

By: Representative Brown

To: Transportation;
Municipalities

HOUSE BILL NO. 1498

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF CERTAIN
2 MUNICIPALITIES TO CREATE AND OPERATE TRAFFIC-CONTROL SIGNAL
3 MONITORING SYSTEMS; TO PROVIDE FOR THE IMPOSITION OF CIVIL
4 PENALTIES FOR VIOLATIONS OF TRAFFIC-CONTROL SIGNALS MONITORED BY
5 SUCH SYSTEMS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. (1) The following words and phrases shall have
8 the meanings ascribed in this section unless the context clearly
9 indicates otherwise:

10 (a) "Agency" means a municipality with a population of
11 one hundred thousand (100,000) or more, according to the latest
12 federal decennial census.

13 (b) "Owner" means the registered owner of a motor
14 vehicle or a lessee of a motor vehicle under a lease of six (6)
15 months or more. "Owner" does not include a motor vehicle rental
16 or leasing company.

17 (c) "Recorded images" means images recorded by a
18 traffic-control signal monitoring system:

- 19 (i) On:
 - 20 1. Two (2) or more photographs;
 - 21 2. Two (2) or more microphotographs;
 - 22 3. Two (2) or more electronic images;
 - 23 4. Videotape; or
 - 24 5. Any other medium; and
- 25 (ii) Showing the rear of a motor vehicle and, on
26 at least one image or portion of tape, clearly identifying the
27 registration plate number of the motor vehicle.

28 (d) "Traffic-control signal monitoring system" means a
29 device with one or more motor vehicle sensors working in
30 conjunction with a traffic-control signal to produce recorded
31 images of motor vehicles entering an intersection against a red
32 signal indication.

33 (2) This section applies to a violation of Section
34 63-3-309(3) at intersections monitored by a traffic-control signal
35 monitoring system.

36 (3) (a) Unless the driver of the motor vehicle received a
37 citation from a police officer at the time of the violation, the
38 owner or, in accordance with subsection (6)(e) of this section,
39 the driver of a motor vehicle is subject to a civil penalty if the
40 motor vehicle is recorded by a traffic-control signal monitoring
41 system while being operated in violation of Section 63-3-309(3).

42 (b) A civil penalty under this subsection may not
43 exceed One Hundred Dollars (\$100.00).

44 (c) For purposes of this section, the State Auditor and
45 Attorney General shall prescribe a uniform citation form
46 consistent with the Uniform Traffic Ticket Law, provided under
47 Section 63-9-21.

48 (4) (a) Subject to the provisions of paragraphs (b) through
49 (d) of this subsection, an agency shall mail to the owner liable
50 under subsection (3) of this section a citation which shall
51 include:

52 (i) The name and address of the registered owner
53 of the vehicle;

54 (ii) The registration number of the motor vehicle
55 involved in the violation;

56 (iii) The violation charged;

57 (iv) The location of the intersection;

58 (v) The date and time of the violation;

59 (vi) A copy of the recorded image;

60 (vii) The amount of the civil penalty imposed and
61 the date by which the civil penalty should be paid;

62 (viii) A signed statement by a technician employed
63 by the agency that, based on inspection of recorded images, the
64 motor vehicle was being operated in violation of Section
65 63-3-309(3);

66 (ix) A statement that recorded images are evidence
67 of a violation of Section 63-3-309(3); and

68 (x) Information advising the person alleged to be
69 liable under this section:

70 1. Of the manner and time in which liability
71 as alleged in the citation may be contested in the municipal
72 court; and

73 2. Warning that failure to pay the civil
74 penalty or to contest liability in a timely manner is an admission
75 of liability and may result in refusal or suspension of the motor
76 vehicle registration.

77 (b) The agency may mail a warning notice in lieu of a
78 citation to the owner liable under subsection (3) of this section.

79 (c) Except as provided in subsection (6)(e) of this
80 section, a citation issued under this section shall be mailed no
81 later than two (2) weeks after the alleged violation.

82 (d) An agency may not mail a citation to a person who
83 is not an owner under subsection (1)(c)(ii) of this section.

84 (e) A person who receives a citation under paragraph
85 (a) of this subsection may:

86 (i) Pay the civil penalty, in accordance with
87 instructions on the citation, directly to the municipal court; or

88 (ii) Elect to stand trial for the alleged
89 violation.

90 (5) A certificate alleging that the violation of Section
91 63-3-309(3) occurred, sworn to or affirmed by a duly authorized
92 agent of the agency, based on inspection of recorded images

93 produced by a traffic-control signal monitoring system shall be
94 evidence of the facts contained therein and shall be admissible in
95 any proceeding alleging a violation under this section.
96 Adjudication of liability shall be based on a preponderance of
97 evidence.

98 (6) (a) The municipal court may consider the following in
99 defense of a violation of this act:

100 (i) That the driver of the vehicle passed through
101 the intersection in violation of Section 63-3-309(3) in order to
102 yield the right-of-way to an emergency vehicle;

103 (ii) Except as otherwise provided in paragraph (b)
104 of this subsection, that the motor vehicle or registration plates
105 of the motor vehicle were stolen before the violation occurred and
106 were not under the control or possession of the owner at the time
107 of the violation;

108 (iii) Except otherwise provided in paragraph (c)
109 of this subsection, evidence that the person named in the citation
110 was not operating the vehicle at the time of the violation; or

111 (iv) Any other issues and evidence that the
112 municipal court deems pertinent.

113 (b) To demonstrate that the motor vehicle or the
114 registration plates were stolen before the violation occurred and
115 were not under the control or possession of the owner at the time
116 of the violation, the owner must submit proof that a police report
117 about the stolen motor vehicle or registration plates was filed in
118 a timely manner.

119 (c) To satisfy the evidentiary burden under paragraph
120 (a)(iii) of this subsection, the person named in the citation
121 shall provide evidence to the satisfaction of the court of who was
122 operating the vehicle at the time of the violation, including, at
123 a minimum, the operator's name and current address.

124 (d) To satisfy the evidentiary burden under paragraph
125 (a)(iii) of this subsection, the person named in the citation may

126 provide to the municipal court a letter, sworn to or affirmed by
127 the person and mailed by certified mail, return receipt requested,
128 that:

129 (i) States that the person named in the citation
130 was not operating the vehicle at the time of the violation; and

131 (ii) Provides the name, address, and driver's
132 license identification number of the person who was operating the
133 vehicle at the time of the violation.

134 (e) (i) If the municipal court finds that the person
135 named in the citation was not operating the vehicle at the time of
136 the citation or receives evidence under paragraph (d)(ii) of this
137 subsection identifying the person driving the vehicle at the time
138 of the violation, the clerk of the court shall provide to the
139 agency issuing the citation a copy of any evidence substantiating
140 who was operating the vehicle at the time of the violation.

141 (ii) Upon the receipt of substantiating evidence
142 from the municipal court under subparagraph (i) of this paragraph,
143 an agency may issue a citation as provided in subsection (4) of
144 this section to the person that the evidence indicates was
145 operating the vehicle at the time of the violation.

146 (iii) A citation issued under subparagraph (ii) of
147 this paragraph shall be mailed no later than two (2) weeks after
148 receipt of the evidence from the municipal court.

149 (7) If the civil penalty is not paid and the violation is
150 not contested, the penalty shall be enrolled on the judgement roll
151 of the municipality, shall create a lien on the property of the
152 violator within the jurisdiction of the court which may be
153 enforced in the same manner as other civil judgements.

154 (8) A violation for which a civil penalty is imposed under
155 this section:

156 (a) Is not a moving violation of this title for
157 purposes of Section 63-1-53(2)(d) or serious traffic violation for
158 purposes of Section 63-1-83(4) and may not be recorded by the

159 Department of Public Safety on the driving record of the owner or
160 driver of the vehicle;

161 (b) Need not be reported to the Department of Public
162 Safety or the Commissioner of Public Safety under Sections
163 63-1-51, 63-9-17 and 63-9-21;

164 (c) May be treated as a parking violation for purposes
165 of Section 21-23-19; and

166 (d) May not be considered in the provision of motor
167 vehicle insurance coverage.

168 (9) All monies collected from violations of this act shall
169 be deposited to the credit of the traffic calming fund within the
170 budget of the municipality.

171 SECTION 2. Section 1 of this act shall be codified in
172 Chapter 3, Title 63, Article 7, Mississippi Code of 1972.

173 SECTION 3. This act shall take effect and be in force from
174 and after July 1, 2001.