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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/25/2013	.	
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The Committee on Transportation (Clemens) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsections (1) and (2) of section 316.0083, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

316.0083 Mark Wandall Traffic Safety Program; administration; report.—

(1) (a) For purposes of administering this section, the department, a county, or a municipality may authorize a traffic infraction enforcement officer under s. 316.640 to issue a



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13 traffic citation for a violation of s. 316.074(1) or s.  
14 316.075(1)(c)1. A notice of violation and a traffic citation may  
15 not be issued for failure to stop at a red light if the driver  
16 is making a right-hand turn in a careful and prudent manner at  
17 an intersection where right-hand turns are permissible. This  
18 paragraph does not prohibit a review of information from a  
19 traffic infraction detector by an authorized employee or agent  
20 of the department, a county, or a municipality before issuance  
21 of the traffic citation by the traffic infraction enforcement  
22 officer. This paragraph does not prohibit the department, a  
23 county, or a municipality from issuing notification as provided  
24 in paragraph (b) to the registered owner of the motor vehicle or  
25 to another person identified as having care, custody, and  
26 control of the motor vehicle involved in the violation of s.  
27 316.074(1) or s. 316.075(1)(c)1.

28 (b)1.a. Within 30 days after a violation, notification must  
29 be sent to the registered owner of the motor vehicle involved in  
30 the violation specifying the remedies available under s. 318.14  
31 and that the violator must pay the penalty of \$158 to the  
32 department, county, or municipality, or furnish an affidavit in  
33 accordance with paragraph (d), within 30 days following the date  
34 of the notification in order to avoid court fees, costs, and the  
35 issuance of a traffic citation. The notification shall be sent  
36 by first-class mail.

37 b. Included with the notification to the registered owner  
38 of the motor vehicle involved in the infraction must be a notice  
39 that the owner has the right to review the photographic or  
40 electronic images or the streaming video evidence that  
41 constitutes a rebuttable presumption against the owner of the



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42 vehicle. The notice must state the time and place or Internet  
43 location where the evidence may be examined and observed.

44 2. Penalties assessed and collected by the department,  
45 county, or municipality authorized to collect the funds provided  
46 for in this paragraph, less the amount retained by the county or  
47 municipality pursuant to subparagraph 3., shall be paid to the  
48 Department of Revenue weekly. Payment by the department, county,  
49 or municipality to the state shall be made by means of  
50 electronic funds transfers. In addition to the payment, summary  
51 detail of the penalties remitted shall be reported to the  
52 Department of Revenue.

53 3. Penalties to be assessed and collected by the  
54 department, county, or municipality are as follows:

55 a. One hundred fifty-eight dollars for a violation of s.  
56 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
57 stop at a traffic signal if enforcement is by the department's  
58 traffic infraction enforcement officer. One hundred dollars  
59 shall be remitted to the Department of Revenue for deposit into  
60 the General Revenue Fund, \$10 shall be remitted to the  
61 Department of Revenue for deposit into the Department of Health  
62 Emergency Medical Services Trust Fund, \$3 shall be remitted to  
63 the Department of Revenue for deposit into the Brain and Spinal  
64 Cord Injury Trust Fund, and \$45 shall be distributed to the  
65 municipality in which the violation occurred, or, if the  
66 violation occurred in an unincorporated area, to the county in  
67 which the violation occurred. Funds deposited into the  
68 Department of Health Emergency Medical Services Trust Fund under  
69 this sub-subparagraph shall be distributed as provided in s.  
70 395.4036(1). Proceeds of the infractions in the Brain and Spinal



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71 Cord Injury Trust Fund shall be distributed quarterly to the  
72 Miami Project to Cure Paralysis and shall be used for brain and  
73 spinal cord research.

74       b. One hundred fifty-eight dollars for a violation of s.  
75 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
76 stop at a traffic signal if enforcement is by a county or  
77 municipal traffic infraction enforcement officer. Seventy  
78 dollars shall be remitted by the county or municipality to the  
79 Department of Revenue for deposit into the General Revenue Fund,  
80 \$10 shall be remitted to the Department of Revenue for deposit  
81 into the Department of Health Emergency Medical Services Trust  
82 Fund, \$3 shall be remitted to the Department of Revenue for  
83 deposit into the Brain and Spinal Cord Injury Trust Fund, and  
84 \$75 shall be retained by the county or municipality enforcing  
85 the ordinance enacted pursuant to this section. Funds deposited  
86 into the Department of Health Emergency Medical Services Trust  
87 Fund under this sub-subparagraph shall be distributed as  
88 provided in s. 395.4036(1). Proceeds of the infractions in the  
89 Brain and Spinal Cord Injury Trust Fund shall be distributed  
90 quarterly to the Miami Project to Cure Paralysis and shall be  
91 used for brain and spinal cord research.

92       4. An individual may not receive a commission from any  
93 revenue collected from violations detected through the use of a  
94 traffic infraction detector. A manufacturer or vendor may not  
95 receive a fee or remuneration based upon the number of  
96 violations detected through the use of a traffic infraction  
97 detector.

98       (c)1.a. A traffic citation issued under this section shall  
99 be issued by mailing the traffic citation by certified mail to



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100 the address of the registered owner of the motor vehicle  
101 involved in the violation when payment has not been made within  
102 30 days after notification under subparagraph (b)1.

103 b. Mailing Delivery of the traffic citation constitutes  
104 notification under this paragraph. If the registered owner or  
105 the person designated as having care, custody, and control of  
106 the motor vehicle at the time of the violation, or a duly  
107 authorized representative thereof, is present at any proceeding  
108 pursuant to this section, such person waives any challenge or  
109 dispute as to notification of the citation.

110 c. In the case of joint ownership of a motor vehicle, the  
111 traffic citation shall be mailed to the first name appearing on  
112 the registration, unless the first name appearing on the  
113 registration is a business organization, in which case the  
114 second name appearing on the registration may be used.

115 d. The traffic citation shall be mailed to the registered  
116 owner of the motor vehicle involved in the violation no later  
117 than 60 days after the date of the violation.

118 2. Included with the notification to the registered owner  
119 of the motor vehicle involved in the infraction shall be a  
120 notice that the owner has the right to review, either in person  
121 or remotely, the photographic or electronic images or the  
122 streaming video evidence that constitutes a rebuttable  
123 presumption against the owner of the vehicle. The notice must  
124 state the time and place or Internet location where the evidence  
125 may be examined and observed.

126 (d)1. The owner of the motor vehicle involved in the  
127 violation is responsible and liable for paying the uniform  
128 traffic citation issued for a violation of s. 316.074(1) or s.



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129 316.075(1)(c)1. when the driver failed to stop at a traffic  
130 signal, unless the owner can establish that:

131 a. The motor vehicle passed through the intersection in  
132 order to yield right-of-way to an emergency vehicle or as part  
133 of a funeral procession;

134 b. The motor vehicle passed through the intersection at the  
135 direction of a law enforcement officer;

136 c. The motor vehicle was, at the time of the violation, in  
137 the care, custody, or control of another person;

138 d. A uniform traffic citation was issued by a law  
139 enforcement officer to the driver of the motor vehicle for the  
140 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1; or

141 e. The motor vehicle's owner was deceased on or before the  
142 date that the uniform traffic citation was issued, as  
143 established by an affidavit submitted by the representative of  
144 the motor vehicle owner's estate or other designated person or  
145 family member.

146 2. In order to establish such facts, the owner of the motor  
147 vehicle shall, within 30 days after the date of issuance of the  
148 traffic citation, furnish to the appropriate governmental entity  
149 an affidavit setting forth detailed information supporting an  
150 exemption as provided in this paragraph.

151 a. An affidavit supporting an exemption under sub-  
152 subparagraph 1.c. must include the name, address, date of birth,  
153 and, if known, the driver license number of the person who  
154 leased, rented, or otherwise had care, custody, or control of  
155 the motor vehicle at the time of the alleged violation. If the  
156 vehicle was stolen at the time of the alleged offense, the  
157 affidavit must include the police report indicating that the



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158 vehicle was stolen.

159       b. If a traffic citation for a violation of s. 316.074(1)  
160 or s. 316.075(1)(c)1. was issued at the location of the  
161 violation by a law enforcement officer, the affidavit must  
162 include the serial number of the uniform traffic citation.

163       c. If the motor vehicle's owner to whom a traffic citation  
164 has been issued is deceased, the affidavit must include a  
165 certified copy of the owner's death certificate showing that the  
166 date of death occurred on or before the issuance of the uniform  
167 traffic citation and one of the following:

168       (I) A bill of sale or other document showing that the  
169 deceased owner's motor vehicle was sold or transferred after his  
170 or her death, but on or before the date of the alleged  
171 violation.

172       (II) Documentary proof that the registered license plate  
173 belonging to the deceased owner's vehicle was returned to the  
174 department or any branch office or authorized agent of the  
175 department, but on or before the date of the alleged violation.

176       (III) A copy of a police report showing that the deceased  
177 owner's registered license plate or motor vehicle was stolen  
178 after the owner's death, but on or before the date of the  
179 alleged violation.

180

181 Upon receipt of the affidavit and documentation required under  
182 this sub-subparagraph, the governmental entity must dismiss the  
183 citation and provide proof of such dismissal to the person that  
184 submitted the affidavit.

185       3. Upon receipt of an affidavit, the person designated as  
186 having care, custody, and control of the motor vehicle at the



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187 time of the violation may be issued a notice of violation  
188 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.  
189 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop  
190 at a traffic signal. The notice of violation may be issued to  
191 the person designated by a traffic infraction officer or an  
192 agent of the department, county, or municipality in the  
193 affidavit as having care, custody, and control of the motor  
194 vehicle at the time of the violation. The affidavit is  
195 admissible in a proceeding pursuant to this section for the  
196 purpose of providing proof that the person identified in the  
197 affidavit was in actual care, custody, or control of the motor  
198 vehicle. The owner of a leased vehicle for which a traffic  
199 citation is issued for a violation of s. 316.074(1) or s.  
200 316.075(1)(c)1. when the driver failed to stop at a traffic  
201 signal is not responsible for paying the traffic citation and is  
202 not required to submit an affidavit as specified in this  
203 subsection if the motor vehicle involved in the violation is  
204 registered in the name of the lessee of such motor vehicle.

205 4. Paragraphs (b) and (c) apply to the person identified on  
206 the affidavit, except that the notification under sub-  
207 subparagraph (b)1.a. must be sent within 30 days after receipt  
208 of an affidavit and the traffic citation mailed pursuant to sub-  
209 subparagraph (c)1.d. must be mailed no later than 30 days after  
210 the date the notification of violation is mailed.

211 5.4. The submission of a false affidavit is a misdemeanor  
212 of the second degree, punishable as provided in s. 775.082 or s.  
213 775.083.

214 (e) The photographic or electronic images or streaming  
215 video attached to or referenced in the traffic citation is





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216 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.  
217 when the driver failed to stop at a traffic signal has occurred  
218 and is admissible in any proceeding to enforce this section and  
219 raises a rebuttable presumption that the motor vehicle named in  
220 the report or shown in the photographic or electronic images or  
221 streaming video evidence was used in violation of s. 316.074(1)  
222 or s. 316.075(1)(c)1. when the driver failed to stop at a  
223 traffic signal.

224 (f) Documentation provided by the Department of  
225 Transportation which demonstrates that the traffic infraction  
226 detection equipment meets the appropriate testing specifications  
227 is prima facie evidence of the reliability of the traffic  
228 infraction detector. A person raising the reliability of the  
229 traffic infraction detector as an affirmative defense to the  
230 notice of violation must establish by clear and convincing  
231 evidence that the detector did not meet specifications  
232 prescribed by the Department of Transportation.

233 (2) A notice of violation and a traffic citation may not be  
234 issued for failure to stop at a red light if the driver is  
235 making a right-hand turn in a careful and prudent manner at an  
236 intersection where right-hand turns are permissible.

237 (a) A notice of violation or traffic citation for failure  
238 to stop at a red light before making a right-hand turn may be  
239 issued at the discretion of the reviewing traffic infraction  
240 enforcement officer, as if the citation had been issued by an  
241 officer at an intersection. When examining evidence for  
242 violations under this subsection, a traffic infraction  
243 enforcement officer shall consider one or more of the following  
244 factors that would indicate the turn was not made in a careful



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245 or prudent manner:

246 1. The operator of the motor vehicle failed to yield to a  
247 pedestrian or bicyclist.

248 2. The operator of the motor vehicle put a pedestrian or  
249 bicyclist in danger of injury.

250 3. The operator of the motor vehicle failed to yield to  
251 another vehicle or oncoming traffic.

252 4. The operator of the motor vehicle did not substantially  
253 reduce the speed of the motor vehicle before making the right-  
254 hand turn movement. For violations of this factor, the reviewing  
255 officer must approximate that the speed of the turn was made in  
256 excess of 10 miles per hour.

257 (b) A citation may not be issued under this subsection if  
258 the driver of the vehicle came to a complete stop before turning  
259 right, when permissible at a red light, but failed to stop  
260 before the point at which a stop is required.

261 (c) A county or municipality that installs a traffic  
262 infraction detector at an intersection shall install a sign  
263 notifying the public that a traffic infraction detector is in  
264 use at that intersection. Such signage must specifically include  
265 notification of camera enforcement of violations for right turns  
266 at that intersection. Such signage must meet the specifications  
267 for uniform signals and devices adopted by the Department of  
268 Transportation. Counties and municipalities must be in  
269 compliance with this subsection by January 1, 2014.

270 Section 2. Present subsection (4) of section 316.075,  
271 Florida Statutes, is amended and redesignated as subsection (5),  
272 and a new subsection (4) is added to that section, to read:

273 316.075 Traffic control signal devices.—



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274       (4) (a) Before installing a traffic infraction detector at  
275 an intersection, each jurisdiction shall establish a minimum  
276 measured yellow light-change interval for the designated  
277 intersection. The interval shall be developed in accordance with  
278 engineering standards established in the Institute of  
279 Transportation Engineers Traffic Engineering Handbook, as  
280 adopted by the Department of Transportation. The interval  
281 established by the jurisdiction may not be less than the  
282 recognized national minimum standard. The Department of  
283 Transportation shall adopt the latest edition of the Institute  
284 of Transportation Engineers Engineering Handbook for use in  
285 compliance with this subsection.

286       (b) To ensure compliance with this section, a jurisdiction  
287 issuing a notice of violation under s. 316.0083 shall include in  
288 the notice the length of the yellow light-change interval during  
289 the signal phase of the traffic control signal immediately  
290 before the violation or shall maintain for inspection the  
291 records of the most recent programmed intervals.

292       (c) Unless each notice of violation for a particular  
293 approach states the length of the yellow light duration, the  
294 yellow light-change interval shall be tested at least once  
295 during every calendar year beginning in 2013. A traffic  
296 infraction detector that monitors a traffic signal that is not  
297 in compliance with Institute of Transportation Engineers Traffic  
298 Engineering Handbook standards, as adopted by the Department of  
299 Transportation, shall be disabled until that signal is brought  
300 into compliance with the standards.

301       (d) Issuance of a notice stating the length of the yellow  
302 light duration, or annual testing of the yellow light-change



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303 interval time pursuant to this subsection, establishes a  
304 presumption that the yellow light cycle was operating in  
305 compliance with this subsection at the time the violation is  
306 alleged to have occurred. A certificate or signed affidavit that  
307 shows that the testing of the yellow light-change cycle was  
308 completed in compliance with this subsection is admissible as  
309 proof of such compliance.

310 (e) A person who raises the length of the yellow light-  
311 change cycle as an affirmative defense to the notice of  
312 violation must establish by clear and convincing evidence that  
313 the signal was not operating in compliance with the Institute of  
314 Transportation Engineers Traffic Engineering Handbook standards,  
315 as adopted by the Department of Transportation.

316 (f) A notice of violation shall not be issued if any part  
317 of the automobile was in the intersection when the light was  
318 yellow, regardless of whether the light turned red while the  
319 automobile was in the intersection.

320 (g) A traffic infraction detector that is operational on  
321 July 1, 2013, must be in compliance with this section by January  
322 1, 2014.

323 (5)(4) A violation of subsection (1) or subsection (2) ~~this~~  
324 section is a noncriminal traffic infraction, punishable pursuant  
325 to chapter 318 as either a pedestrian violation or, if the  
326 infraction resulted from the operation of a vehicle, as a moving  
327 violation.

328 Section 3. This act shall take effect July 1, 2013.

329  
330 ===== T I T L E A M E N D M E N T =====

331 And the title is amended as follows:



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332 Delete everything before the enacting clause  
333 and insert:

334 A bill to be entitled  
335 An act relating to traffic control; amending s.  
336 316.0083, F.S., relating to enforcement of specified  
337 traffic control signal red light provisions; revising  
338 circumstances under which the Department of Highway  
339 Safety and Motor Vehicles, a county, or a municipality  
340 may not issue a notice of violation or a traffic  
341 citation for failing to stop; providing that mailing  
342 the traffic citation constitutes notification;  
343 providing that a person's presence or the person's  
344 agent's presence at any proceeding under this section  
345 waives any challenge or dispute as to notification of  
346 the citation; revising procedures for disposition upon  
347 receipt of an affidavit that the vehicle was in the  
348 care, custody, or control of another person;  
349 specifying application of specified timeframes for  
350 mailing the notice of traffic infraction or the  
351 traffic citation; providing for prima facie evidence  
352 of reliability of a traffic infraction detector;  
353 requiring a person who questions the reliability of  
354 the traffic infraction detector to prove by clear and  
355 convincing evidence that the detector did not meet  
356 required specifications; revising provisions that  
357 prohibit issuance of a notice of violation or traffic  
358 citation under certain circumstances; providing that a  
359 notice of violation or traffic citation for specified  
360 violations shall be issued at the discretion of the



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361 reviewing traffic infraction enforcement officer;  
362 providing criteria for consideration by the officer  
363 when examining evidence of a violation; providing an  
364 exception; requiring the county or municipality to  
365 install signs notifying the public that traffic  
366 infraction detectors are in use at specific  
367 intersections; specifying requirements for signs;  
368 amending s. 316.075, F.S.; requiring each jurisdiction  
369 to establish minimum yellow light-change interval  
370 times for each intersection designated to receive a  
371 traffic infraction detector; requiring that the  
372 intervals comply with specified engineering standards;  
373 requiring the Department of Transportation to adopt a  
374 specified handbook; requiring that the yellow light-  
375 change interval for each intersection be tested;  
376 requiring the notice of a violation to include the  
377 length of the yellow light-change interval; requiring  
378 a traffic infraction detector that is not in  
379 compliance with certain standards be disabled;  
380 providing that testing of the yellow light-change  
381 interval or issuance of a notice including the length  
382 of the yellow light-change interval establishes a  
383 presumption of compliance; providing that a person  
384 raising the length of the yellow light-change interval  
385 as an affirmative defense must prove noncompliance by  
386 clear and convincing evidence; establishing the  
387 timeframe for compliance; providing an effective date.