

Senate Bill 435

By: Senators Beach of the 21st, Jones of the 25th, Watson of the 1st, Miller of the 49th and Jordan of the 6th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 8 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,  
2 relating to school buses, so as to revise the enforcement of civil monetary penalties regarding  
3 violations of the duties of a driver when meeting or overtaking a school bus; to revise penalty  
4 fees; to revise definitions; to provide for procedures and enforcement; to provide for  
5 enforcement penalties through the Department of Revenue; to provide for dedication of fees  
6 collected from local civil monetary penalties; to amend Article 2 of Chapter 14 of Title 40  
7 of the Official Code of Georgia Annotated, relating to speed detection devices, so as to  
8 provide for automated traffic enforcement safety devices in school zones; to provide for  
9 definitions; to provide for the operation of automated traffic enforcement safety devices by  
10 agents or registered or certified peace officers; to provide for automated traffic enforcement  
11 safety device testing exceptions and procedures; to provide for automated traffic enforcement  
12 safety device use warning signs; to provide for further exceptions for when case may be  
13 made and conviction had for exceeding posted speed limit by less than ten miles per hour;  
14 to provide for an exception for the ratio of speeding fines to an agency budget; to provide for  
15 civil enforcement of violations recorded by automated traffic enforcement safety devices; to  
16 provide for enforcement penalties through the Department of Revenue; to provide for rules,  
17 regulations, and terms of use for automated traffic enforcement safety devices; to provide for  
18 related matters; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **SECTION 1.**

21 Article 8 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to  
22 school buses, is amended by revising Code Section 40-6-163, relating to duty of driver of  
23 vehicle meeting or overtaking school bus, reporting of violations, and enforcement, as  
24 follows:

25 "40-6-163.

26 (a) Except as provided in subsection (b) of this Code section, the driver of a vehicle  
27 meeting or overtaking from either direction any school bus stopped on the highway shall  
28 stop before reaching such school bus when there are in operation on the school bus the  
29 visual signals as specified in Code Sections 40-8-111 and 40-8-115, and such driver shall  
30 not proceed until the school bus resumes motion or the visual signals are no longer  
31 actuated.

32 (b) The driver of a vehicle upon a highway with separate roadways or a divided highway  
33 need not stop upon meeting or passing a school bus which is on a different roadway or on  
34 another half of a divided highway, or upon a controlled-access highway when the school  
35 bus is stopped in a loading zone which is a part of or adjacent to such highway and where  
36 pedestrians are not permitted to cross the roadway.

37 (c) Every school bus driver who observes a violation of subsection (a) of this Code section  
38 is authorized and directed to record specifically the vehicle description, license number of  
39 the offending vehicle, and time and place of occurrence on forms furnished by the  
40 Department of Public Safety. Such report shall be submitted within 15 days of the  
41 occurrence of the violation to the local law enforcement agency which has law enforcement  
42 jurisdiction where the alleged offense occurred.

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

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

46 (i) Provides services to such law enforcement agency or governing body;  
47 (ii) Operates, maintains, leases, or licenses a video recording device; or  
48 (iii) Is authorized by such law enforcement agency or governing body to review and  
49 assemble the recorded images.

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

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

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

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

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

63           (A) The driver of a motor vehicle shall be liable for a civil monetary penalty to the  
64 governing body of the law enforcement agency provided for in subparagraph (d)(3)(B)  
65 of this Code Section if such vehicle is found, as evidenced by recorded images, to have  
66 been operated in disregard or disobedience of subsection (a) of this Code section and  
67 such disregard or disobedience was not otherwise authorized by law. The amount of  
68 such fine shall be ~~\$300.00 for a first offense, \$750.00 for a second offense, and~~  
69 ~~\$1,000.00 for each subsequent offense in a five-year period~~ \$200.00;

70           (B) The law enforcement agency authorized to enforce the provisions of this Code  
71 section shall send by ~~regular~~ first class mail addressed to the owner of the motor vehicle  
72 postmarked not later than ten days after the date of the alleged violation obtaining the  
73 name and address of the owner of the motor vehicle:

74              (i) A citation for the alleged violation, which shall include the date and time of the  
75 violation, the location of the infraction, the amount of the civil monetary penalty  
76 imposed, and the date by which the civil monetary penalty shall be paid;

77              (ii) An image taken from the recorded image showing the vehicle involved in the  
78 infraction;

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

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

86              (v) Information advising the owner of the motor vehicle of the manner and time in  
87 which liability as alleged in the citation may be contested in court; and

88              (vi) A warning that failure to pay the civil monetary penalty or to contest liability in  
89 a timely manner shall waive any right to contest liability and result in a civil monetary  
90 penalty;

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

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

- 105       (i) Testifies under oath in open court or submits to the court a sworn notarized  
106      statement that he or she was not the operator of the vehicle at the time of the alleged  
107      violation and identifies the name of the operator of the vehicle at the time of the  
108      alleged violation; or  
109       (ii) Presents to the court a certified copy of a police report showing that the vehicle  
110      had been reported to the police as stolen prior to the time of the alleged violation.

111       (4) A violation for which a civil penalty is imposed pursuant to this subsection shall not  
112      be considered a moving traffic violation for the purpose of points assessment under Code  
113      Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil  
114      penalty pursuant to this subsection shall not be deemed a conviction and shall not be  
115      made a part of the operating record of the person upon whom such liability is imposed,  
116      nor shall it be used for any insurance purposes in the provision of motor vehicle insurance  
117      coverage.

118       (5) If a person summoned by ~~regular first class mail~~ contests the citation through an  
119      administrative hearing and fails to appear on the date of return such hearing set out in the  
120      ~~citation~~ and has not paid the penalty for the violation or filed a police report or notarized  
121      statement pursuant to subparagraph (D) of paragraph (3) of this subsection, the person  
122      shall then be summoned a second time by ~~certified mail with a return receipt~~  
123      first class mail with a return receipt requested. The second summons shall include all information required in subparagraph  
124      (B) of paragraph (3) of this subsection for the initial summons and shall include a new  
125      date of return. If a person summoned by ~~certified mail a second summons~~ again fails to  
126      appear on the date of return set out in the second citation and has failed to pay the penalty  
127      or file an appropriate document for rebuttal, the person summoned shall have waived the  
128      right to contest the violation and shall be liable for the civil monetary penalty provided  
129      in paragraph (3) of this subsection.

130       (6) Any court having jurisdiction over violations of subsection (a) of this Code section  
131      shall have jurisdiction over cases arising under this subsection and shall be authorized to  
132      impose the civil monetary penalty provided by this subsection. Except as otherwise  
133      provided in this subsection, the provisions of law governing jurisdiction, procedure,  
134      defenses, adjudication, appeal, and payment and distribution of penalties otherwise

applicable to violations of subsection (a) of this Code section shall apply to enforcement under this subsection except as provided in subparagraph (A) of paragraph (3) of this subsection; provided, however, that any appeal from superior or state court shall be by application in the same manner as that provided by Code Section 5-6-35.

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

(8) The agent or governing body shall send a referral to the Department of Revenue not sooner than 30 days after the final notice required under paragraph (8) of this subsection was mailed if a violation of an ordinance or resolution adopted under this article has not been contested and the assessed penalty has not been paid. The referral to the Department of Revenue shall include the following:

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

(B) The date on which the violation occurred;

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

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

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

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

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

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

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

(10) The Department of Revenue shall remove the penalties on a vehicle if any person presents the Department of Revenue with adequate proof that the penalty and any late fee, if applicable, has been paid.

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

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

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

(10)(14) Any school bus driver operating a vehicle equipped with an activated video recording device shall be exempt from the recording provisions of subsection (c) of Code Section 40-6-163.

(15) The money collected and remitted to the governing body pursuant to subparagraph (d)(3)(B) of this Code section shall only be used by such governing body to fund local law enforcement or public safety initiatives. This paragraph shall not preclude the appropriation of a greater amount than collected and remitted under this subsection."

## SECTION 2.

Article 2 of Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to speed detection devices, is amended by adding two new Code sections to read as follows:

"40-14-1.1.

As used in this article, the term:

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

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

(B) Operates, maintains, leases, or licenses an automated traffic enforcement safety device; or

(C) Is authorized by such law enforcement agency or governing body to review and assemble the recorded images captured by the automated traffic enforcement safety device for review by a peace officer.

(2) 'Automated traffic enforcement safety device' means a speed detection device that:

- (A) Is capable of producing photographically recorded still or video images, or both, of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another vehicle, including an image of such vehicle's rear license plate;
- (B) Is capable of monitoring the speed of a vehicle as photographically recorded pursuant to subparagraph (A) of this paragraph; and
- (C) Indicates on each photographically recorded still or video image produced the date, time, location, and speed of a photographically recorded vehicle traveling at a speed above the posted speed limit within a marked school zone.

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

(4) 'Recorded images' means still or video images recorded by an automated traffic enforcement safety device.

(5) 'School zone' means the area within 1,000 feet of the boundary of any public or private elementary or secondary school.

40-14-1.2.

Nothing in this article shall be construed to mean that an agent is providing or participating in private investigative services or acting in such manner as would render such agent subject to the provisions of Article 4 of Chapter 18 of Title 50."

### SECTION 3.

Said article is further amended by revising subsection (c) of Code Section 40-14-2, relating to permit required for use of speed detection devices, use not authorized where officers paid on fee system, and operation by registered or certified peace officers, as follows:

"(c) A permit shall not be issued by the Department of Public Safety to an applicant under this Code section unless the applicant provides law enforcement services by certified peace officers 24 hours a day, seven days a week on call or on duty or allows only peace officers employed full time by the applicant to operate speed detection devices. Speed detection devices can only be operated by registered or certified peace officers of the county sheriff, county, municipality, college, or university to which the permit is applicable; provided, however, that an automated traffic enforcement safety device may be operated by an agent or registered or certified peace officers of the county sheriff, county, or municipality to which the permit is applicable. Persons operating the speed detection devices must be registered or certified by the Georgia Peace Officer Standards and Training Council as

242 peace officers and certified by the Georgia Peace Officer Standards and Training Council  
243 as operators of speed detection devices; provided, however, that agents may operate  
244 automated traffic enforcement safety devices without such registrations or certifications."

245 **SECTION 4.**

246 Said article is further amended by revising Code Section 40-14-5, relating to testing and  
247 removal of inaccurate radar devices from service, as follows:

248 "40-14-5.

249 (a) Each state, county, municipal, or campus law enforcement officer using a radar device,  
250 except for an automated traffic enforcement safety device as provided for under Code  
251 Section 40-14-18, shall test the device for accuracy and record and maintain the results of  
252 the test at the beginning and end of each duty tour. Each such test shall be made in  
253 accordance with the manufacturer's recommended procedure. Any radar unit not meeting  
254 the manufacturer's minimum accuracy requirements shall be removed from service and  
255 thereafter shall not be used by the state, county, municipal, or campus law enforcement  
256 agency until it has been serviced, calibrated, and recertified by a technician with the  
257 qualifications specified in Code Section 40-14-4.

258 (b) Each county, municipal, or campus law enforcement officer using a radar device,  
259 except for an automated traffic enforcement safety device as provided for under Code  
260 Section 40-14-18, shall notify each person against whom the officer intends to make a case  
261 based on the use of the radar device that the person has a right to request the officer to test  
262 the radar device for accuracy. The notice shall be given prior to the time a citation and  
263 complaint or ticket is issued against the person and, if requested to make a test, the officer  
264 shall test the radar device for accuracy. In the event the radar device does not meet the  
265 minimum accuracy requirements, the citation and complaint or ticket shall not be issued  
266 against the person, and the radar device shall be removed from service and thereafter shall  
267 not be used by the county, municipal, or campus law enforcement agency until it has been  
268 serviced, calibrated, and recertified by a technician with the qualifications specified in  
269 Code Section 40-14-4.

270 (c)(1) The law enforcement agency, or agent on behalf of the law enforcement agency,  
271 operating an automated traffic enforcement safety device provided for under Code  
272 Section 40-14-18 shall maintain a log for the automated traffic enforcement safety device  
273 attesting to the performance of such device's self-test at least once every 30 days and the  
274 results of such self-test pertaining to the accuracy of the automated traffic enforcement  
275 safety device. Such log shall be admissible in any court proceeding for a violation issued  
276 pursuant to Code Section 40-14-18.

(2) The law enforcement agency, or agent on behalf of the law enforcement agency, operating an automated traffic enforcement safety device shall perform an independent calibration test on the automated traffic enforcement safety device at least once every 12 months. The results of such calibration test shall be admissible in any court proceeding for a violation issued pursuant to Code Section 40-14-18."

## SECTION 5.

Said article is further amended by adding a new subsection to Code Section 40-14-6, relating to the requirement for warning signs, to read as follows:

"(c) In addition to the signs required under subsections (a) and (b) of this Code section, each law enforcement agency using an automated traffic enforcement safety device as provided for in Code Section 40-14-18 shall erect signs warning of the use of a stationary speed detection device within the approaching school zone. Such signs shall be at least 24 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable in all traffic conditions, and shall not be placed in such a manner that the view of such sign is subject to being obstructed by any other vehicle on such highway. Such signs shall be placed within 500 feet prior to the warning sign announcing the reduction of the speed limit for the school speed zone. There shall be a rebuttable presumption that such signs are properly installed pursuant to this subsection at the time of any alleged violation under this article."

## SECTION 6.

Said article is further amended by revising Code Section 40-14-7, relating to the visibility of a vehicle from which a speed detection device is operated, as follows:

"40-14-7.

**No** Except as provided for in Code Section 40-14-18, no stationary speed detection device shall be employed by county, municipal, college, or university law enforcement officers where the vehicle from which the device is operated is obstructed from the view of approaching motorists or is otherwise not visible for a distance of at least 500 feet."

SECTION 7.

Said article is further amended by revising subsection (b) of Code Section 40-14-8, relating to when case may be made and conviction had, as follows:

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

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

317 **SECTION 8.**

318 Said article is further amended by revising subsection (d) of Code Section 40-14-11, relating  
319 to investigations by the commissioner of public safety, issuance of order suspending or  
320 revoking a permit, and ratio of speeding fines to agency's budget, as follows:

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

331 **SECTION 9.**

332 Said article is further amended by adding a new Code section to read as follows:

333 "40-14-18.

334 (a) The speed limit within any school zone as provided for in Code Section 40-14-8 and  
335 marked pursuant to Code Section 40-14-6 may be enforced by using photographically  
336 recorded images for violations which occurred during the time periods relative to normal  
337 hours of school operation and programs for care and supervision of students as provided  
338 for in Code Section 40-14-8 when such violations are in excess of ten miles per hour over  
339 the speed limit.

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

341 (1) The driver of a motor vehicle shall be liable for a civil monetary penalty to the  
342 governing body of the law enforcement agency provided for in paragraph (2) of this  
343 subsection if such vehicle is found, as evidenced by photographically recorded images,  
344 to have been operated in disregard or disobedience of the speed limit within any school  
345 zone and such disregard or disobedience was not otherwise authorized by law. The

346 amount of such civil monetary penalty shall be \$125.00, in addition to fees associated  
347 with the electronic processing of such civil monetary penalty which shall not exceed  
348 \$25.00; provided, however, that for a period of 30 days after the first automated traffic  
349 enforcement safety device is introduced by a law enforcement agency within a school  
350 zone, the driver of a motor vehicle shall not be liable for a civil monetary penalty but  
351 shall be issued a civil warning for disregard or disobedience of the speed limit within the  
352 school zone;

353 (2) A law enforcement agency authorized to enforce the speed limit of a school zone  
354 shall send by first class mail addressed to the owner of the motor vehicle within 30 days  
355 after obtaining the name and address of the owner of the motor vehicle but no later than  
356 60 days after the date of the alleged violation:

357 (A) A citation for the alleged violation, which shall include the date and time of the  
358 violation, the location of the infraction, the maximum speed at which such motor  
359 vehicle was traveling in photographically recorded images, the maximum speed  
360 applicable within such school zone, the civil warning or the amount of the civil  
361 monetary penalty imposed, and the date by which a civil monetary penalty shall be  
362 paid;

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

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

368 (D) A copy of a certificate sworn to or affirmed by a certified peace officer employed  
369 by a law enforcement agency authorized to enforce the speed limit of the school zone  
370 and stating that, based upon inspection of photographically recorded images, the  
371 owner's motor vehicle was operated in disregard or disobedience of the speed limit in  
372 the marked school zone and that such disregard or disobedience was not otherwise  
373 authorized by law;

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

376 (F) Information advising the owner of the motor vehicle of the manner in which  
377 liability as alleged in the citation may be contested through an administrative hearing;  
378 and

379 (G) A warning that failure to pay the civil monetary penalty or to contest liability in  
380 a timely manner as provided for in subsection (d) of this Code section shall waive any  
381 right to contest liability;

382       (3) Proof that a motor vehicle was operated in disregard or disobedience of the speed  
383       limit of the marked school zone shall be evidenced by photographically recorded images.  
384       A copy of a certificate sworn to or affirmed by a certified peace officer employed by a  
385       law enforcement agency and stating that, based upon inspection of photographically  
386       recorded images, a motor vehicle was operated in disregard or disobedience of the speed  
387       limit in the marked school zone and that such disregard or disobedience was not  
388       otherwise authorized by law shall be prima-facie evidence of the facts contained therein;  
389       and

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

397           (A) Testifies under oath in open court or submits to the court a sworn notarized  
398           statement that he or she was not the operator of the vehicle at the time of the alleged  
399           violation and identifies the name of the operator of the vehicle at the time of the alleged  
400           violation; or

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

403       (c) A violation for which a civil warning or a civil monetary penalty is imposed pursuant  
404       to this Code section shall not be considered a moving traffic violation for the purpose of  
405       points assessment under Code Section 40-5-57. Such violation shall be deemed  
406       noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this  
407       Code section shall not be deemed a conviction and shall not be made a part of the operating  
408       record of the person upon whom such liability is imposed, nor shall it be used for any  
409       insurance purposes in the provision of motor vehicle insurance coverage.

410       (d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section  
411       fails to pay the civil monetary penalty for the violation or has not filed a police report or  
412       notarized statement pursuant to paragraph (4) of subsection (b) of this Code section in no  
413       less than 30 nor more than 60 days after such mailing as determined and noticed by the law  
414       enforcement agency, the agent or law enforcement agency shall send to such person by first  
415       class mail a second notice of any unpaid civil monetary penalty, except in cases where  
416       there is an adjudication that no violation occurred or there is otherwise a lawful  
417       determination that no civil monetary penalty shall be imposed. The second notice shall  
418       include all information required in paragraph (2) of subsection (b) of this Code section and

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

427 (e) Notices mailed by first class mail pursuant to this Code section shall be adequate  
428 notification of the fees and penalties imposed by this Code section. No other notice shall  
429 be required for the purposes of this Code section.

430 (f)(1) Any court having jurisdiction over violations of subsection (a) of this Code section  
431 shall have jurisdiction over cases arising under this subsection and shall be authorized to  
432 impose the civil monetary penalty provided by this subsection. Except as otherwise  
433 provided in this subsection, the provisions of law governing jurisdiction, procedure,  
434 defenses, adjudication, appeal, and payment and distribution of penalties otherwise  
435 applicable to violations of subsection (a) of this Code section shall apply to enforcement  
436 under this Code section except as provided in subsection (b) of this Code section;  
437 provided, however, that any appeal from superior or state court shall be by application  
438 in the same manner as that provided by Code Section 5-6-35.

439 (g) If a violation has not been contested and the assessed penalty has not been paid, the  
440 agent or governing body shall send to the person who is the registered owner of the motor  
441 vehicle a final notice of any unpaid civil monetary penalty authorized by this Code section,  
442 except in cases where there is an adjudication that no violation occurred or there is  
443 otherwise a lawful determination that no civil monetary penalty shall be imposed. The  
444 notice shall inform the registered owner that the agent or governing body shall send a  
445 referral to the Department of Revenue if the assessed penalty is not paid within 30 days  
446 after the final notice was mailed and such that such referral shall result in the nonrenewal  
447 of the registration of such motor vehicle and shall prohibit the title transfer of such motor  
448 vehicle within this state.

449 (h) The agent or governing body shall send a referral to the Department of Revenue not  
450 sooner than 30 days after the final notice required under subsection (g) was mailed if a  
451 violation of an ordinance or resolution adopted under this article has not been contested and  
452 the assessed penalty has not been paid. The referral to the Department of Revenue shall  
453 include the following:

454       (1) Any information known or available to the agent or governing body concerning the  
455       license plate number, year of registration, and the name of the owner of the motor  
456       vehicle;  
457       (2) The date on which the violation occurred;  
458       (3) The date when the notice required under this Code section was mailed; and  
459       (4) The seal, logo, emblem, or electronic seal of the governing body.  
460       (i) If the Department of Revenue receives a referral under subsection (h) of this Code  
461       section, such referral shall be entered into the motor vehicle database within five days of  
462       receipt and the Department of Revenue shall refuse to renew the registration of the motor  
463       vehicle and shall prohibit the title transfer of such vehicle within this state unless and until  
464       the civil monetary penalty plus any late fee is paid to the governing body. The Department  
465       of Revenue shall mail a notice to the registered owner:  
466           (1) That the registration of the vehicle involved in the violation will not be permitted to  
467       be renewed;  
468           (2) That the title of the vehicle involved in the violation will not be permitted to be  
469       transferred in this state;  
470           (3) That the aforementioned penalties are being imposed due to the failure to pay the  
471       civil monetary penalty and any late fee for an ordinance violation adopted under the  
472       authority of this Code section; and  
473           (4) Of the procedure that the person may follow to remove the penalties.  
474       (j) The Department of Revenue shall remove the penalties on a vehicle if any person  
475       presents the Department of Revenue with adequate proof that the penalty and any late fee,  
476       if applicable, has been paid.  
477       (k) Recorded images made for purposes of this Code section shall not be a public record  
478       for purposes of Article 4 of Chapter 18 of Title 50.  
479       (l) A civil warning or civil monetary penalty under this Code section on the owner of a  
480       motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued a  
481       citation and notice to appear by a certified peace officer for the same violation.  
482       (m) The money collected and remitted to the governing body pursuant to paragraph (1) of  
483       subsection (b) of this Code section shall only be used by such governing body to fund local  
484       law enforcement or public safety initiatives. This subsection shall not preclude the  
485       appropriation of a greater amount than collected and remitted under this subsection."

486

## SECTION 10.

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