

SENATE SUBSTITUTE TO HB 978:

AS PASSED

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:

SECTION 1.

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

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 including, but not limited to, a highway divided by a turn lane, need not stop upon meeting
 34 or passing a school bus which is on a different roadway or on another half of a divided
 35 highway, or upon a controlled-access highway when the school bus is stopped in a loading
 36 zone which is a part of or adjacent to such highway and where pedestrians are not
 37 permitted to cross the roadway.

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

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

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

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

48 (ii) Operates, maintains, leases, or licenses a video recording device; or

49 (iii) Is authorized by such law enforcement agency or governing body to review and
 50 assemble the recorded images.

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

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

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

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

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

64 (A) The ~~driver~~ owner of a motor vehicle shall be liable for a civil monetary penalty to
 65 the governing body of the law enforcement agency provided for in subparagraph
 66 (d)(3)(B) of this Code Section if such vehicle is found, as evidenced by recorded
 67 images, to have been operated in disregard or disobedience of subsection (a) of this
 68 Code section and such disregard or disobedience was not otherwise authorized by law.
 69 The amount of such ~~fine~~ civil monetary penalty shall be ~~\$300.00 for a first offense,~~
 70 ~~\$750.00 for a second offense, and \$1,000.00 for each subsequent offense in a five-year~~
 71 ~~period~~ \$250.00;

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

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

79 (ii) An image taken from the recorded image showing the vehicle involved in the
 80 infraction;

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

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

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

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

93 (C) Proof that a motor vehicle was operated in disregard or disobedience of subsection
 94 (a) of this Code section shall be evidenced by recorded images. A copy of a certificate
 95 sworn to or affirmed by a certified peace officer employed by a law enforcement
 96 agency and stating that, based upon inspection of recorded images, a motor vehicle was
 97 operated in disregard or disobedience of subsection (a) of this Code section and that

98 such disregard or disobedience was not otherwise authorized by law shall be
 99 prima-facie evidence of the facts contained therein; and

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

107 (i) Testifies under oath in open court or submits to the court a sworn notarized
 108 statement that he or she was not the operator of the vehicle at the time of the alleged
 109 violation and identifies the name of the operator of the vehicle at the time of the
 110 alleged violation; or

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

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

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

135 the violation. If the person requesting a court date fails to appear on the date and time of
136 such hearing or if a person has not paid the penalty for the violation or filed a police
137 report or notarized statement pursuant to subparagraph (D) of paragraph (3) of this
138 subsection, such person shall then be sent a second citation by first class mail. The
139 second citation shall include all information required in subparagraph (B) of paragraph
140 (3) of this subsection for the initial citation and shall include a hearing date and time. If
141 a person fails to appear on the date and time of such hearing set out in the second citation
142 or if the person has failed to pay the penalty or file an appropriate document for rebuttal,
143 the person issued the second citation shall have waived the right to contest the violation
144 and shall be liable for the civil monetary penalty provided in paragraph (3) of this
145 subsection.

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

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

168 (8) The agent or governing body shall send a referral to the Department of Revenue not
169 sooner than 30 days after the final notice required under paragraph (7) of this subsection
170 was mailed if a violation of an ordinance or resolution adopted under this article has not

171 been contested and the assessed penalty has not been paid. The referral to the
 172 Department of Revenue shall include the following:

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

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

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

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

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

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

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

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

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

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

197 ~~(7)~~(11) Recorded images made for purposes of this subsection shall not be a public
 198 record for purposes of Article 4 of Chapter 18 of Title 50.

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

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

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

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

213 **SECTION 2.**

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

216 "40-14-1.1.

217 As used in this article, the term:

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

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

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

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

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

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

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

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

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

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

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

243 40-14-1.2.

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

247 **SECTION 3.**

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

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

264 **SECTION 4.**

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

267 "40-14-5.

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

275 agency until it has been serviced, calibrated, and recertified by a technician with the
276 qualifications specified in Code Section 40-14-4.

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

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

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

301 **SECTION 5.**

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

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

311 placed within 500 feet prior to the warning sign announcing the reduction of the speed limit
 312 for the school speed zone. There shall be a rebuttable presumption that such signs are
 313 properly installed pursuant to this subsection at the time of any alleged violation under this
 314 article."

315 **SECTION 6.**

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

318 "40-14-7.

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

323 **SECTION 7.**

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

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

336 **SECTION 8.**

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

340 "(d) There shall be a rebuttable presumption that a law enforcement agency is employing
 341 speed detection devices for purposes other than the promotion of the public health, welfare,
 342 and safety if the fines levied based on the use of speed detection devices for speeding
 343 offenses are equal to or greater than 35 percent of a municipal or county law enforcement
 344 agency's budget. For purposes of this Code section, fines collected for citations issued for

345 violations of Code Section 40-6-180 shall be included when calculating total speeding fine
 346 revenue for the agency; provided, however, that fines for speeding violations exceeding 20
 347 miles per hour over the established speed limit and civil monetary penalties for speeding
 348 violations issued pursuant to Code Section 40-14-18 shall not be considered when
 349 calculating total speeding fine revenue for the agency."

350 SECTION 9.

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

352 "40-14-18.

353 (a)(1) The speed limit within any school zone as provided for in Code Section 40-14-8
 354 and marked pursuant to Code Section 40-14-6 may be enforced by using photographically
 355 recorded images for violations which occurred only on a school day during the time in
 356 which instructional classes are taking place and one hour before such classes are
 357 scheduled to begin and for one hour after such classes have concluded when such
 358 violations are in excess of ten miles per hour over the speed limit.

359 (2) Prior to the placement of a device within a school zone, each school within whose
 360 school zone such automated traffic enforcement safety device is to be placed shall first
 361 apply for and secure a permit from the Department of Transportation for the use of such
 362 automated traffic enforcement safety device. Such permit shall be awarded based upon
 363 need. The Department of Transportation shall promulgate rules and regulations for the
 364 implementation of this paragraph.

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

366 (1) The owner of a motor vehicle shall be liable for a civil monetary penalty to the
 367 governing body of the law enforcement agency provided for in paragraph (2) of this
 368 subsection if such vehicle is found, as evidenced by photographically recorded images,
 369 to have been operated in disregard or disobedience of the speed limit within any school
 370 zone and such disregard or disobedience was not otherwise authorized by law. The
 371 amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00
 372 for a second or any subsequent violation, in addition to fees associated with the electronic
 373 processing of such civil monetary penalty which shall not exceed \$25.00; provided,
 374 however, that for a period of 30 days after the first automated traffic enforcement safety
 375 device is introduced by a law enforcement agency within a school zone, the driver of a
 376 motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil
 377 warning for disregard or disobedience of the speed limit within the school zone;

378 (2) A law enforcement agency authorized to enforce the speed limit of a school zone, or
 379 an agent working on behalf of a law enforcement agency or governing body, shall send
 380 by first class mail addressed to the owner of the motor vehicle within 30 days after

381 obtaining the name and address of the owner of the motor vehicle but no later than 60
382 days after the date of the alleged violation:

383 (A) A citation for the alleged violation, which shall include the date and time of the
384 violation, the location of the infraction, the maximum speed at which such motor
385 vehicle was traveling in photographically recorded images, the maximum speed
386 applicable within such school zone, the civil warning or the amount of the civil
387 monetary penalty imposed, and the date by which a civil monetary penalty shall be
388 paid;

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

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

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

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

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

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

408 (3) Proof that a motor vehicle was operated in disregard or disobedience of the speed
409 limit of the marked school zone shall be evidenced by photographically recorded images.
410 A copy of a certificate sworn to or affirmed by a certified peace officer employed by a
411 law enforcement agency and stating that, based upon inspection of photographically
412 recorded images, a motor vehicle was operated in disregard or disobedience of the speed
413 limit in the marked school zone and that such disregard or disobedience was not
414 otherwise authorized by law shall be prima-facie evidence of the facts contained therein;
415 and

416 (4) Liability under this Code section shall be determined based upon a preponderance of
417 the evidence. Prima-facie evidence that the vehicle described in the citation issued

418 pursuant to this Code section was operated in violation of the speed limit of the school
419 zone, together with proof that the defendant was, at the time of such violation, the
420 registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that
421 such owner of the vehicle was the driver of the vehicle at the time of the alleged
422 violation. Such an inference may be rebutted if the owner of the vehicle:

423 (A) Testifies under oath in open court or submits to the court a sworn notarized
424 statement that he or she was not the operator of the vehicle at the time of the alleged
425 violation;

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

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

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

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

455 (f)(1) Any court having jurisdiction over violations of subsection (a) of this Code section
 456 shall have jurisdiction over cases arising under this subsection and shall be authorized to
 457 impose the civil monetary penalty provided by this subsection. Except as otherwise
 458 provided in this subsection, the provisions of law governing jurisdiction, procedure,
 459 defenses, adjudication, appeal, and payment and distribution of penalties otherwise
 460 applicable to violations of subsection (a) of this Code section shall apply to enforcement
 461 under this Code section except as provided in subsection (b) of this Code section;
 462 provided, however, that any appeal from superior or state court shall be by application
 463 in the same manner as that provided by Code Section 5-6-35.

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

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

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

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

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

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

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

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

511

SECTION 10.

512

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