

House Bill 978

By: Representatives Nimmer of the 178th, Coomer of the 14th, Carpenter of the 4th, Corbett of the 174th, Rhodes of the 120th, and others

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~~ \$250.00;

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 mail fails to appear on the date of return set out in~~
 119 ~~the citation and has not paid the penalty for the violation or filed a police report or~~
 120 ~~notarized statement pursuant to subparagraph (D) of paragraph (3) of this subsection, the~~
 121 ~~person shall then be summoned a second time by certified mail with a return receipt~~
 122 ~~requested. The second summons shall include all information required in subparagraph~~
 123 ~~(B) of paragraph (3) of this subsection for the initial summons and shall include a new~~
 124 ~~date of return. If a person summoned by certified mail again fails to appear on the date~~
 125 ~~of return set out in the second citation and has failed to pay the penalty or file an~~
 126 ~~appropriate document for rebuttal, the person summoned shall have waived the right to~~
 127 ~~contest the violation and shall be liable for the civil monetary penalty provided in~~
 128 ~~paragraph (3) of this subsection. If a person is mailed a citation by first class mail~~
 129 ~~pursuant to subparagraph (B) of paragraph (3) of this subsection, such person may pay~~
 130 ~~the penalty or request a court date. Any citation executed pursuant to this paragraph shall~~
 131 ~~provide to the person issued the citation at least 30 business days from the mailing of the~~
 132 ~~citation to inspect information collected by the video recording device in connection with~~
 133 ~~the violation. If the person requesting a court date fails to appear on the date and time of~~
 134 ~~such hearing or if a person has not paid the penalty for the violation or filed a police~~

135 report or notarized statement pursuant to subparagraph (D) of paragraph (3) of this
136 subsection, such person shall then be sent a second citation by first class mail. The
137 second citation shall include all information required in subparagraph (B) of paragraph
138 (3) of this subsection for the initial citation and shall include a hearing date and time. If
139 a person fails to appear on the date and time of such hearing set out in the second citation
140 or if the person has failed to pay the penalty or file an appropriate document for rebuttal,
141 the person issued the second citation shall have waived the right to contest the violation
142 and shall be liable for the civil monetary penalty provided in paragraph (3) of this
143 subsection.

144 (6) Any court having jurisdiction over violations of subsection (a) of this Code section
145 shall have jurisdiction over cases arising under this subsection ~~and shall be authorized to~~
146 ~~impose the civil monetary penalty provided by this subsection.~~ Any person receiving a
147 notice pursuant to subparagraph (B) of this paragraph shall have the right to contest such
148 liability for the civil monetary penalty in the magistrate court or other court of competent
149 jurisdiction for a traffic violation. Except as otherwise provided in this subsection, the
150 provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and
151 payment and distribution of penalties otherwise applicable to violations of subsection (a)
152 of this Code section shall apply to enforcement under this subsection except as provided
153 in subparagraph (A) of paragraph (3) of this subsection; provided, however, that any
154 appeal from superior or state court shall be by application in the same manner as that
155 provided by Code Section 5-6-35.

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

166 (8) The agent or governing body shall send a referral to the Department of Revenue not
167 sooner than 30 days after the final notice required under paragraph (7) of this subsection
168 was mailed if a violation of an ordinance or resolution adopted under this article has not
169 been contested and the assessed penalty has not been paid. The referral to the
170 Department of Revenue shall include the following:

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

174 (B) The date on which the violation occurred;

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

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

177 (9) If the Department of Revenue receives a referral under paragraph (8) of this
 178 subsection, such referral shall be entered into the motor vehicle database within five days
 179 of receipt and the Department of Revenue shall refuse to renew the registration of such
 180 motor vehicle and shall prohibit the title transfer of such vehicle within this state unless
 181 and until the civil monetary penalty plus any late fee is paid to the governing body. The
 182 Department of Revenue shall mail a notice to the registered owner of such motor vehicle
 183 that informs such owner:

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

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

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

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

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

195 ~~(7)~~(11) Recorded images made for purposes of this subsection shall not be a public
 196 record for purposes of Article 4 of Chapter 18 of Title 50.

197 ~~(8)~~(12) A governing authority shall not impose a civil penalty under this subsection on
 198 the owner of a motor vehicle if the operator of the vehicle was arrested or issued a
 199 citation and notice to appear by a certified peace officer for the same violation.

200 ~~(9)~~(13) A local school system may enter into an intergovernmental agreement with a
 201 local governing authority to offset expenses regarding the implementation and ongoing
 202 operation of video recording devices serving the purpose of capturing recorded images
 203 of motor vehicles unlawfully passing a school bus.

204 ~~(10)~~(14) Any school bus driver operating a vehicle equipped with an activated video
 205 recording device shall be exempt from the recording provisions of subsection (c) of Code
 206 Section 40-6-163.

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

211 **SECTION 2.**

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

214 "40-14-1.1.

215 As used in this article, the term:

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

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

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

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

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

225 (A) Is capable of producing photographically recorded still or video images, or both,
 226 of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another
 227 vehicle, including an image of such vehicle's rear license plate;

228 (B) Is capable of monitoring the speed of a vehicle as photographically recorded
 229 pursuant to subparagraph (A) of this paragraph; and

230 (C) Indicates on each photographically recorded still or video image produced the date,
 231 time, location, and speed of a photographically recorded vehicle traveling at a speed
 232 above the posted speed limit within a marked school zone.

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

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

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

241 40-14-1.2.
 242 Nothing in this article shall be construed to mean that an agent is providing or participating
 243 in private investigative services or acting in such manner as would render such agent
 244 subject to the provisions of Article 4 of Chapter 18 of Title 50."

245 **SECTION 3.**

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

249 "(c) A permit shall not be issued by the Department of Public Safety to an applicant under
 250 this Code section unless the applicant provides law enforcement services by certified peace
 251 officers 24 hours a day, seven days a week on call or on duty or allows only peace officers
 252 employed full time by the applicant to operate speed detection devices. Speed detection
 253 devices can only be operated by registered or certified peace officers of the county sheriff,
 254 county, municipality, college, or university to which the permit is applicable; provided,
 255 however, that an automated traffic enforcement safety device may be operated by an agent
 256 or registered or certified peace officers of the county sheriff, county, or municipality to
 257 which the permit is applicable. Persons operating the speed detection devices must be
 258 registered or certified by the Georgia Peace Officer Standards and Training Council as
 259 peace officers and certified by the Georgia Peace Officer Standards and Training Council
 260 as operators of speed detection devices; provided, however, that agents may operate
 261 automated traffic enforcement safety devices without such registrations or certifications."

262 **SECTION 4.**

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

265 "40-14-5.

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

275 (b) Each county, municipal, or campus law enforcement officer using a radar device,
 276 except for an automated traffic enforcement safety device as provided for under Code
 277 Section 40-14-18, shall notify each person against whom the officer intends to make a case
 278 based on the use of the radar device that the person has a right to request the officer to test
 279 the radar device for accuracy. The notice shall be given prior to the time a citation and
 280 complaint or ticket is issued against the person and, if requested to make a test, the officer
 281 shall test the radar device for accuracy. In the event the radar device does not meet the
 282 minimum accuracy requirements, the citation and complaint or ticket shall not be issued
 283 against the person, and the radar device shall be removed from service and thereafter shall
 284 not be used by the county, municipal, or campus law enforcement agency until it has been
 285 serviced, calibrated, and recertified by a technician with the qualifications specified in
 286 Code Section 40-14-4.

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

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

299 **SECTION 5.**

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

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

311 properly installed pursuant to this subsection at the time of any alleged violation under this
 312 article."

313 **SECTION 6.**

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

316 "40-14-7.

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

321 **SECTION 7.**

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

324 "(b) The limitations contained in subsection (a) of this Code section shall not apply in
 325 properly marked school zones one hour before, during, and one hour after the normal hours
 326 of school operation or programs for care and supervision of students before school, after
 327 school, or during vacation periods as provided for under Code Section 20-2-65, in properly
 328 marked historic districts, and in properly marked residential zones. For purposes of this
 329 chapter, thoroughfares with speed limits of 35 miles per hour or more shall not be
 330 considered residential districts. For purposes of this Code section, the term 'historic
 331 district' means a historic district as defined in paragraph (5) of Code Section 44-10-22 and
 332 which is listed on the Georgia Register of Historic Places or as defined by ordinance
 333 adopted pursuant to a local constitutional amendment."

334 **SECTION 8.**

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

338 "(d) There shall be a rebuttable presumption that a law enforcement agency is employing
 339 speed detection devices for purposes other than the promotion of the public health, welfare,
 340 and safety if the fines levied based on the use of speed detection devices for speeding
 341 offenses are equal to or greater than 35 percent of a municipal or county law enforcement
 342 agency's budget. For purposes of this Code section, fines collected for citations issued for
 343 violations of Code Section 40-6-180 shall be included when calculating total speeding fine
 344 revenue for the agency; provided, however, that fines for speeding violations exceeding 20

345 miles per hour over the established speed limit and civil monetary penalties for speeding
 346 violations issued pursuant to Code Section 40-14-18 shall not be considered when
 347 calculating total speeding fine revenue for the agency."

348 **SECTION 9.**

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

350 "40-14-18.

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

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

358 (1) The driver of a motor vehicle shall be liable for a civil monetary penalty to the
 359 governing body of the law enforcement agency provided for in paragraph (2) of this
 360 subsection if such vehicle is found, as evidenced by photographically recorded images,
 361 to have been operated in disregard or disobedience of the speed limit within any school
 362 zone and such disregard or disobedience was not otherwise authorized by law. The
 363 amount of such civil monetary penalty shall be \$125.00, in addition to fees associated
 364 with the electronic processing of such civil monetary penalty which shall not exceed
 365 \$25.00; provided, however, that for a period of 30 days after the first automated traffic
 366 enforcement safety device is introduced by a law enforcement agency within a school
 367 zone, the driver of a motor vehicle shall not be liable for a civil monetary penalty but
 368 shall be issued a civil warning for disregard or disobedience of the speed limit within the
 369 school zone;

370 (2) A law enforcement agency authorized to enforce the speed limit of a school zone, or
 371 an agent working on behalf of a law enforcement agency or governing body, shall send
 372 by first class mail addressed to the owner of the motor vehicle within 30 days after
 373 obtaining the name and address of the owner of the motor vehicle but no later than 60
 374 days after the date of the alleged violation:

375 (A) A citation for the alleged violation, which shall include the date and time of the
 376 violation, the location of the infraction, the maximum speed at which such motor
 377 vehicle was traveling in photographically recorded images, the maximum speed
 378 applicable within such school zone, the civil warning or the amount of the civil
 379 monetary penalty imposed, and the date by which a civil monetary penalty shall be
 380 paid;

- 381 (B) An image taken from the photographically recorded images showing the vehicle
382 involved in the infraction;
- 383 (C) A website address where photographically recorded images showing the vehicle
384 involved in the infraction and a duplicate of the information provided for in this
385 paragraph may be viewed;
- 386 (D) A copy of a certificate sworn to or affirmed by a certified peace officer employed
387 by a law enforcement agency authorized to enforce the speed limit of the school zone
388 and stating that, based upon inspection of photographically recorded images, the
389 owner's motor vehicle was operated in disregard or disobedience of the speed limit in
390 the marked school zone and that such disregard or disobedience was not otherwise
391 authorized by law;
- 392 (E) A statement of the inference provided by paragraph (4) of this subsection and of
393 the means specified therein by which such inference may be rebutted;
- 394 (F) Information advising the owner of the motor vehicle of the manner in which
395 liability as alleged in the citation may be contested through an administrative hearing;
396 and
- 397 (G) A warning that failure to pay the civil monetary penalty or to contest liability in
398 a timely manner as provided for in subsection (d) of this Code section shall waive any
399 right to contest liability;
- 400 (3) Proof that a motor vehicle was operated in disregard or disobedience of the speed
401 limit of the marked school zone shall be evidenced by photographically recorded images.
402 A copy of a certificate sworn to or affirmed by a certified peace officer employed by a
403 law enforcement agency and stating that, based upon inspection of photographically
404 recorded images, a motor vehicle was operated in disregard or disobedience of the speed
405 limit in the marked school zone and that such disregard or disobedience was not
406 otherwise authorized by law shall be prima-facie evidence of the facts contained therein;
407 and
- 408 (4) Liability under this Code section shall be determined based upon a preponderance of
409 the evidence. Prima-facie evidence that the vehicle described in the citation issued
410 pursuant to this Code section was operated in violation of the speed limit of the school
411 zone, together with proof that the defendant was, at the time of such violation, the
412 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
413 such owner of the vehicle was the driver of the vehicle at the time of the alleged
414 violation. Such an inference may be rebutted if the owner of the vehicle:
- 415 (A) Testifies under oath in open court or submits to the court a sworn notarized
416 statement that he or she was not the operator of the vehicle at the time of the alleged

417 violation and identifies the name of the operator of the vehicle at the time of the alleged
418 violation; or

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

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

428 (d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section
429 fails to pay the civil monetary penalty for the violation or has not filed a police report or
430 notarized statement pursuant to paragraph (4) of subsection (b) of this Code section in no
431 less than 30 nor more than 60 days after such mailing as determined and noticed by the law
432 enforcement agency, the agent or law enforcement agency shall send to such person by first
433 class mail a second notice of any unpaid civil monetary penalty, except in cases where
434 there is an adjudication that no violation occurred or there is otherwise a lawful
435 determination that no civil monetary penalty shall be imposed. The second notice shall
436 include all information required in paragraph (2) of subsection (b) of this Code section and
437 shall include a new date of return which shall be no less than 30 days after such mailing as
438 determined and noticed by the law enforcement agency. If such person notified by second
439 notice again fails to pay the civil monetary penalty or file a police report or notarized
440 statement pursuant to paragraph (4) of subsection (b) of this Code section by the new date
441 of return, such person shall have waived the right to contest the violation and shall be liable
442 for the civil monetary penalty provided for under this Code section, except in cases where
443 there is an adjudication that no violation occurred or there is otherwise a lawful
444 determination that no civil monetary penalty shall be imposed.

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

448 (f)(1) Any court having jurisdiction over violations of subsection (a) of this Code section
449 shall have jurisdiction over cases arising under this subsection and shall be authorized to
450 impose the civil monetary penalty provided by this subsection. Except as otherwise
451 provided in this subsection, the provisions of law governing jurisdiction, procedure,
452 defenses, adjudication, appeal, and payment and distribution of penalties otherwise
453 applicable to violations of subsection (a) of this Code section shall apply to enforcement

454 under this Code section except as provided in subsection (b) of this Code section;
 455 provided, however, that any appeal from superior or state court shall be by application
 456 in the same manner as that provided by Code Section 5-6-35.

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

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

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

475 (2) The date on which the violation occurred;

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

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

478 (i) If the Department of Revenue receives a referral under subsection (h) of this Code
 479 section, such referral shall be entered into the motor vehicle database within five days of
 480 receipt and the Department of Revenue shall refuse to renew the registration of the motor
 481 vehicle and shall prohibit the title transfer of such vehicle within this state unless and until
 482 the civil monetary penalty plus any late fee is paid to the governing body. The Department
 483 of Revenue shall mail a notice to the registered owner:

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

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

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

- 491 (4) Of the procedure that the person may follow to remove the penalties.
492 (j) The Department of Revenue shall remove the penalties on a vehicle if any person
493 presents the Department of Revenue with adequate proof that the penalty and any late fee,
494 if applicable, has been paid.
495 (k) Recorded images made for purposes of this Code section shall not be a public record
496 for purposes of Article 4 of Chapter 18 of Title 50.
497 (l) A civil warning or civil monetary penalty under this Code section on the owner of a
498 motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued a
499 citation and notice to appear by a certified peace officer for the same violation.
500 (m) The money collected and remitted to the governing body pursuant to paragraph (1) of
501 subsection (b) of this Code section shall only be used by such governing body to fund local
502 law enforcement or public safety initiatives. This subsection shall not preclude the
503 appropriation of a greater amount than collected and remitted under this subsection."

504

SECTION 10.

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