county commission, city
5 council, or city commission.

6 (6) LAW ENFORCEMENT AGENCY. A law enforcement agency
7 of a local governing body, a county sheriff, the Alabama State
8 Law Enforcement Agency (ALEA), or a school system that is
9 authorized to issue a citation for a violation of the state
10 vehicle law or of local traffic laws or regulations.

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

1 (8) SCHOOL BUS VIOLATION or VIOLATION. Any violation
2 of Section 32-5A-154, Code of Alabama 1975, as amended.

3 (9) TRAINED TECHNICIAN. A sworn law enforcement
4 officer or person who has received instruction and training in
5 the proper use of the automated photographic enforcement
6 system to be used by the school board or contractor.

7 Section 3. (a) A board may approve the use of
8 automated devices to detect school bus violations by voting at
9 a meeting of the board to approve the adoption of an automated
10 school bus enforcement program.

11 The school board may elect to operate the program
12 authorized in this act without the involvement of the
13 governing body or sheriff through the utilization of a trained
14 technician. In such case, all references in this act to
15 governing body, county, or city shall apply to the school
16 board.

17 (b) In the alternative, if approved by a board and
18 authorized by ordinance or resolution enacted by the governing
19 body, the board may enter into an agreement with a contractor
20 for the installation, operation, notice processing,
21 administration and maintenance of school bus automated devices
22 on buses within the school system's fleet whether owned or
23 leased. Prior to entering into a contract for the
24 installation, operation, notice processing, administration,
25 and maintenance of school bus automated devices, the board

1 shall have entered into an intergovernmental agreement with
2 the appropriate law enforcement agencies (municipal police
3 department, the Alabama State Law Enforcement Agency (ALEA),
4 and/or county sheriff) and the local governing body providing
5 that the appropriate law enforcement agency is willing to
6 review any violation occurring in its respective jurisdiction.

7 (c) A civil fine of three hundred dollars (\$300) for
8 each offense shall be imposed for a school bus violation for
9 which a notice of violation is issued pursuant to this act.
10 All such fines shall be paid, after deducting costs to
11 administer, operate, and maintain the program, as follows: 40
12 percent to the county or municipal governing body which
13 contracted for the operation of a school bus violation program
14 through an intergovernmental agreement with the board pursuant
15 to paragraph (b); 40 percent to the school system where the
16 offense was committed; 10 percent to the State Department of
17 Education for school bus safety initiatives; and 10 percent to
18 the Alabama State Law Enforcement Agency (ALEA) for highway
19 safety enforcement.

20 Section 4. (a) After review of the violation by law
21 enforcement or trained technician, the governing body or
22 contractor shall send the owner of a vehicle that has been
23 detected by the device as being involved in a school bus
24 violation a notice of violation by U. S. mail. A notice of
25 violation shall be mailed no later than 14 days after being

1 reviewed by law enforcement. In the event there is more than
2 one owner, the notice may be issued to the first person listed
3 on the title or other evidence of ownership, or jointly to all
4 listed owners.

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

7 (1) The name and address of the person alleged to be
8 liable as the owner of the motor vehicle involved in the
9 violation.

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

11 (3) The violation charged.

12 (4) The date, time, and location where the violation
13 occurred.

14 (5) The photographic images and the online video of
15 the vehicle that are captured by the automated device. The
16 image or video shall be reviewed by a law enforcement officer
17 or trained technician who shall electronically certify the
18 notice of violation. The image or video may not contain images
19 of the face of the driver or passengers in the vehicle.

20 (6) The amount of the civil fine along with the
21 time, place, and manner for payment of the fine which shall
22 include the option to pay the fine by electronic means.

23 (7) The procedure under which the notice of
24 violation may be contested, or the procedure and conditions
25 under which responsibility for payment of the civil fine may

1 be transferred to another individual who was operating the
2 vehicle at the time of the violation.

3 (8) 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.

10 (c) All recorded video images and other photographic
11 information obtained through the use of school bus violation
12 detection monitoring systems authorized in this act that do
13 not identify a violation shall be destroyed by any city, town,
14 school system or contractor within 90 days of the date the
15 image was recorded, unless otherwise ordered by a court of
16 competent jurisdiction. All photographic and other recorded
17 information that identifies a violation shall be destroyed
18 within 30 days of final disposition of proceedings related to
19 the enforcement or defense of a violation, unless otherwise
20 ordered by a court of competent jurisdiction.

21 (d) All photographic evidence regardless of whether
22 it is a still photograph or video shall remain the sole
23 property of the board and shall be available to a third party,
24 other than the alleged violator, pursuant only to a valid
25 court order.

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

5 Section 5. The owner of a vehicle that has been
6 issued a notice of violation shall be responsible for payment
7 of the civil fine unless the owner successfully transfers
8 responsibility, there is an adjudication that no violation
9 occurred, or there is an otherwise lawful determination that
10 no civil penalty shall be imposed. All owners of a vehicle who
11 are mailed or receive a notice of violation shall be jointly
12 and severally liable for payment of the civil fine. The county
13 or municipality may collect the civil fine in the same manner
14 as any other debt owed to the county or municipality.

15 Section 6. (a) The owner shall not be responsible
16 for payment of the civil fine resulting from a notice of
17 violation if each of the following conditions apply:

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

21 (2) The owner signs and timely transmits to the
22 governing body on the form provided with the notice of
23 violation and in accordance with the procedure set out on the
24 notice of violation a statement that he or she was not
25 operating the vehicle at the time of the violation, and that

1 the person who was operating the vehicle was not the agent or
2 employee of the owner.

3 (3) The owner timely transmits to the governing body
4 on the form provided with the notice of violation and in
5 accordance with the procedure set out on the notice of
6 violation the name and mailing address of the person who was
7 operating the vehicle.

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

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

21 (1) Timely returns a signed statement on a form
22 provided with the notice of violation that he or she was not
23 the operator and declining responsibility, in which case
24 responsibility shall fall back to the owner.

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

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

20 Section 7. (a) No person shall be responsible for
21 payment of a civil fine for a notice of violation issued under
22 this act if the operator of the vehicle that is the subject of
23 the notice of violation is adjudicated to have not committed a
24 violation or there is otherwise a lawful determination that no
25 civil penalty may be imposed. Any person receiving a notice of

1 violation pursuant to this act, in accordance with the
2 procedure set out in this act and on the notice of violation,
3 may contest the notice of violation by obtaining a hearing in
4 the court.

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

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

13 (1) Upon receipt of a timely notice that the person
14 receiving the notice of violation is contesting the notice,
15 the governing body shall cause the case to be docketed in
16 court and shall issue notice of the hearing date.

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

21 (3) In the event there is a dispute between the
22 owner and another as to which person was operating the vehicle
23 at the time of the alleged violation, or a dispute between
24 joint owners, it shall be presumed that the owner was
25 operating the vehicle, and in the event there are joint

1 owners, the presumption shall follow the order the owners are
2 listed on the title or other evidence of ownership. However, a
3 court may determine the identity of the operator of the
4 vehicle based on any admitted evidence.

5 (4) The notice of violation, any evidence of the
6 violation produced by a device, and evidence of ownership of a
7 vehicle as shown by copies or summaries of official records
8 shall be admissible into evidence without foundation.

9 (5) All other matters of evidence and procedure not
10 specifically addressed in this act shall be subject to the
11 rules of procedure as provided in this act. On any appeal in
12 the circuit court the procedures shall be as for any civil
13 case in circuit court.

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

16 (7) Whenever payment of a civil fine is due, the
17 amount of the civil fine may not be decreased and the
18 liability may be satisfied only by payment.

19 (8) A civil fine in the amount of three hundred
20 dollars (\$300) shall be assessed for each offense, and court
21 costs shall be assessed only in contested cases in the same
22 manner and in the same amounts prescribed for a violation
23 prosecuted as a misdemeanor under Section 32-5A-154, Code of
24 Alabama 1975. Court costs collected pursuant to this act shall
25 be distributed in the same manner as prescribed by law for the

1 distribution of court costs for misdemeanor violations. An
2 additional fee of ten dollars (\$10) shall be collected by the
3 district or municipal court in connection with notices issued
4 under this act to be paid to the Alabama Criminal Justice
5 Information Center and deposited in the State Treasury to the
6 credit of the Criminal Justice Information System Automation
7 Fund as compensation for record keeping and transaction
8 processing with respect to violation notices issued under this
9 act. Any civil fine assessed under this act and collected by
10 the court shall be remitted pursuant to subsection (c) of
11 Section 3.

12 Section 8. Persons who contest a notice of violation
13 and are adjudicated by the court to be responsible for the
14 civil fine may appeal the adjudication for a trial de novo to
15 the circuit court of the county in which the district or
16 municipal court is located, using the procedures that apply to
17 criminal convictions with the following qualifications:

18 (1) The proceedings shall retain their civil nature
19 on appeal with the circuit court applying the preponderance of
20 the evidence standard.

21 (2) The person appealing must, as a condition
22 precedent to appeal, pay the civil fine in full, and failure
23 to do so shall divest the circuit court of jurisdiction. If on
24 appeal the circuit court finds that the person is not
25 responsible for payment of the civil fine, the county or

1 municipality shall refund the same without interest within 15
2 days of receipt of notice of the disposition from the circuit
3 court. If the person is adjudicated by the circuit court to be
4 responsible for payment of the civil fine, then no additional
5 fine may be imposed by the circuit court, but court costs of
6 the circuit court shall be owed by the person adjudicated
7 responsible with 100 percent of the court costs retained by
8 the circuit court. Court costs in the circuit court shall be
9 calculated as are court costs for criminal appeals from the
10 district or municipal court, and in the event the circuit
11 court finds the person appealing not to be responsible, no
12 court costs shall be owed by the county or municipal board of
13 education.

14 (3) Regardless of the civil nature of the
15 proceedings, the circuit court, in its discretion and for its
16 administrative convenience, may assign case numbers as for
17 criminal appeals and place the appeals on criminal dockets in
18 the same manner as criminal appeals from a district or
19 municipal court.

20 Section 9. In the event the evidence produced by an
21 automated device does not produce an image or video of the
22 license plate with sufficient clarity for a law enforcement
23 officer or trained technician to determine the identity of the
24 owner, and if the identity cannot otherwise be reliably

1 established, then no notice of violation may be issued
2 pursuant to this act.

3 Section 10. (a) No person may be arrested or
4 incarcerated for nonpayment of a civil fine.

5 (b) A governing body may contract with a collection
6 service for the purpose of collecting any unpaid civil fine
7 authorized by this act.

8 Section 11. Adoption by a board of the procedures
9 under this act and the enforcement of this act by a governing
10 body shall not affect current procedure and prosecutions
11 commenced by issuance of a uniform traffic ticket and
12 complaint by a law enforcement officer or otherwise. The
13 issuance of a notice of violation as authorized by this act
14 shall be subordinate to the issuance of a uniform traffic
15 ticket and complaint for the same action if issued by a sworn
16 law enforcement officer, and issuance of a uniform traffic
17 ticket and complaint for a school bus violation shall preclude
18 issuance of a notice of violation as authorized by this act.
19 In the event both a uniform traffic ticket and complaint and a
20 notice of violation as authorized by this act are issued for
21 the same action, the one issued by a sworn law enforcement
22 officer pursuant to Section 32-5A-154, Code of Alabama 1975,
23 shall control and shall constitute a defense to the other.

24 Section 12. (a) Any person who is held responsible
25 for payment of a civil fine as provided herein, but who was

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

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

18 Section 13. The provisions of this act are
19 severable. If any part of this act is declared invalid or
20 unconstitutional, that declaration shall not affect the part
21 which remains.

22 Section 14. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB215

Senate 03-MAR-16

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Amended and passed 13-APR-16

Senate concurred in House amendment 19-APR-16

By: Senator Holley