

1 SB441  
2 156971-2  
3 By Senators Dunn, Coleman, Smitherman, Beasley, Irons and  
4 Singleton (N & P)  
5 RFD: Local Legislation No. 2  
6 First Read: 05-MAR-14

1 SB441

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3  
4 With Notice and Proof

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6 ENROLLED, An Act,

7 Relating to the City of Midfield, Alabama, in  
8 Jefferson County; authorizing automated speeding enforcement  
9 in the City of Midfield, Alabama, as a civil violation;  
10 authorizing the city to adopt a municipal ordinance consistent  
11 with this act; providing certain procedures to be followed by  
12 the city using automated photographic speeding enforcement;  
13 providing that the owner of the vehicle involved is  
14 presumptively liable for a civil violation and the payment of  
15 a civil fine, but providing procedures to contest liability;  
16 providing for jurisdiction in the Midfield Municipal Court  
17 over the civil violations and allowing appeals to the  
18 Jefferson County Circuit Court for trial de novo; creating a  
19 cause of action for any person held responsible for payment of  
20 the civil fine against the person who was actually operating a  
21 vehicle while speeding; and prohibiting the tampering with  
22 automated speeding enforcement devices or equipment systems,  
23 except by authorized persons.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. (a) This act shall be known and may be  
2 cited as the "Midfield Speed Limit Safety Act."

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

5           Section 2. The Legislature finds and declares the  
6 following:

7           (1) Accident data establishes that speeding vehicles  
8 have been and are a dangerous problem in Midfield, Alabama.

9           (2) Studies have found that automated speeding  
10 enforcement in a municipal area is a highly accurate method  
11 for detecting speeding violations and is very effective in  
12 reducing the number of speeding violations and decreasing the  
13 number of traffic accidents, deaths, and injuries.

14           (3) Current Alabama law provides that speeding is a  
15 criminal misdemeanor. Under Alabama law, one who commits such  
16 a misdemeanor is subject to prosecution only if the  
17 misdemeanor was witnessed by either a duly empowered police  
18 officer or other witness who makes a verified complaint to a  
19 sworn magistrate.

20           (4) Many jurisdictions that have adopted laws that  
21 allow the use of automated speeding enforcement have  
22 experienced a significant reduction in the instances of  
23 speeding, and the Legislature finds that it should adopt  
24 legislation that would authorize the City of Midfield to

1 implement a program for automated speeding enforcement of  
2 speeding violations.

3 (5) By allowing a program for the use of automated  
4 traffic cameras in speeding enforcement by the City of  
5 Midfield, the Legislature hopes to both decrease the rate of  
6 speeding violations.

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

9 (1) CITY. The City of Midfield, Alabama.

10 (2) CIVIL FINE. The monetary amount assessed by the  
11 City of Midfield pursuant to this act for an adjudication of  
12 civil liability for a speeding violation, including municipal  
13 court costs associated with the infraction.

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

1           (4) OWNER. The owner of a motor vehicle as shown on  
2 the motor vehicle registration records of the Alabama  
3 Department of Revenue or the analogous department or agency of  
4 another state or country. The term shall not include a motor  
5 vehicle rental or leasing company when a motor vehicle  
6 registered by the company is rented or leased to another  
7 person under a rental or lease agreement with the company, in  
8 which event "owner" shall mean the person to whom the vehicle  
9 is rented or leased; nor shall the term include motor vehicles  
10 displaying dealer license plates, in which event "owner" shall  
11 mean the person to whom the vehicle is assigned for use; nor  
12 shall the term include the owner of any stolen motor vehicle,  
13 in which event "owner" shall mean the person who is guilty of  
14 stealing the motor vehicle.

15           (5) PHOTOGRAPHIC SPEEDING ENFORCEMENT OR AUTOMATED  
16 SPEEDING ENFORCEMENT SYSTEM. A camera system which is designed  
17 and installed to work in conjunction with an electrically  
18 operated speed detection device synchronized to automatically  
19 record digital imaging of a motor vehicle while speeding.

20           The device shall be capable of producing at least  
21 two recorded images, at least one of which is capable of  
22 clearly depicting the license plate of a motor vehicle that is  
23 speeding.

24           (6) SPEEDING VIOLATION. Any violation of a motor  
25 vehicle at a speed that exceeds the legal maximum speed limits

1 presented in or adopted pursuant to Article 8, Chapter 5A,  
2 Title 32, Sections 32-5A-170 to 32-5A-178, inclusive, Code of  
3 Alabama 1975; provided, however, that speed limits set by  
4 action of the Midfield City Council as found in the City Code  
5 of the City of Midfield shall supersede the limits set in  
6 Article 8, Chapter 5A, Title 32, Sections 32-5A-170 to  
7 32-5A-178, inclusive, Code of Alabama 1975. A speeding  
8 violation shall be a civil violation as defined in this act.

9 (7) TRAINED TECHNICIAN. A sworn law enforcement  
10 officer employed by the City of Midfield, who alternatively:

11 a. Is a professional engineer in the field of civil  
12 engineering.

13 b. Has received instruction and training in the  
14 proper use of the automated photographic speeding enforcement  
15 system to be used by the city's traffic engineer or his or her  
16 designee.

17 c. Has been trained by the vendor installing the  
18 equipment. Under no circumstances shall the salary or other  
19 compensation of the trained technician be related to the  
20 number of notices of violation issued or amount of fines  
21 collected.

22 Section 4. (a) The City of Midfield is empowered to  
23 utilize an automated photographic speeding enforcement system  
24 to detect and record speeding violations, to issue notices of  
25 civil violations by mail, and to prosecute civil violations

1 for the recorded speeding violations which may occur within  
2 the corporate limits of the City of Midfield as provided in  
3 this act. A civil fine assessed under this act shall not  
4 exceed one hundred dollars (\$100), and municipal court costs  
5 may be assessed in the same manner and in the same amounts  
6 prescribed for municipal criminal speeding violations  
7 prosecuted as a misdemeanor. An additional fee of ten dollars  
8 (\$10) shall be added to the Midfield Municipal Court costs  
9 authorized to be collected in connection with notices issued  
10 under this act. Court costs collected pursuant to this act  
11 shall be distributed in the same manner as prescribed by law  
12 for the distribution of municipal court costs for misdemeanor  
13 violations. The additional ten dollars (\$10) authorized by  
14 this act shall be paid to the Alabama Criminal Justice  
15 Information Center as compensation for record keeping with  
16 respect to speeding violation notices issued pursuant to this  
17 act.

18 (b) If an ordinance is adopted for automated  
19 speeding enforcement, the City of Midfield shall cause a sign  
20 to be posted at each of a minimum of 10 roadway entry points  
21 to the city to provide motorists with notice that automated  
22 photographic speeding enforcement systems are in use. The sign  
23 shall comply with this requirement if it states substantially  
24 the following: "AUTOMATED CAMERAS USED IN SPEEDING  
25 ENFORCEMENT," or if it otherwise gives sufficient notice.

1           (c) Prior to operating such an enforcement system,  
2 the City of Midfield shall make a public announcement and  
3 conduct a public awareness campaign of the use of an automated  
4 photographic speeding enforcement system a minimum of 30 days  
5 before using the devices. The City of Midfield may place  
6 photographic speeding enforcement systems at locations without  
7 public notice of the specific location, may change locations  
8 without public notice, and may install and move as needed  
9 decoy devices designed to resemble photographic speeding  
10 enforcement systems.

11           (d) The city shall post signs warning of the use of  
12 an automated photographic device for speeding enforcement  
13 within 60 yards of every speed detection device used. Each  
14 sign shall be placed at least five feet from the edge of the  
15 road or street and shall be placed not lower than two feet and  
16 not higher than eight feet.

17           Section 5. (a) Prior to imposing a civil penalty  
18 pursuant to this act, the City of Midfield shall first mail a  
19 notice of violation by certified U.S. mail, return receipt  
20 requested, to the owner of the motor vehicle which is recorded  
21 by the automated photographic speeding enforcement system that  
22 committed a speeding violation. The notice shall be sent not  
23 later than the 30th day after the date the speeding violation  
24 is recorded to the following:



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

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

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

10           (1) Description of the speeding violation alleged.

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

12           (3) A copy of recorded images of the vehicle  
13 involved in the violation.

14           (4) The amount of the civil penalty to be imposed  
15 for the violation.

16           (5) The date by which the civil penalty must be  
17 paid.

18           (6) A statement that the person named in the notice  
19 of violation may pay the civil penalty in lieu of appearing at  
20 an administrative adjudication hearing.

21           (7) Information that informs the person named in the  
22 notice of violation of the following:

23           a. The right to contest the imposition of the civil  
24 penalty in an administrative adjudication.

1           b. The manner and time in which to contest the  
2 imposition of the civil penalty.

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

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

7           (9) A statement that failure to pay the civil  
8 penalty within the time allowed shall result in the imposition  
9 of a late penalty not exceeding twenty-five dollars (\$25).

10          (10) Any other information deemed necessary by the  
11 city.

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

15          (d) The civil penalty imposed shall be paid within  
16 30 days of the 10th day after the date the notice of violation  
17 is mailed.

18          (e) It shall be within the discretion of the trained  
19 technician to determine which of the recorded speeding  
20 violations are prosecuted based upon the quality and  
21 legibility of the recorded image. In lieu of issuing a notice  
22 of violation, the city may mail a warning notice to the owner  
23 during the initial warning period.

24          Section 6. (a) The Midfield Municipal Court is  
25 vested with the power and jurisdiction to hear and adjudicate

1 the civil violations provided for in this act and to issue  
2 orders imposing the civil fines and costs set out in this act.

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

10 (c) Failure to pay a civil penalty or to contest  
11 liability in a timely manner is an admission of liability in  
12 the full amount of the civil fine assessed in the notice of  
13 violation.

14 (d) The civil fine shall not be assessed if, after a  
15 hearing, the Midfield Municipal Judge enters a finding of no  
16 liability.

17 (e) If an adjudicative hearing is requested, the  
18 city shall have the burden of proving the speeding violation  
19 by a preponderance of the evidence. The reliability of the  
20 automated photographic speeding enforcement system used to  
21 produce the recorded image of the violation may be attested to  
22 by affidavit of a trained technician. An affidavit of a  
23 trained technician that alleges a violation based on an  
24 inspection of the pertinent recorded image or video is

1       admissible in a proceeding under this act and is evidence of  
2       the facts contained in the affidavit.

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

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

20              (h) A person who is found liable for the civil  
21      violation after an adjudicative hearing or who requests an  
22      adjudicative hearing and thereafter fails to appear at the  
23      time and place of the hearing is liable for court costs and  
24      fees as set out herein in addition to the amount of the civil  
25      fine assessed for the violation. A person who is found liable

1 for a civil violation after an adjudicative hearing shall pay  
2 the civil fine and costs within 10 days of the hearing.

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

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

10 1. The operator of the motor vehicle was acting in  
11 compliance with the lawful order or direction of a police  
12 officer.

13 2. The motor vehicle was being operated as an  
14 authorized emergency vehicle under Sections 32-5A-7 and  
15 32-5-213 of the Code of Alabama 1975, and that the operator  
16 was acting in compliance with that chapter.

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

20 4. The license plate depicted in the recorded image  
21 of the violation was a stolen plate and being displayed on a  
22 motor vehicle other than the motor vehicle for which the plate  
23 had been issued.

1           5. The person who received the notice of violation  
2 was not the owner of the motor vehicle at the time of the  
3 violation.

4           (k) To demonstrate that at the time of the violation  
5 the motor vehicle was a stolen vehicle or the license plate  
6 displayed on the motor vehicle was a stolen plate, the owner  
7 must submit proof acceptable to the hearing officer that the  
8 theft of the vehicle or license plate, prior to the time of  
9 the violation, had been timely reported to the appropriate law  
10 enforcement agency.

11           (1) Notwithstanding anything in this act to the  
12 contrary, a person who fails to pay the amount of a civil fine  
13 or to contest liability in a timely manner is entitled to an  
14 adjudicative hearing on the violation if:

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

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

22           Section 7. (a) Following an adjudicative hearing,  
23 the municipal court judge shall issue an order stating the  
24 following:

1           (1) Whether the person charged with the civil  
2 violation is liable for the violation and, if so,

3           (2) The amount of the civil fine assessed against  
4 the person, along with the fees and costs of court provided  
5 for herein.

6           (b) The orders issued under this section may be  
7 filed in the office of the Judge of Probate of Jefferson  
8 County, Alabama, and shall operate as a judicial lien in the  
9 same manner and with the same weight and effect as any other  
10 civil judgment filed therein.

11           (c) A person who is found liable after an  
12 adjudicative hearing may appeal that finding of civil  
13 liability to the Circuit Court of Jefferson County, Alabama,  
14 by filing a notice of appeal with the clerk of the municipal  
15 court. The notice of appeal must be filed not later than the  
16 14th day after the date on which the municipal court judge  
17 entered the finding of civil liability. The filing of a notice  
18 of appeal shall stay the enforcement of the civil fine  
19 penalty. An appeal shall be determined by the circuit court by  
20 trial de novo.

21           Section 8. (a) The circuit court hearing an appeal  
22 shall use the procedures that apply to criminal convictions in  
23 municipal court with the following qualifications:

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

4           (2) If the person is adjudicated by the circuit  
5 court to be responsible for payment of the civil fine, circuit  
6 court costs shall be owed by the person adjudicated  
7 responsible, with 100 percent of those 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 municipal court, and in the event the circuit court finds the  
11 person appealing not to be responsible, no municipal court  
12 costs shall be owed to the city.

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

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

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

23           Section 9. In the event the evidence produced by an  
24 automated photographic speeding enforcement system does not  
25 produce an image of the license plate with sufficient clarity



1 for a trained technician to determine the identity of the  
2 owner, and if the identity cannot otherwise be reliably  
3 established, then no notice of violation may be issued  
4 pursuant to this act. If, however, a notice of violation is  
5 issued, to the degree constitutionally allowed, those issues  
6 related to the identity of the vehicle or its owner shall  
7 affect the weight to be accorded the evidence and shall not  
8 affect its admissibility.

9 Section 10. The city may provide by ordinance that a  
10 late fee not exceeding twenty-five dollars (\$25) shall attach  
11 to untimely paid civil fines that are authorized in this act.  
12 No person may be arrested or incarcerated for nonpayment of a  
13 civil fine or late fee. No record of an adjudication of civil  
14 violation made under this act shall be listed, entered, or  
15 reported on any criminal record or driving record, whether the  
16 record is maintained by the city or an outside agency. An  
17 adjudication of civil violation provided for in this act shall  
18 not be considered a conviction for any purpose, shall not be  
19 used to increase or enhance punishment for any subsequent  
20 offense of a criminal nature, shall not be considered a moving  
21 violation, and shall not be used by any insurance company to  
22 determine or affect premiums or rates unless an accident  
23 occurred due to the violation. The fact that a person is held  
24 liable or responsible for a civil fine for a speeding  
25 violation shall not be used as evidence that the person was

1 guilty of negligence or other culpable conduct, and any  
2 evidence generated by an automated photographic speeding  
3 enforcement system may only be used as evidence in other  
4 proceedings if it is or becomes admissible under the rules of  
5 evidence applicable therein.

6 Section 11. The city shall keep statistical data  
7 regarding the effectiveness of automated photographic speeding  
8 enforcement systems in reducing speeding violations and  
9 collisions and shall communicate the data on an annual basis  
10 to the Alabama Department of Transportation and the Alabama  
11 Criminal Justice Information Center.

12 Section 12. No civil penalty may be imposed and no  
13 adjudication of liability for a civil violation may be made  
14 under this act if the operator of the vehicle was arrested or  
15 was issued a citation and notice to appear by a sworn police  
16 officer for a criminal violation of any portion of Title 32,  
17 Chapter 5A, Article 8, including, but not limited to, Sections  
18 32-5A-170 to 32-5A-178, inclusive, Code of Alabama 1975, or  
19 any other municipal ordinance which embraces and incorporates  
20 the statutes contained in that article, and which occurred  
21 simultaneously with and under the same set of circumstances  
22 which were recorded by the automated photographic speeding  
23 enforcement system.

24 Section 13. Any person against whom an adjudication  
25 of liability for a civil violation is made pursuant to this

1 act, or an ordinance passed pursuant hereto, and who actually  
2 pays the civil fine imposed thereby shall have a cause of  
3 action against any person who may be shown to have been  
4 operating the vehicle recorded at the time of the violation  
5 for the amount of the civil fine actually paid plus any  
6 consequential or compensatory damages and a reasonable  
7 attorney fee, without regard to the rules regarding joint and  
8 several liability, contribution, or indemnity. Provided,  
9 however, that as a condition precedent to the bringing of a  
10 civil action, that the person held responsible for payment of  
11 the civil fine must first make written demand on the other  
12 person for reimbursement of the civil fine, giving a minimum  
13 of 60 days to remit payment, and if reimbursement is fully  
14 made within the 60-day period then the cause of action shall  
15 be extinguished and no attorney fees or other damages shall  
16 attach to the reimbursement. Any cause of action brought  
17 pursuant to this section must be commenced within two years  
18 from the date of the payment of the civil fine for a speeding  
19 violation.

20 Section 14. The provisions of this act are  
21 severable. If any part of this act is declared invalid or  
22 unconstitutional, that declaration shall not affect the part  
23 which remains.

1                   Section 15. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB441

Senate 18-MAR-14

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

Patrick Harris  
Secretary

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House of Representatives  
Passed: 03-APR-14

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By: Senator Dunn