

1 A bill to be entitled
2 An act relating to uniform traffic control; creating the
3 "Mark Wandall Traffic Safety Act"; amending s. 316.003,
4 F.S.; defining the term "traffic infraction detector";
5 creating s. 316.0083, F.S.; creating the Mark Wandall
6 Traffic Safety Program to be administered by the
7 Department of Highway Safety and Motor Vehicles; requiring
8 a county or municipality to enact an ordinance in order to
9 use a traffic infraction detector to identify a motor
10 vehicle that fails to stop at a traffic control signal
11 steady red light; requiring authorization of a traffic
12 infraction enforcement officer or a code enforcement
13 officer to issue and enforce a ticket for such violation;
14 requiring signage; requiring certain public awareness
15 procedures; requiring the ordinance to establish a fine of
16 a certain amount and require the vehicle owner to attend a
17 driver improvement course; requiring the ordinance to
18 provide for installing, maintaining, and operating traffic
19 infraction detectors on rights-of-way owned or maintained
20 by the Department of Transportation or the county;
21 requiring the county or Department of Transportation to
22 issue permits for the installation; prohibiting additional
23 charges; exempting emergency vehicles; providing that the
24 registered owner of the motor vehicle involved in the
25 violation is responsible and liable for payment of the
26 fine assessed; providing exceptions; providing procedures
27 for disposition and enforcement of tickets; providing for
28 disposition of revenue collected; providing complaint

29 | procedures; providing for the Legislature to exclude a
 30 | county or municipality from the program; requiring reports
 31 | from participating municipalities and counties to the
 32 | department; requiring the department to make reports to
 33 | the Governor and the Legislature; amending s. 316.0745,
 34 | F.S.; providing that traffic infraction detectors must
 35 | meet certain requirements; providing for preexisting
 36 | equipment; amending s. 316.1967, F.S.; providing for
 37 | inclusion of persons with outstanding violations in a list
 38 | sent to the department for enforcement purposes; amending
 39 | s. 320.03, F.S.; requiring certain persons to provide
 40 | proof of compliance with the requirement to attend a
 41 | driver improvement course before a license plate or
 42 | revalidation sticker may be issued; providing for
 43 | severability; providing an effective date.

44 |
 45 | Be It Enacted by the Legislature of the State of Florida:

46 |
 47 | Section 1. This act may be cited as the "Mark Wandall
 48 | Traffic Safety Act."

49 | Section 2. Subsection (86) is added to section 316.003,
 50 | Florida Statutes, to read:

51 | 316.003 Definitions.--The following words and phrases,
 52 | when used in this chapter, shall have the meanings respectively
 53 | ascribed to them in this section, except where the context
 54 | otherwise requires:

55 | (86) TRAFFIC INFRACTION DETECTOR.--A device that uses a
 56 | vehicle sensor installed to work in conjunction with a traffic

CS/HB 439

2009

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

66 Section 3. Section 316.0083, Florida Statutes, is created
67 to read:

68 316.0083 Mark Wandall Traffic Safety Program;
69 administration; report.--

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

75 (a) In order to use a traffic infraction detector, a
76 county or municipality must enact an ordinance that provides for
77 the use of a traffic infraction detector to enforce s.
78 316.075(1)(c), which requires the driver of a vehicle to stop
79 the vehicle when facing a traffic control signal steady red
80 light on the streets and highways under the jurisdiction of the
81 county or municipality. A county or municipality that operates a
82 traffic infraction detector must authorize a traffic infraction
83 enforcement officer or a code enforcement officer to issue a
84 ticket for a violation of s. 316.075(1)(c) and to enforce the

85 payment of the ticket for such violation. This paragraph does
86 not authorize a traffic infraction enforcement officer or a code
87 enforcement officer to carry a firearm or other weapon and does
88 not authorize such an officer to make arrests. The ordinance
89 must require signs to be posted at locations designated by the
90 county or municipality providing notification that a traffic
91 infraction detector may be in use. Such signage must conform to
92 the standards and requirements adopted by the Department of
93 Transportation under s. 316.0745. The ordinance must also
94 require that the county or municipality make a public
95 announcement and conduct a public awareness campaign of the
96 proposed use of traffic infraction detectors at least 30 days
97 before commencing the enforcement program. In addition, the
98 ordinance must establish a fine of \$150 to be assessed against
99 the registered owner of a motor vehicle that fails to stop when
100 facing a traffic control signal steady red light as determined
101 through the use of a traffic infraction detector and must
102 require the motor vehicle owner to attend a basic driver
103 improvement course approved by the department. Any other
104 provision of law to the contrary notwithstanding, an additional
105 surcharge, fee, or cost may not be added to the civil penalty
106 authorized by this paragraph.

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

109 (c) A county or municipality must adopt an ordinance under
110 this section that provides for the use of a traffic infraction
111 detector in order to impose a fine on the registered owner of a
112 motor vehicle for a violation of s. 316.075(1)(c). The fine

113 shall be imposed in the same manner and is subject to the same
114 limitations as provided for parking violations under s.
115 316.1967. Each registered owner of a motor vehicle upon whom a
116 fine is imposed for violation of s. 316.075(1)(c) shall be
117 required to attend a basic driver improvement course. Except as
118 specifically provided in this section, chapter 318 and s. 322.27
119 do not apply to a violation of s. 316.075(1)(c) for which a
120 ticket has been issued under an ordinance enacted pursuant to
121 this section. Enforcement of a ticket issued under the ordinance
122 is not a conviction of the operator of the motor vehicle, may
123 not be made a part of the driving record of the operator, and
124 may not be used for purposes of setting motor vehicle insurance
125 rates. Points under s. 322.27 may not be assessed based upon
126 such enforcement. The ordinance must provide for the county or
127 municipality to install, maintain, and operate traffic
128 infraction detectors on right-of-way owned or maintained by the
129 county or the Department of Transportation in which the traffic
130 infraction detector is to be installed. The county or the
131 Department of Transportation shall issue permits to the county
132 or municipality or its designated agent for the installation of
133 traffic infraction detectors according to established permitting
134 standards.

135 (d) The procedures set forth in s. 316.1967(2)-(5) apply
136 to an ordinance enacted pursuant to this section, except that
137 the ticket must contain the name and address of the person
138 alleged to be liable as the registered owner of the motor
139 vehicle involved in the violation, the registration number of
140 the motor vehicle, the violation charged, a copy of the

CS/HB 439

2009

141 photographic image or images evidencing the violation, the
142 location where the violation occurred, the date and time of the
143 violation, information that identifies the device that recorded
144 the violation, and a signed statement by a specifically trained
145 technician employed by the agency or its contractor that, based
146 on inspection of photographs or other recorded images, the motor
147 vehicle was being operated in violation of s. 316.075(1)(c). The
148 ticket must advise the registered owner of the motor vehicle
149 involved in the violation of the amount of the fine, the date by
150 which the fine must be paid, the requirement for attending a
151 basic driver improvement course, and the procedure for
152 contesting the violation alleged in the ticket. The ticket must
153 contain a warning that failure to contest the violation in the
154 manner and time provided is deemed an admission of the liability
155 and that a default may be entered thereon. The violation shall
156 be processed by the county or municipality that has jurisdiction
157 over the street or highway where the violation occurred or by
158 any entity authorized by the county or municipality to prepare
159 and mail the ticket.

160 (e) The ticket shall be sent by first-class mail addressed
161 to the registered owner of the motor vehicle and postmarked no
162 later than 30 days after the date of the violation.

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

167 a. The motor vehicle passed through the intersection in
168 order to yield right-of-way to an emergency vehicle or as part

CS/HB 439

2009

169 of a funeral procession;

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

172 c. The motor vehicle was stolen at the time of the alleged
173 violation;

174 d. A uniform traffic citation was issued to the driver of
175 the motor vehicle for the alleged violation of s. 316.075(1)(c);
176 or

177 e. A medical emergency.

178 2. In order to establish any such fact, the registered
179 owner of the vehicle must, within 30 days after receipt of
180 notification of the alleged violation, furnish to the county or
181 municipality, as appropriate, an affidavit that sets forth
182 detailed information supporting an exemption as provided in sub-
183 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,
184 or sub-subparagraph 1.d. For an exemption under sub-subparagraph
185 1.c., the affidavit must set forth that the vehicle was stolen
186 and be accompanied by a copy of the police report indicating
187 that the vehicle was stolen at the time of the alleged
188 violation. For an exemption under sub-subparagraph 1.d., the
189 affidavit must set forth that a citation was issued and be
190 accompanied by a copy of the citation indicating the time of the
191 alleged violation and the location of the intersection where it
192 occurred.

193 (g) A person may contest the determination that such
194 person failed to stop at a traffic control signal steady red
195 light as evidenced by a traffic infraction detector by electing
196 to appear before any judge authorized by law to preside over a

197 court hearing that adjudicates traffic infractions. A person who
 198 elects to appear before the court to present evidence is deemed
 199 to have waived the limitation of civil penalties imposed for the
 200 violation. The court, after hearing, shall determine whether the
 201 violation was committed and may impose a civil penalty not to
 202 exceed \$150 plus costs, and shall order the registered owner of
 203 the motor vehicle to attend a basic driver improvement course if
 204 the court finds that a violation was committed. The court may
 205 take appropriate measures to enforce the collection of any
 206 penalty not paid within the time permitted by the court or
 207 failure by a person to attend a basic driver improvement course
 208 as ordered by the court.

209 (h) A certificate sworn to or affirmed by a person
 210 authorized under this section who is employed by or under
 211 contract with the county or municipality where the infraction
 212 occurred, or a facsimile thereof that is based upon inspection
 213 of photographs or other recorded images produced by a traffic
 214 infraction detector, is prima facie evidence of the facts
 215 contained in the certificate. A photograph or other recorded
 216 image evidencing a violation of s. 316.075(1)(c) must be
 217 available for inspection in any proceeding to adjudicate
 218 liability under an ordinance enacted pursuant to this section.

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

223 (j) If the driver of the motor vehicle received a citation
 224 from a traffic enforcement officer at the time of the violation,

225 a ticket may not be issued pursuant to this section.

226 (2)(a) Of the fine imposed pursuant to paragraph (1)(a) or
227 paragraph (1)(g), one-fifth shall be remitted by the county or
228 municipality to the county court for distribution as provided in
229 s. 318.21, one-fifth shall be remitted to the Department of
230 Revenue for deposit into the Department of Health Administrative
231 Trust Fund, and three-fifths shall be retained by the county or
232 municipality enforcing the ordinance enacted pursuant to this
233 section. Funds deposited into the Department of Health
234 Administrative Trust Fund under this subsection shall be
235 allocated as follows:

236 1. Forty-nine percent shall be allocated equally among all
237 Level I, Level II, and pediatric trauma centers in recognition
238 of readiness costs for maintaining trauma services.

239 2. Forty-nine percent shall be allocated among Level I,
240 Level II, and pediatric trauma centers based on each center's
241 relative volume of trauma cases as reported in the Department of
242 Health Trauma Registry.

243 3. Two percent shall be allocated to non-trauma center
244 public hospitals based on their proportionate number of
245 emergency room visits.

246 (b) Any hospital receiving funds under this section may
247 request that its allocation under this subsection be remitted to
248 the Agency for Health Care Administration for use as Grants and
249 Donations Trust Fund moneys for purposes allowed under the
250 General Appropriations Act.

251 (3) A complaint that a county or municipality is employing
252 traffic infraction detectors for purposes other than the

253 promotion of public health, welfare, and safety or in a manner
 254 inconsistent with this section may be submitted to the governing
 255 body of such county or municipality. Such complaints, along with
 256 any investigation and corrective action taken by the county or
 257 municipal governing body, shall be included in the annual report
 258 to the department and in the department's annual summary report
 259 to the Governor, the President of the Senate, and the Speaker of
 260 the House Representatives, as required by this section. Based on
 261 its review of the report, the Legislature may exclude a county
 262 or municipality from further participation in the program.

263 (4) (a) Each county or municipality that operates a traffic
 264 infraction detector shall submit an annual report to the
 265 department that details the results of using the traffic
 266 infraction detector and the procedures for enforcement.

267 (b) The department shall provide an annual summary report
 268 to the Governor, the President of the Senate, and the Speaker of
 269 the House of Representatives regarding the use and operation of
 270 traffic infraction detectors under this section. The summary
 271 report must include a review of the information submitted to the
 272 department by the counties and municipalities and must describe
 273 the enhancement of the traffic safety and enforcement programs.
 274 The department shall report its recommendations, including any
 275 necessary legislation, on or before December 1, 2010, to the
 276 Governor, the President of the Senate, and the Speaker of the
 277 House of Representatives.

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

280 316.0745 Uniform signals and devices.--

281 (6) (a) Any system of traffic control devices controlled
 282 and operated from a remote location by electronic computers or
 283 similar devices must ~~shall~~ meet all requirements established for
 284 the uniform system, and, if where such a system affects ~~systems~~
 285 ~~affect~~ the movement of traffic on state roads, the design of the
 286 system must shall be reviewed and approved by the Department of
 287 Transportation; however, any such equipment acquired by
 288 purchase, lease, or other arrangement pursuant to an agreement
 289 entered into by a county or municipality prior to the effective
 290 date of this act or equipment used to enforce an ordinance
 291 enacted by a county or municipality prior to the effective date
 292 of this act shall not be required to meet the requirements
 293 established for the uniform system until 1 year after the
 294 effective date of this act.

295 (b) Any traffic infraction detector deployed on the
 296 streets and highways of the state must meet requirements
 297 established by the Department of Transportation and must be
 298 tested at regular intervals according to procedures prescribed
 299 by that department.

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

302 316.1967 Liability for payment of parking ticket
 303 violations and other ~~parking~~ violations.--

304 (6) Any county or municipality may provide by ordinance
 305 that the clerk of the court or the traffic violations bureau
 306 shall supply the department with a magnetically encoded computer
 307 tape reel or cartridge or send by other electronic means data
 308 which is machine readable by the installed computer system at

309 the department, listing persons who have three or more
 310 outstanding parking violations, including violations of s.
 311 316.1955, or who have one or more outstanding tickets for a
 312 violation of a traffic control signal steady red light
 313 indication issued pursuant to an ordinance adopted under s.
 314 316.0083. Each county shall provide by ordinance that the clerk
 315 of the court or the traffic violations bureau shall supply the
 316 department with a magnetically encoded computer tape reel or
 317 cartridge or send by other electronic means data that is machine
 318 readable by the installed computer system at the department,
 319 listing persons who have any outstanding violations of s.
 320 316.1955 or any similar local ordinance that regulates parking
 321 in spaces designated for use by persons who have disabilities.
 322 The department shall mark the appropriate registration records
 323 of persons who are so reported. Section 320.03(8) applies to
 324 each person whose name appears on the list.

325 Section 6. Subsection (8) of section 320.03, Florida
 326 Statutes, reads:

327 320.03 Registration; duties of tax collectors;
 328 International Registration Plan.--

329 (8) If the applicant's name appears on the list referred
 330 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a
 331 license plate or revalidation sticker may not be issued until
 332 that person's name no longer appears on the list or until the
 333 person presents a receipt from the clerk showing that the fines
 334 outstanding have been paid. An applicant on the list referred to
 335 in s. 316.1967(6) must also provide proof of attending a basic
 336 driver improvement course before a license plate or revalidation

337 sticker may be issued. This subsection does not apply to the
338 owner of a leased vehicle if the vehicle is registered in the
339 name of the lessee of the vehicle. The tax collector and the
340 clerk of the court are each entitled to receive monthly, as
341 costs for implementing and administering this subsection, 10
342 percent of the civil penalties and fines recovered from such
343 persons. As used in this subsection, the term "civil penalties
344 and fines" does not include a wrecker operator's lien as
345 described in s. 713.78(13). If the tax collector has private tag
346 agents, such tag agents are entitled to receive a pro rata share
347 of the amount paid to the tax collector, based upon the
348 percentage of license plates and revalidation stickers issued by
349 the tag agent compared to the total issued within the county.
350 The authority of any private agent to issue license plates shall
351 be revoked, after notice and a hearing as provided in chapter
352 120, if he or she issues any license plate or revalidation
353 sticker contrary to the provisions of this subsection. This
354 section applies only to the annual renewal in the owner's birth
355 month of a motor vehicle registration and does not apply to the
356 transfer of a registration of a motor vehicle sold by a motor
357 vehicle dealer licensed under this chapter, except for the
358 transfer of registrations which is inclusive of the annual
359 renewals. This section does not affect the issuance of the title
360 to a motor vehicle, notwithstanding s. 319.23(7)(b).

361 Section 7. If any provision of this act or its application
362 to any person or circumstance is held invalid, the invalidity
363 shall not affect other provisions or applications of this act
364 which can be given effect without the invalid provision or

CS/HB 439

2009

365 application, and to this end the provisions of this act are
366 declared severable.

367 Section 8. This act shall take effect upon becoming a law.