

By Senator Altman

24-00500-09

20092004\_\_

1                   A bill to be entitled  
2           An act relating to uniform traffic control; creating  
3           the "Mark Wandall Traffic Safety Act"; amending s.  
4           316.003, F.S.; defining the term "traffic infraction  
5           detector"; creating s. 316.0083, F.S.; creating the  
6           Mark Wandall Traffic Safety Program to be administered  
7           by the Department of Highway Safety and Motor  
8           Vehicles; requiring a county or municipality to enact  
9           an ordinance in order to use a traffic infraction  
10          detector to identify a motor vehicle that fails to  
11          stop at a traffic control signal steady red light;  
12          requiring authorization of a traffic infraction  
13          enforcement officer to issue and enforce a ticket for  
14          such violation; requiring signage; requiring certain  
15          public awareness procedures; requiring the ordinance  
16          to establish a fine of a certain amount; prohibiting  
17          additional charges; exempting emergency vehicles;  
18          providing that the registered owner of the motor  
19          vehicle involved in the violation is responsible and  
20          liable for payment of the fine assessed; providing  
21          exceptions; providing procedures for disposition and  
22          enforcement of tickets; providing for disposition of  
23          revenue; providing complaint procedures; providing for  
24          the Legislature to exclude a county or municipality  
25          from the program; requiring reports from participating  
26          municipalities and counties to the department;  
27          requiring the department to make reports to the  
28          Governor and the Legislature; amending s. 316.0745,  
29          F.S.; providing that traffic infraction detectors must

24-00500-09

20092004\_\_

30 meet certain requirements; amending s. 316.1967, F.S.;

31 providing for inclusion of persons with outstanding

32 violations in a list sent to the department for

33 enforcement purposes; amending s. 322.264, F.S.;

34 revising the definition of the term "habitual traffic

35 offender" to include a certain number of violations of

36 a traffic control signal steady red light indication

37 within a certain timeframe; reenacting ss. 322.27(5)

38 and 322.34(1), (2), (5), and (8)(a), F.S., relating to

39 the authority of the Department of Highway Safety and

40 Motor Vehicles to suspend or revoke a driver license

41 and driving while a driver license is suspended,

42 revoked, canceled, or disqualified, for the purpose of

43 incorporating the amendment to s. 322.264, F.S., in

44 references thereto; providing for severability;

45 providing an effective date.

46

47 Be It Enacted by the Legislature of the State of Florida:

48

49 Section 1. This act may be cited as the "Mark Wandall

50 Traffic Safety Act."

51 Section 2. Subsection (86) is added to section 316.003,

52 Florida Statutes, to read:

53 316.003 Definitions.—The following words and phrases, when

54 used in this chapter, shall have the meanings respectively

55 ascribed to them in this section, except where the context

56 otherwise requires:

57 (86) TRAFFIC INFRACTION DETECTOR.—A device that uses a

58 vehicle sensor installed to work in conjunction with a traffic

24-00500-09

20092004\_\_

59 control signal and a camera synchronized to automatically record  
60 two or more sequenced photographic or electronic images or  
61 streaming video of only the rear of a motor vehicle at the time  
62 the vehicle fails to stop behind the stop bar or clearly marked  
63 stop line when facing a traffic control signal steady red light.  
64 Any citation issued by the use of a traffic infraction detector  
65 must include a photograph or other recorded image showing both  
66 the license tag of the offending vehicle and the traffic control  
67 device being violated.

68 Section 3. Section 316.0083, Florida Statutes, is created  
69 to read:

70 316.0083 Mark Wandall Traffic Safety Program;  
71 administration; report.-

72 (1) There is created the Mark Wandall Traffic Safety  
73 Program governing the operation of traffic infraction detectors.  
74 The program shall be administered by the Department of Highway  
75 Safety and Motor Vehicles and shall include the following  
76 provisions:

77 (a) In order to use a traffic infraction detector, a county  
78 or municipality must enact an ordinance that provides for the  
79 use of a traffic infraction detector to enforce s.  
80 316.075(1)(c), which requires the driver of a vehicle to stop  
81 the vehicle when facing a traffic control signal steady red  
82 light on the streets and highways under the jurisdiction of the  
83 county or municipality. A county or municipality that operates a  
84 traffic infraction detector must authorize a traffic infraction  
85 enforcement officer to issue a ticket for a violation of s.  
86 316.075(1)(c) and to enforce the payment of the ticket for such  
87 violation. This paragraph does not authorize a traffic

24-00500-09

20092004

88 infraction enforcement officer to carry a firearm or other  
89 weapon and does not authorize such an officer to make arrests.  
90 The ordinance must require signs to be posted at locations  
91 designated by the county or municipality providing notification  
92 that a traffic infraction detector may be in use. Such signage  
93 must conform to the standards and requirements adopted by the  
94 Department of Transportation under s. 316.0745. The ordinance  
95 must also require that the county or municipality make a public  
96 announcement and conduct a public awareness campaign of the  
97 proposed use of traffic infraction detectors at least 30 days  
98 before commencing the enforcement program. In addition, the  
99 ordinance must establish a fine of \$125 to be assessed against  
100 the registered owner of a motor vehicle that fails to stop when  
101 facing a traffic control signal steady red light as determined  
102 through the use of a traffic infraction detector. Any other  
103 provision of law to the contrary notwithstanding, an additional  
104 surcharge, fee, or cost may not be added to the civil penalty  
105 authorized by this paragraph.

106 (b) When responding to an emergency call, an emergency  
107 vehicle is exempt from any ordinance enacted under this section.

108 (c) A county or municipality must adopt an ordinance under  
109 this section that provides for the use of a traffic infraction  
110 detector in order to impose a fine on the registered owner of a  
111 motor vehicle for a violation of s. 316.075(1)(c). The fine  
112 shall be imposed in the same manner and is subject to the same  
113 limitations as provided for parking violations under s.  
114 316.1967. Except as specifically provided in this section,  
115 chapter 318 and s. 322.27 do not apply to a violation of s.  
116 316.075(1)(c) for which a ticket has been issued under an

24-00500-09

20092004

117 ordinance enacted pursuant to this section. Enforcement of a  
118 ticket issued under the ordinance is not a conviction of the  
119 operator of the motor vehicle, may not be made a part of the  
120 driving record of the operator, and may not be used for purposes  
121 of setting motor vehicle insurance rates. Points under s. 322.27  
122 may not be assessed based upon such enforcement.

123 (d) The procedures set forth in s. 316.1967(2)-(5) apply to  
124 an ordinance enacted pursuant to this section, except that the  
125 ticket must contain the name and address of the person alleged  
126 to be liable as the registered owner of the motor vehicle  
127 involved in the violation, the registration number of the motor  
128 vehicle, the violation charged, a copy of the photographs or  
129 other recorded images, the location where the violation  
130 occurred, the date and time of the violation, information that  
131 identifies the device that recorded the violation, and a signed  
132 statement by a specifically trained technician employed by the  
133 agency or its contractor that, based on inspection of  
134 photographs or other recorded images, the motor vehicle was  
135 being operated in violation of s. 316.075(1)(c). The ticket must  
136 advise the registered owner of the motor vehicle involved in the  
137 violation of the amount of the fine, the date by which the fine  
138 must be paid, and the procedure for contesting the violation  
139 alleged in the ticket. The ticket must contain a warning that  
140 failure to contest the violation in the manner and time provided  
141 is deemed an admission of the liability and that a default may  
142 be entered thereon. The violation shall be processed by the  
143 county or municipality that has jurisdiction over the street or  
144 highway where the violation occurred or by any entity authorized  
145 by the county or municipality to prepare and mail the ticket.

24-00500-09

20092004\_\_

146       (e) The ticket shall be sent by first-class mail addressed  
147 to the registered owner of the motor vehicle and postmarked no  
148 later than 14 days after the date of the violation.

149       (f)1. The registered owner of the motor vehicle involved in  
150 a violation is responsible and liable for payment of the fine  
151 assessed pursuant to this section unless the owner can establish  
152 that:

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

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

158       c. The motor vehicle was stolen at the time of the alleged  
159 violation; or

160       d. A uniform traffic citation was issued to the driver of  
161 the motor vehicle for the alleged violation of s. 316.075(1)(c).

162       2. In order to establish any such fact, the registered  
163 owner of the vehicle must, within 20 days after receipt of  
164 notification of the alleged violation, furnish to the county or  
165 municipality, as appropriate, an affidavit that sets forth  
166 detailed information supporting an exemption as provided in sub-  
167 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,  
168 or sub-subparagraph 1.d. For an exemption under sub-subparagraph  
169 1.c., the affidavit must set forth that the vehicle was stolen  
170 and be accompanied by a copy of the police report indicating  
171 that the vehicle was stolen at the time of the alleged  
172 violation. For an exemption under sub-subparagraph 1.d., the  
173 affidavit must set forth that a citation was issued and be  
174 accompanied by a copy of the citation indicating the time of the

24-00500-09

20092004

175 alleged violation and the location of the intersection where it  
176 occurred.

177 (g) A person may contest the determination that such person  
178 failed to stop at a traffic control signal steady red light as  
179 evidenced by a traffic infraction detector by electing to appear  
180 before any judge authorized by law to preside over a court  
181 hearing that adjudicates traffic infractions. A person who  
182 elects to appear before the court to present evidence is deemed  
183 to have waived the limitation of civil penalties imposed for the  
184 violation. The court, after hearing, shall determine whether the  
185 violation was committed and may impose a civil penalty not to  
186 exceed \$125 plus costs. The court may take appropriate measures  
187 to enforce collection of any penalty not paid within the time  
188 permitted by the court.

189 (h) A certificate sworn to or affirmed by a person  
190 authorized under this section who is employed by or under  
191 contract with the county or municipality where the infraction  
192 occurred, or a facsimile thereof that is based upon inspection  
193 of photographs or other recorded images produced by a traffic  
194 infraction detector, is prima facie evidence of the facts  
195 contained in the certificate. A photograph or other recorded  
196 image evidencing a violation of s. 316.075(1)(c) must be  
197 available for inspection in any proceeding to adjudicate  
198 liability under an ordinance enacted pursuant to this section.

199 (i) In any county or municipality in which tickets are  
200 issued as provided in this section, the names of persons who  
201 have one or more outstanding violations may be included on the  
202 list authorized under s. 316.1967(6).

203 (j) If the driver of the motor vehicle received a citation

24-00500-09

20092004\_\_

204 from a traffic enforcement officer at the time of the violation,  
205 a ticket may not be issued pursuant to this section.

206 (2) The fine imposed pursuant to paragraph (1)(a) or  
207 paragraph (1)(g) shall be retained by the county or municipality  
208 enforcing the ordinance enacted pursuant to this section.

209 (3) A complaint that a county or municipality is employing  
210 traffic infraction detectors for purposes other than the  
211 promotion of public health, welfare, and safety or in a manner  
212 inconsistent with this section may be submitted to the governing  
213 body of such county or municipality. Such complaints, along with  
214 any investigation and corrective action taken by the county or  
215 municipal governing body, shall be included in the annual report  
216 to the department and in the department's annual summary report  
217 to the Governor, the President of the Senate, and the Speaker of  
218 the House of Representatives, as required by this section. Based  
219 on its review of the report, the Legislature may exclude a  
220 county or municipality from further participation in the  
221 program.

222 (4) (a) Each county or municipality that operates a traffic  
223 infraction detector shall submit an annual report to the  
224 department that details the results of using the traffic  
225 infraction detector and the procedures for enforcement.

226 (b) The department shall provide an annual summary report  
227 to the Governor, the President of the Senate, and the Speaker of  
228 the House of Representatives regarding the use and operation of  
229 traffic infraction detectors under this section. The summary  
230 report must include a review of the information submitted to the  
231 department by the counties and municipalities and must describe  
232 the enhancement of the traffic safety and enforcement programs.

24-00500-09

20092004

233 The department shall report its recommendations, including any  
234 necessary legislation, on or before December 1, 2010, to the  
235 Governor, the President of the Senate, and the Speaker of the  
236 House of Representatives.

237 Section 4. Subsection (6) of section 316.0745, Florida  
238 Statutes, is amended to read:

239 316.0745 Uniform signals and devices.—

240 (6) (a) Any system of traffic control devices controlled and  
241 operated from a remote location by electronic computers or  
242 similar devices must ~~shall~~ meet all requirements established for  
243 the uniform system, and, if where such a system affects ~~systems~~  
244 ~~affect~~ the movement of traffic on state roads, the design of the  
245 system must ~~shall~~ be reviewed and approved by the Department of  
246 Transportation.

247 (b) Any traffic infraction detector deployed on the streets  
248 and highways of the state must meet requirements established by  
249 the Department of Transportation and must be tested at regular  
250 intervals according to procedures prescribed by that department.

251 Section 5. Subsection (6) of section 316.1967, Florida  
252 Statutes, is amended to read:

253 316.1967 Liability for payment of parking ticket violations  
254 and other ~~parking~~ violations.—

255 (6) Any county or municipality may provide by ordinance  
256 that the clerk of the court or the traffic violations bureau  
257 shall supply the department with a magnetically encoded computer  
258 tape reel or cartridge or send by other electronic means data  
259 which is machine readable by the installed computer system at  
260 the department, listing persons who have three or more  
261 outstanding parking violations, including violations of s.

24-00500-09

20092004\_\_

262 316.1955, or who have one or more outstanding tickets for a  
263 violation of a traffic control signal steady red light  
264 indication issued pursuant to an ordinance adopted under s.  
265 316.0083. Each county shall provide by ordinance that the clerk  
266 of the court or the traffic violations bureau shall supply the  
267 department with a magnetically encoded computer tape reel or  
268 cartridge or send by other electronic means data that is machine  
269 readable by the installed computer system at the department,  
270 listing persons who have any outstanding violations of s.  
271 316.1955 or any similar local ordinance that regulates parking  
272 in spaces designated for use by persons who have disabilities.  
273 The department shall mark the appropriate registration records  
274 of persons who are so reported. Section 320.03(8) applies to  
275 each person whose name appears on the list.

276 Section 6. Subsection (8) of section 320.03, Florida  
277 Statutes, reads:

278 320.03 Registration; duties of tax collectors;  
279 International Registration Plan.—

280 (8) If the applicant's name appears on the list referred to  
281 in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license  
282 plate or revalidation sticker may not be issued until that  
283 person's name no longer appears on the list or until the person  
284 presents a receipt from the clerk showing that the fines  
285 outstanding have been paid. This subsection does not apply to  
286 the owner of a leased vehicle if the vehicle is registered in  
287 the name of the lessee of the vehicle. The tax collector and the  
288 clerk of the court are each entitled to receive monthly, as  
289 costs for implementing and administering this subsection, 10  
290 percent of the civil penalties and fines recovered from such

24-00500-09

20092004\_\_

291 persons. As used in this subsection, the term "civil penalties  
292 and fines" does not include a wrecker operator's lien as  
293 described in s. 713.78(13). If the tax collector has private tag  
294 agents, such tag agents are entitled to receive a pro rata share  
295 of the amount paid to the tax collector, based upon the  
296 percentage of license plates and revalidation stickers issued by  
297 the tag agent compared to the total issued within the county.  
298 The authority of any private agent to issue license plates shall  
299 be revoked, after notice and a hearing as provided in chapter  
300 120, if he or she issues any license plate or revalidation  
301 sticker contrary to the provisions of this subsection. This  
302 section applies only to the annual renewal in the owner's birth  
303 month of a motor vehicle registration and does not apply to the  
304 transfer of a registration of a motor vehicle sold by a motor  
305 vehicle dealer licensed under this chapter, except for the  
306 transfer of registrations which is inclusive of the annual  
307 renewals. This section does not affect the issuance of the title  
308 to a motor vehicle, notwithstanding s. 319.23(7)(b).

309 Section 7. Section 322.264, Florida Statutes, is amended to  
310 read:

311 322.264 "Habitual traffic offender" defined.—A "habitual  
312 traffic offender" is any person whose record, as maintained by  
313 the Department of Highway Safety and Motor Vehicles, shows that  
314 such person has accumulated the specified number of convictions  
315 for offenses described in subsection (1) or subsection (2)  
316 within a 5-year period or the specified number of convictions  
317 for offenses described in subsection (3) within a 3-year period:

318 (1) Three or more convictions of any one or more of the  
319 following offenses arising out of separate acts:

24-00500-09

20092004\_\_

320 (a) Voluntary or involuntary manslaughter resulting from  
321 the operation of a motor vehicle;

322 (b) Any violation of s. 316.193, former s. 316.1931, or  
323 former s. 860.01;

324 (c) Any felony in the commission of which a motor vehicle  
325 is used;

326 (d) Driving a motor vehicle while his or her license is  
327 suspended or revoked;

328 (e) Failing to stop and render aid as required under the  
329 laws of this state in the event of a motor vehicle crash  
330 resulting in the death or personal injury of another; or

331 (f) Driving a commercial motor vehicle while his or her  
332 privilege is disqualified.

333 (2) Fifteen convictions for moving traffic offenses for  
334 which points may be assessed as set forth in s. 322.27,  
335 including those offenses in subsection (1).

336 (3) Three convictions under s. 316.075 for a violation of a  
337 traffic control signal steady red light indication.

338  
339 Any violation of any federal law, any law of another state or  
340 country, or any valid ordinance of a municipality or county of  
341 another state similar to a statutory prohibition specified in  
342 subsection (1), ~~or~~ subsection (2), or subsection (3) shall be  
343 counted as a violation of such prohibition. In computing the  
344 number of convictions, all convictions during the 5 years  
345 previous to July 1, 1972, will be used, provided at least one  
346 conviction occurs after that date. In computing the number of  
347 convictions for offenses listed in subsection (3), all  
348 convictions during the 3 years preceding July 1, 2009, will be

24-00500-09

20092004

349 used, provided at least one conviction occurs after that date.

350 The fact that previous convictions may have resulted in  
351 suspension, revocation, or disqualification under another  
352 section does not exempt them from being used for suspension or  
353 revocation under this section as a habitual offender.

354 Section 8. For the purpose of incorporating the amendment  
355 made by this act to section 322.264, Florida Statutes, in a  
356 reference thereto, subsection (5) of section 322.27, Florida  
357 Statutes, is reenacted to read:

358 322.27 Authority of department to suspend or revoke  
359 license.—

360 (5) The department shall revoke the license of any person  
361 designated a habitual offender, as set forth in s. 322.264, and  
362 such person shall not be eligible to be relicensed for a minimum  
363 of 5 years from the date of revocation, except as provided for  
364 in s. 322.271. Any person whose license is revoked may, by  
365 petition to the department, show cause why his or her license  
366 should not be revoked.

367 Section 9. For the purpose of incorporating the amendment  
368 made by this act to section 322.264, Florida Statutes, in  
369 references thereto, subsections (1), (2), and (5) and paragraph  
370 (a) of subsection (8) of section 322.34, Florida Statutes, are  
371 reenacted to read:

372 322.34 Driving while license suspended, revoked, canceled,  
373 or disqualified.—

374 (1) Except as provided in subsection (2), any person whose  
375 driver's license or driving privilege has been canceled,  
376 suspended, or revoked, except a "habitual traffic offender" as  
377 defined in s. 322.264, who drives a vehicle upon the highways of

24-00500-09

20092004\_\_

378 this state while such license or privilege is canceled,  
379 suspended, or revoked is guilty of a moving violation,  
380 punishable as provided in chapter 318.

381 (2) Any person whose driver's license or driving privilege  
382 has been canceled, suspended, or revoked as provided by law,  
383 except persons defined in s. 322.264, who, knowing of such  
384 cancellation, suspension, or revocation, drives any motor  
385 vehicle upon the highways of this state while such license or  
386 privilege is canceled, suspended, or revoked, upon:

387 (a) A first conviction is guilty of a misdemeanor of the  
388 second degree, punishable as provided in s. 775.082 or s.  
389 775.083.

390 (b) A second conviction is guilty of a misdemeanor of the  
391 first degree, punishable as provided in s. 775.082 or s.  
392 775.083.

393 (c) A third or subsequent conviction is guilty of a felony  
394 of the third degree, punishable as provided in s. 775.082, s.  
395 775.083, or s. 775.084.

396  
397 The element of knowledge is satisfied if the person has been  
398 previously cited as provided in subsection (1); or the person  
399 admits to knowledge of the cancellation, suspension, or  
400 revocation; or the person received notice as provided in  
401 subsection (4). There shall be a rebuttable presumption that the  
402 knowledge requirement is satisfied if a judgment or order as  
403 provided in subsection (4) appears in the department's records  
404 for any case except for one involving a suspension by the  
405 department for failure to pay a traffic fine or for a financial  
406 responsibility violation.

24-00500-09

20092004\_\_

407 (5) Any person whose driver's license has been revoked  
408 pursuant to s. 322.264 (habitual offender) and who drives any  
409 motor vehicle upon the highways of this state while such license  
410 is revoked is guilty of a felony of the third degree, punishable  
411 as provided in s. 775.082, s. 775.083, or s. 775.084.

412 (8) (a) Upon the arrest of a person for the offense of  
413 driving while the person's driver's license or driving privilege  
414 is suspended or revoked, the arresting officer shall determine:

415 1. Whether the person's driver's license is suspended or  
416 revoked.

417 2. Whether the person's driver's license has remained  
418 suspended or revoked since a conviction for the offense of  
419 driving with a suspended or revoked license.

420 3. Whether the suspension or revocation was made under s.  
421 316.646 or s. 627.733, relating to failure to maintain required  
422 security, or under s. 322.264, relating to habitual traffic  
423 offenders.

424 4. Whether the driver is the registered owner or coowner of  
425 the vehicle.

426 Section 10. If any provision of this act or its application  
427 to any person or circumstance is held invalid, the invalidity  
428 shall not affect other provisions or applications of this act  
429 which can be given effect without the invalid provision or  
430 application, and to this end the provisions of this act are  
431 declared severable.

432 Section 11. This act shall take effect upon becoming a law.