The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL:	SB 2166
INTRODUCER:	Senator Altman
SUBJECT:	Uniform Traffic Control
DATE:	March 8, 2010
REVISED:	3/17/10

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	**Fav/5 amendments**
2.			CJ	
3.			CA	
4.			WPSC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☐	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☒	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill creates the "Mark Wandall Traffic Safety Program." The bill preempts the regulation and use of all traffic camera enforcement systems to the state and creates s. 316.0083, F.S., establishing requirements for the use of traffic infraction detectors by the Department of Highway Safety and Motor Vehicles (the Department), counties and municipalities in enforcement of the requirements of s. 316.074(1) or s. 316.075(1)(c)1., F.S., which requires vehicles to stop before entering an intersection when so directed by a traffic signal. The bill authorizes the Department, counties and municipalities to enact rules or ordinances permitting the use of traffic infraction enforcement officers. The penalty for failing to stop at a steady red light, as determined through the use of a traffic infraction detector, is a fine of $158.

The bill provides a "grandfather clause" (until July 1, 2011) for those counties and municipalities currently engaged in the use of traffic detectors or who enter into an agreement to acquire such equipment on or before July 1, 2011. A severability clause is also provided.

The bill provides each county or municipality that operates a traffic infraction detector must submit an annual report to the Department which details the results of the detectors and the procedures for enforcement. The Department must submit a summary report to the Governor and

Legislature on or before December 31, 2011, which includes a review of the information submitted by the counties and municipalities and any recommendations or necessary legislation.

To the extent the Department and local governments choose to permit the use of traffic infraction detectors, there will be a fiscal impact for the cost of the installation and maintenance of the devices, the amount of which will vary depending on the negotiated agreement with any private vendor providing the equipment. There may be an increase in fine revenue for the local governments choosing to permit the use of traffic infraction detectors, the amount of which is indeterminate and reliant on driver awareness and future behavior.

This bill substantially amends ss. 316.003, 316.0745, 316.640, 316.650, 318.14, 318.18, 322.27, and 395.4036 of the Florida Statutes.

This bill creates ss. 316.0076, 316.0083, and 316.0776 and a new unnumbered section of the Florida Statutes.

II. Present Situation:

Intersection Safety

According to the Federal Highway Administration (FHWA) and National Highway Traffic Safety Administration (NHTSA), more than 45 percent of all traffic crashes occur at intersections or are intersection-related. In 2005, nearly 9,200 people died and approximately one million people were injured in intersection-related crashes. NHTSA's Fatality Analysis Reporting System showed crashes caused by red light running resulted in an estimated 805 fatalities in 2005.[1] According to the Department in 2008 there were 76 fatalities related to motor vehicle drivers who disregarded a traffic signal in Florida.[2] This represents approximately 3 percent of all fatal accidents in 2008, the sixth-highest cause of traffic fatalities.[3] Two sections of Florida Statutes address red light running:

- Section 316.074(1), F.S., requires drivers to obey the instructions of any applicable official traffic control device, when properly installed, unless otherwise directed by a police officer.
- Section 316.075(1)(c)1., F.S., requires vehicles facing a steady red signal to stop before entering the intersection and to remain standing until a green indication is shown. Exceptions are made to provide for a right turn on red after stopping and in certain one-way traffic intersections, a left turn on red after stopping.

Violation of either section for a driver failing to stop at a traffic signal when so required constitutes a noncriminal traffic infraction, punishable under ch. 318, F.S., as a moving violation and a $125 fine, $60 of which is distributed as provided in s. 318.21, F.S., and the remaining $65 remitted to the Department of Revenue for deposit into the Administrative Trust Fund of the Department of Health under s. 318.18(15), F.S. A violation of either section also results in the assessment of 4 points against a driver's license under s. 322.27(3), F.S.

[1] *See* http://safety.fhwa.dot.gov/intersections/inter_facts.htm
[2] *Florida Traffic Crash Statistics Report 2008*, Department of Highway Safety and Motor Vehicles, June 30, 2009.
[3] Careless driving represented 20 percent of 2008 traffic fatalities; DUI, 17 percent; excessive speed, 6 percent; driving left-of-center, 6 percent; and failure to yield right of way, 6 percent.

A number of factors contribute to red light running-related crashes. According to the FHWA's Red Light Camera Systems Operational Guidelines (January 2005),[4] while deficiencies in the design and configuration of signalized intersections may contribute to red light violations, driver behavior is the most significant contributing factor to the occurrence of red light running. According to the FHWA guidelines, the solution to the red light running problem and resulting crashes may require one or a combination of the following:

- *Intersection engineering improvements*, including modifying traffic signal timing, improving signing and marking, improving sight lines, modifying grades and/or grade separation, adjusting the prevailing speeds, changes in surface treatments, altering lane configuration, and replacing the traffic signal with some other form of traffic control device or intersection type.
- *Education* to assist motorists and the general public in understanding the safety issues inherent to red light running.
- *Traditional enforcement by law enforcement officers* that specifically target red light running violators can be a cost effective deterrent in reducing red light violations at problem intersections.
- *"Red light" camera systems* can be a cost effective tool to reduce red light violations and should be part of a comprehensive intersection safety program, which considers all countermeasures to reduce fatal and injury crashes at intersections.

Traffic Infraction Detectors

Traffic infraction detectors, or "red light cameras," are used to enforce traffic laws by automatically photographing vehicles whose drivers run red lights. A Red Light Camera System is a system for detecting and recording traffic violations occurring when a motor vehicle fails to obey a traffic control device. A red light camera is connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously monitors the traffic signal, and the camera is triggered by any vehicle entering the intersection above a pre-set minimum speed and following a specified time after the signal has turned red. Typically, two photos are taken: one photo of the front of the vehicle as it enters the intersection, and one photo of the rear of the vehicle when the vehicle is in the intersection during the stop phase. Most red light camera systems also record digital video data of the event, bracketing the alleged violation with several seconds of video to show any extenuating circumstances, e.g., a police officer directing traffic or the presence of emergency vehicles. Cameras record the license plate number, the date and time of day, the time elapsed since the beginning of the red signal, and the vehicle speed. When used as photo enforcement of traffic laws, traffic infraction enforcement officials remotely review the evidence, and, when warranted, issue a citation which is mailed to the registered owner of the vehicle. Approximately 439 communities in 25 states across the country currently participate in a red light camera program.[5] In addition, red light cameras are used in at least 21 foreign countries.[6]

[4] *See* http://safety.fhwa.dot.gov/intersection/redlight/fhwasa05002/fhwasa05002.pdf
[5] Insurance Institute for Highway Safety website (http://www.iihs.org/laws/auto_enforce_list.aspx) (last visited March 14, 2010).
[6] Insurance Institute for Highway Safety website (http://www.iihs.org/research/qanda/rlr.html) (last visited March 14, 2010).

Numerous studies examining red light camera systems' impact on safety have shown mixed results. An Insurance Institute for Highway Safety review of international red light camera studies concluded cameras reduce red light violations by 40-50 percent and reduce injury crashes by 25-30 percent.[7] A 2005 publication by the FHWA exemplifies the findings. The comprehensive report, *Safety Evaluation of Red-Light Cameras* (FHWA-HRT-05-048),[8] included data from seven jurisdictions (Baltimore, MD; Charlotte, NC; El Cajon, CA; Howard County and Montgomery County, MD; and San Diego and San Francisco, CA) and 132 intersections. The study showed red light cameras led to a decrease in the types of crashes most likely to cause death and injury while property-damage-only crashes increased. Specifically, the report showed:

- a 25 percent decrease in total right-angle crashes;
- a 16 percent reduction in injury right-angle crashes;
- a 15 percent increase in total rear-end crashes; and
- a 24 percent increase in injury rear-end crashes.

An overall economic analysis from the study showed red light camera systems provide a modest aggregate crash-cost benefit. According to the study, the greatest economic benefits provided by red light cameras would be at intersections with:

- relatively few rear end crashes and many right-angle ones;
- a higher traffic volume, especially when entering from the major road;
- shorter signal cycle lengths and intergreen periods (yellow clearance + all red); and
- one or more left turn protected phases.[9]

The study also found high public awareness, such as the presence of warning signs at both red light camera-enforced intersections and city limits of jurisdictions using red light camera systems, will enhance the benefits of the detectors.

Other studies, including a 7-jurisdiction study conducted by the Virginia Department of Transportation[10] and a USDOT-funded study by the Urban Transit Institute at North Carolina A&T University[11], have reached conflicting results regarding crash reduction. The results of these studies are best summarized by this excerpt from the North Carolina study:

> The results do not support the conventional wisdom expressed in recent literature and popular press that red light cameras reduce accidents.... Our findings are more pessimistic, finding no change in angle accidents and large increases in rear-end crashes and many other types of crashes relative to other intersections. We did find a decrease in accidents involving a vehicle turning left and a vehicle on the same roadway, which

[7] *Id*., citing Retting, R.A. et al., *Effects of red light cameras on violations and crashes: a review of the international literature*, Traffic Injury Prevention 4:17-23, 2003.
[8] *See* http://www.tfhrc.gov/safety/pubs/05048/
[9] The study suggested the presence of protected left turn phases may be a proxy for high numbers of left turning vehicles.
[10] Available online here: http://www.thenewspaper.com/rlc/docs/05-vdot.pdf
[11] Available online here: http://www.thenewspaper.com/rlc/docs/burkeyobeng.pdf

> may have been included as an angle accident in some other studies. However, given that these left turn accidents occur only one third as often as angle accidents, and the fact that we find no benefit from decreasing severity of accidents suggests that there has been no demonstrable benefit from the RLC [red light camera] program in terms of safety. In many ways, the evidence points toward the installation of RLCs as a detriment to safety.

Critics on each side of the debate raise concerns about the scientific methodology of opposing studies and potential bias of researchers. Criticisms have focused on issues such as sample size, control of variables (weather, similarity of intersections, etc), and other possible control methods (e.g., failure to analyze intersections before and after detectors are placed).

Currently there are no recognized independent standards or certifications for the red light camera industry. The FHWA and NHTSA have developed guidelines for the use of state and local agencies on the implementation and operation of red light camera systems. These guidelines were most-recently updated in January 2005.[12] Although not a regulatory requirement, the guidance is intended to provide critical information for state and local agencies on relevant aspects of red light camera systems in order to promote consistency and proper implementation and operation. The guidelines present research that suggests engineering improvements, safety education and increased enforcement by law enforcement officers can significantly reduce red light violations.

Examples of engineering improvements include:

- Improving signal head visibility. Signal head visibility can be improved by increasing the size of the traffic signal lamps from 8 to 12 inches. The addition of backplates can also make signals more visible.
- All-red interval. An all-red clearance interval, where the traffic signals on all sides are red for a period of time, provides additional time for motorists already in the intersection to proceed through the intersection on the red indication while holding cross traffic on the cross street approaches. The red clearance interval is not intended to reduce the incidence of red light running; rather it is a safety measure.
- Appropriate yellow times. The likelihood of a motorist running a red light increases as the yellow interval is shortened. Lengthening the yellow interval, within appropriate guidelines, has been shown to significantly reduce the number of inadvertent red light violations.
- Traffic signal coordination. A coordinated traffic signal operation where motorists are able to move smoothly in platoons from intersection to intersection reduces the risk of red light violations and collisions.

Statutory authority for photo enforcement of required highway toll payment was provided by the Legislature in 1993. Section 316.1001(2)(d), F.S., provides for the admissibility of photographic evidence in enforcing toll payment violations. For example, toll facility operators use a digital camera to capture an image of the vehicle's license plate as the vehicle travels through the tolling

[12] U.S. Department of Transportation, *Red Light Camera Systems Operational Guidelines*, Publication No. FHWA-SA-05-002, January 2005.

zone. If the system receives payment from a SunPass, the image is deleted. If no payment is received, the image is processed for video tolling or is considered a toll violation and a Uniform Traffic Citation is issued by first class or registered mail. If the vehicle was not in the care and control of the registered owner at the time of the violation, the owner is afforded the opportunity to establish this as fact and identify the driver via an affidavit.

In response to the city of Pembroke Pines' inquiry regarding the use of unmanned cameras to enforce violations of traffic signals, the Attorney General issued an advisory legal opinion on July 12, 2005.[13] The opinion concluded it was within the local government's scope of authority "to enact an ordinance authorizing the city:

- to monitor violations of traffic signals within the city and to use unmanned cameras to monitor intersections and record traffic violations;
- to monitor violations of traffic signals within the city and to use unmanned cameras to record the license tag numbers of cars involved in such violations; and
- to advise a car owner that his or her license tag number has been recorded in a violation of the traffic laws."

The problem identified by a 1997 Attorney General opinion[14] was whether unmanned electronic traffic infraction detectors may independently be used as the basis for issuing citations for violations of traffic laws. Current statute requires that citations be issued when an officer "observes the commission of a traffic infraction."[15] The 1997 Attorney General opinion concluded that nothing precludes the use of unmanned cameras to record violations of s. 316.075, F.S., but "a photographic record of a vehicle violating traffic control laws may not be used as the basis for issuing a citation for such violations." The 2005 opinion reached the same conclusion, stating, "legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices" as collected from a photographic record from unmanned cameras monitoring intersections.

Several local governments in Florida have participated in the use of red light cameras enforcement of red light violations. Due to the Attorney General's advisory opinions, the majority of local governments have used the cameras in pilot projects solely for data collection purposes or as a warning system to motorists, by sending a letter and attaching no penalty. Sarasota County, Manatee County, Palm Beach County, Polk County, and the cities of Orlando and Melbourne are examples of local governments that have at one time participated in a red light camera pilot project. The Palm Beach County Commission reported that their two-month pilot project using traffic cameras at a test intersection in Palm Beach County showed alarming results. One fifth of those who ran a red light did so two seconds after the light had changed. On average, fifty cars a day ran the light at the test site during the first month of the pilot project. During the second month of the project, following publicity about the program, that number dropped to less than twenty.[16]

[13] Attorney General Opinion 05-41, dated July 12, 2005.
[14] Attorney General Opinion 97-06, dated January 24, 1997.
[15] S. 316.640(5)(a), F.S.
[16] Palm Beach County Board of County Commissioners, "FY 2007 State Legislative Program", available online here: http://www.pbcgov.com/legislativeaffairs/pdf/LegProg.pdf

The city of Gulf Breeze passed a local ordinance in 2005 allowing use of red light cameras. A violation by any motor vehicle running a red light is recorded by a traffic enforcement photographic system is a civil code violation[17] and a $100 civil fee is assessed against the motor vehicle owner. The Gulf Breeze City Council adopted the ordinance despite the opinion issued by the Attorney General. The Gulf Breeze Police Chief said after the signs went up, violations dropped from 150 a month to 95 in a little over a year.[18] According to the police chief, the vendor paid for the initial cost of setting up the program. In return, the vendor is paid a percentage of the $100 fine.

From 2008 to the present, over 30 municipalities have joined Gulf Breeze in enacting red light camera ordinances and placing cameras at intersections. The ordinances are broadly similar, and vary only in the amount of the fine (from $50 to $150, with some jurisdictions enacting multiple-offense increases up to $500), the nature of required signage (none, at the entrance to the city, or at the intersection), whether or not to engage in education before "going live," variations on the notice requirements sent to the motor vehicle owner, and variations on the process whereby a motor vehicle owner may challenge the violation.

Trauma Centers

A verified trauma center (center) is a hospital with an established trauma program which includes health care practitioners who specialize in the treatment of emergent conditions and facilities appropriate to treat those patients.[19] Part II of Chapter 395, F.S., provides for a tiered system of center verification within the 19 trauma service areas established in s. 395.402, F.S. The Florida Department of Health (DOH) selects hospitals for center designation through an application process. Standards for designation are based on national guidelines established by the American College of Surgeons.[20] Standards for designation as a pediatric center are developed in conjunction with Children's Medical Services.[21] Florida's centers treat over 40,000 patients annually.[22]

There are three types of centers:

- Level I centers which have formal trauma care research and education programs; provide support to Level II and pediatric centers and general hospitals; and participate in an inclusive system of trauma care.[23]
- Level II centers which serve as a resource for general hospitals and participate in an inclusive system of trauma care.[24]

[17] Section 18-113, Code of Ordnances, City of Gulf Breeze, Florida.
[18] Ginny Laroe, "Police Research Traffic Cameras," *Sarasota Herald Tribune*, March 26, 2007.
[19] Florida Department of Health, *The Costs of Trauma Center Readiness*, July 17, 2002 (on file with the Transportation Committee).
[20] s. 395.401(2), F.S. Section 395.4025, F.S., delineates the DOH verified trauma center designation process. Detailed DOH standards for designation are found in *Trauma Center Standards, Department of Health, Pamphlet 150-9, January 2008*, see http://www.doh.state.fl.us/DEMO/Trauma/PDFs/TraumaCntrStandards-DOHPamphlet150-9Jan2008.pdf (last visited March 14, 2010).
[21] *Id.*
[22] Florida Department of Health, Division of Emergency Medical Operations, Office of Trauma, see http://www.doh.state.fl.us/DEMO/Trauma/index.html (last visited March 14, 2010).
[23] s. 395.4001(6), F.S.
[24] s. 395.4001(7), F.S.

- Pediatric centers must be in substantial compliance with DOH rules relating to pediatric trauma center operation.[25]

There are a total of 21 verified centers in Florida: 7 Level I; 8 Level II, 4 Level II and Pediatric, and 2 Pediatric only centers.[26] A center may have more than one designation, for example, St. Mary's Medical Center in West Palm Beach carries both a Level II and a Pediatric center designation. Additionally, one provisional center exists in Ft. Pierce, Florida.

Centers are partially funded by traffic infraction fines deposited into the Administrative Trust Fund (Trust Fund) within the DOH. Currently, as provided in s. 318.18(15), F.S., the Department of Revenue (DOR) deposits $65 of the $125 traffic citation fine for failure to stop at a traffic signal, assessed by law enforcement officers, into the DOH Administrative Trust fund for distribution to trauma centers. DOH distributes these funds on a quarterly basis to Centers based on a distribution methodology as provided in s. 395.4036, F.S. The distribution methodology requires:

- Twenty percent to Centers that have a local funding contribution as of December 31. Distribution is based on a Center's trauma caseload for the most recent calendar year for which data is available.[27]
- Forty percent to Centers based on a Center's trauma caseload for the most recent calendar year for which data is available. The determination of caseload volume for distribution of funds is based on DOH's Trauma Registry data.[28]
- Forty percent to Centers based on the severity of a Center's caseload. Severity determination is made by DOH according to the International Classification Injury Severity Scores.[29]

Verified trauma centers are either subject to audit under s. 215.97, F.S., the Florida Single Audit Act, or, if not subject to audit requirements, must annually attest to DOH that proceeds from distributions under 395.4036, F.S., were used in compliance with that section.[30] Currently, traffic fine revenues do not directly fund any other type of health care facility or entity.

III. Effect of Proposed Changes:

The bill creates the "Mark Wandall Traffic Safety Program," and provides a definition of the term "traffic infraction detector" which would encompass a typical red light camera. The bill creates s. 316.0083, F.S., authorizing the use of cameras to enforce the requirements of s. 316.074(1) and s. 316.075(1)(c)1., F.S., for failing to stop at a traffic signal when so directed.

Authorization

[25] s. 395.4001(9), F.S.
[26] Florida Department of Health, Division of Emergency Medical Operations, Office of Trauma, see http://www.doh.state.fl.us/DEMO/Trauma/PDFs/TextEquivforTraumaCentersMap.doc (last visited March 14, 2010).
[27] s. 395.4036(1)(a)1, F.S.
[28] s. 395.4036(1)(a)2, F.S.
[29] s. 395.4036(1)(a)3, F.S. The International Classification Injury Severity Score (ICISS) is a mathematical ratio used to predict and score patient survival from severe injuries. Rule 64J-2.019, F.A.C., provides for classifications of trauma patients based on the ICISS scoring system.
[30] s. 395.4036(3), F.S.

The bill preempts the regulation and use of all traffic camera enforcement systems to the state. In addition, the bill authorizes the Department the use of traffic infraction detectors on the State Highway System as defined in s. 334.03, F.S. In addition, bill authorizes counties and municipalities the use of traffic infraction detectors on highways, streets or roads within their jurisdiction, except the State Highway System. However, the Department may, by memorandum of understanding, contract with counties and municipalities to allow the use of traffic infraction detectors on the State Highway System.

The bill allows the Department, counties, and municipalities to by rule or ordinance authorize traffic infraction enforcement officers to issue uniform traffic citations for violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when so directed and when identified by traffic infraction detectors. Traffic infraction enforcement officers must meet training and qualifications standards developed by the Department. In addition, traffic infraction enforcement officers must be physically located in the county in which infractions occur that he or she enforces. The report of an officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used in a violation.

Fines
The bill provides a distinction between violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when enforced by a law enforcement officer and violations of those sections when enforced by a traffic infraction enforcement officer using evidence obtained from a red light camera.

- The bill provides fines assessed for violations enforced by law enforcement officers are disbursed as follows:
  - The fine is increased from $125 to $158; however, there is no change to the assessment of points against a driver's license when a violation is enforced by a law enforcement officer.
    - $60 to be distributed as provided in s. 318.21, F.S.;
    - $30 to the General Revenue Fund;
    - $68 to Department of Revenue (DOR) for deposit into the Department of Health (DOH) Administrative Trust Fund for distribution, with the following further direction as provided in s. 395.4036(1), F.S., as to its distribution:
      - Eighteen percent distributed to verified trauma centers that have a local funding contribution as of December 31. Distribution of funds is based on trauma caseload volume for the most recent calendar year available;
      - Thirty-nine percent distributed to verified trauma centers based on trauma caseload volume for the most recent calendar year available. Determination of caseload volume for distribution of funds is based on the DOH's Trauma Registry date;
      - Thirty-nine percent distributed to verified trauma centers based on severity of trauma patients for the most recent calendar year available. The determination of severity for distribution shall be based on DOH's International Classification Injury Severity Scores

or another statistically valid and scientifically accepted method of stratifying a trauma patient's severity of injury, risk of mortality, and resource consumption as adopted by DOH by rule, weighted based on the costs associated with and incurred by the trauma center in treating trauma patients. The weighting of scores shall be established by DOH by rule.;

- ❖ Two-percent distributed to public hospitals that qualify for disproportionate share dollars and that are not verified trauma centers but are located in trauma service areas that do not have a verified trauma center based on their proportionate number of emergency room visits on an annual basis; and
- ❖ Two-percent distributed to provide an enhanced Medicaid payment to nursing homes that serve residents who require ventilator care and who are Medicaid recipients.;

- The bill provides fines assessed for violations enforced by traffic infraction enforcement officers are disbursed as follows:
  - $158 when enforced by the Department's traffic infraction enforcement officers.
    - $80 to the General Revenue Fund;
    - $45 distributed to the county or municipality in which the infraction occurred;
    - $20 to DOR for deposit into the DOH Administrative Trust Fund; however, the following further direction as to its distribution appears to have been inadvertently omitted from the amended distribution of fines in s. 395.4036(1), F.S.:
      - ❖ Eighteen percent distributed to verified trauma centers that have a local funding contribution as of December 31. Distribution of funds is based on trauma caseload volume for the most recent calendar year available;
      - ❖ Thirty-nine percent distributed to verified trauma centers based on trauma caseload volume for the most recent calendar year available. Determination of caseload volume for distribution of funds is based on the DOH's Trauma Registry date;
      - ❖ Thirty-nine percent distributed to verified trauma centers based on severity of trauma patients for the most recent calendar year available. The determination of severity for distribution shall be based on DOH's International Classification Injury Severity Scores or another statistically valid and scientifically accepted method of stratifying a trauma patient's severity of injury, risk of mortality, and resource consumption as adopted by DOH by rule, weighted based on the costs associated with and incurred by the trauma center in treating trauma patients. The weighting of scores shall be established by DOH by rule.;
      - ❖ Two-percent distributed to public hospitals that qualify for disproportionate share dollars and that are not verified trauma centers but are located in trauma service areas that do not have a

verified trauma center based on their proportionate number of emergency room visits on an annual basis; and
- ❖ Two-percent distributed to provide an enhanced Medicaid payment to nursing homes that serve residents who require ventilator care and who are Medicaid recipients.;

- $5 to DOR for deposit into the Brain and Spinal Cord Injury Trust Fund; and
- $8 for deposit into the Grants and Donations Trust Fund of the Agency for Health Care Administration.

- $158 when enforced by a county or municipality's traffic infraction enforcement officers.
  - $80 distributed to the county or municipality;
  - $45 to the General Revenue Fund; and
  - $20 to the DOR for deposit into the DOH Administrative Trust Fund, with the following further direction as provided in s. 395.4036(1), F.S., as to its distribution:
    - ❖ Eighteen percent distributed to verified trauma centers that have a local funding contribution as of December 31. Distribution of funds is based on trauma caseload volume for the most recent calendar year available;
    - ❖ Thirty-nine percent distributed to verified trauma centers based on trauma caseload volume for the most recent calendar year available. Determination of caseload volume for distribution of funds is based on the DOH's Trauma Registry date;
    - ❖ Thirty-nine percent distributed to verified trauma centers based on severity of trauma patients for the most recent calendar year available. The determination of severity for distribution shall be based on DOH's International Classification Injury Severity Scores or another statistically valid and scientifically accepted method of stratifying a trauma patient's severity of injury, risk of mortality, and resource consumption as adopted by DOH by rule, weighted based on the costs associated with and incurred by the trauma center in treating trauma patients. The weighting of scores shall be established by DOH by rule.;
    - ❖ Two-percent distributed to public hospitals that qualify for disproportionate share dollars and that are not verified trauma centers but are located in trauma service areas that do not have a verified trauma center based on their proportionate number of emergency room visits on an annual basis; and
    - ❖ Two-percent distributed to provide an enhanced Medicaid payment to nursing homes that serve residents who require ventilator care and who are Medicaid recipients.
  - $5 to DOR for deposit into the Brain and Spinal Cord Injury Trust Fund; and
  - $8 for deposit into the Grants and Donations Trust Fund of the Agency for Health Care Administration

In addition, the bill provides violations enforced by traffic infraction enforcement officers may not result in points assessed against the operator's driver's license.

Procedure for Issuing and Contesting of Tickets
The citation must be sent by first-class mail to the registered owner of the vehicle involved in the violation within 7 business days after the date of the violation. A second citation must be sent by first-class mail, return receipt requested, if the registered owner does not respond within 30 days after the first citation was issued. Receipt of the citation constitutes notification. In addition, to the citation, notification must be sent to the registered owner specifying remedies available under s. 318.18(15), F.S. The notification must include a notice the owner has the right to review the photographic or electronic images or the streaming video evidence and must state the time and place where the evidence may be examined and observed.

The owner is responsible for payment of the fine unless the owner can establish the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer;
- Passed through the intersection due to a medical emergency;
- Was, at the time of the violation, in the care, custody, or control of another person;
- Passed through the intersection because the operator, under the circumstances at the time of the infraction, feared for his or her safety; or
- Received a Uniform Traffic Citation (UTC) for the alleged violation issued by a law enforcement officer.

The owner of the vehicle must, within 30 days of receipt of notification of the alleged violation, furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the UTC, if issued. Submission of a false affidavit is a second degree misdemeanor.

A person who is cited for a violation of s. 316.074(1), F.S., or s. 316.075(1)(c)1., F.S., as enforced by a traffic infraction enforcement officer under s. 316.0083, F.S., may not be charged a higher fine because he or she exercised his or her right to contest the issuance of the citation in court.

Upon receipt of an affidavit, the person designated as having care, custody, and control of the motor vehicle at the time of the violation may be issued a citation for a violation of s. 316.074(1), F.S., or s. 316.075(1)(c)1., F.S., when the driver failed to stop at a traffic signal. The affidavit is admissible in a proceeding for the purpose of providing proof the person identified in the affidavit was in actual care, custody, or control of the motor vehicle. The owner of a leased vehicle for which a citation is issued for a violation of s. 316.074(1), F.S., or s. 316.075(1)(c)1., F.S., when the driver failed to stop at a traffic signal is not responsible for paying the citation and is not required to submit an affidavit if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.

The bill authorizes any governmental entity including the clerk of court, to provide the names of those who have one or more outstanding violations, as recorded by traffic infraction detectors, to the Department's list of outstanding violations as authorized under s. 316.0083, F.S. Pursuant to s. 320.03(8), F.S., if a person's name appears on the Department's list, a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the clerk showing the fines outstanding have been paid.

The bill requires a traffic infraction enforcement officer to provide by electronic transmission a replica of the citation data (when issued under s. 316.0083, F.S.) to the court having jurisdiction over the alleged offense or its traffic violations bureau within 30 business days after the issuance date of the citation to the violator.

Oversight and Accountability
The bill authorizes the placement and installation of traffic infraction detectors on the highways, county roads, and municipal streets under specifications developed by FDOT, so long as safety and operation of the road facility is not impaired. If the state, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must notify the public a traffic infraction device may be in use at that intersection. Such signage must meet the specifications for uniform signals and devices adopted by FDOT pursuant to s. 316.0745, F.S.

Any traffic infraction detector installed on the highways, roads, and streets must meet requirements established by the FDOT and must be tested at regular intervals according to procedures prescribed by FDOT. The bill provides a 'grandfather clause' for those counties and municipalities instituting a traffic infraction detector program on or before July 1, 2010, or entered into an agreement to acquire such equipment on or before July 1, 2011. These counties and municipalities are not required to meet the specifications provided by the bill until July 1, 2011.

Each county or municipality that operates a traffic infraction detector is required to submit an annual report to the Department no later than 90 days prior to the due date of the annual summary report and must contain the following:

- the results of using the traffic infraction detector;
- the procedures for enforcement; and
- statistical data and information required by the Department.

The Department must submit an annual summary report to the Governor and Legislature which must contain:

- a review of the information received from the counties and municipalities;
- a description of the enhancement of the traffic safety and enforcement programs; and
- recommendations, including any necessary legislation.

The first report must be submitted on or before December 31, 2011.

The bill provides a severability clause and is effective upon becoming law.

Other Potential Implications:

Approximately 33 counties and municipalities currently operate red light camera systems in the state of Florida that will be affected by the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases the fine from $125 to $158 for a violation of s. 316.074(1), F.S., and s. 316.075(1)(c)1., F.S.

To the extent local governments choose to permit the use of traffic infraction detectors there may be a fiscal impact to the private sector. Traffic infraction detectors will increase the scope of a local government's enforcement of red light violations; therefore, increasing the possibility of a motor vehicle owner receiving a citation for a red light violation. The fine for the violation, as determined by a traffic infraction detector, is $158.

There are a number of providers of traffic infraction detectors in Florida. These providers and others may realize a significant positive fiscal impact, depending on how each provider structures its services and negotiates with a given the county or municipality.[31] The fine for a violation of current municipal traffic infraction detector ordinances in Florida ranges from $50 to $150. The amount of the fine received by the vendor varies

[31] A 2002 audit by the California State Auditor noted that "[t]he fees and fee structures that local governments pay their vendors differ significantly." The audit indicated that some cities paid anywhere from $25 to $106 per citation to the vendor, with larger cities like San Francisco and Los Angeles paying additional flat fees to cover certain costs. The audit suggested that "[t]hese variances may be due to the relative size differences among the programs and each local government's negotiating ability." *Red Light Camera Programs: Although They Have Contributed to a Reduction in Accidents, Operational Weaknesses Exist at the Local Level*, Report No. 2001-125, California State Auditor, Bureau of State Audits, July 2002.

based on negotiations between the vendor and the local government. Two important factors in the negotiation are whether the vendor will bear the up-front installation costs of the equipment, and the eventual ownership of the equipment. In the case where the vendor bears the costs of the initial installation, that vendor may receive a large percentage of the fine during the early years of the contract, in order to recoup its initial outlay. The local government may receive a larger share in later years, and will also ultimately own the equipment outright. Other jurisdictions may elect to negotiate a different arrangement whereby the vendor retains ownership of the equipment, and receives a fixed percentage of the fine over the course of the contract. A third arrangement involves a relatively large flat-fee monthly payment to the vendor, and a larger percentage of the fine retained by the local government.

C. Government Sector Impact:

To the extent the Department and local governments choose to permit the use of traffic infraction detectors there may be a fiscal impact to the Department and local governments for the cost of the acquisition, installation and maintenance of the devices, the amount of which will vary depending on the negotiated agreement between the Department, local government and any private vendor providing the equipment and service. The price of a traffic infraction detector ranges from $50,000 to $100,000 each. There may also be installation, maintenance and monitoring fees, based on the negotiated agreement.

There may be an increase in fine revenue for the local governments that choose to enact ordinances permitting the use of traffic infraction detectors, the amount of which is indeterminate and reliant on driver awareness and future behavior. There may be a decrease in fine revenues to local governments who are now collecting fines from traffic infraction detector ordinances adopted prior to the provisions of this bill becoming effective.

In 2008, there were 343,211 citations issued statewide by law enforcement officers for violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when so directed. Due to the technological advantage of red light camera systems in enforcing red light running violations, estimating the margin of additional violations with any degree of accuracy is difficult. Further complicating any estimation, it is not clear how effective red light camera systems would be in modifying driver behavior, but some reduction in the initial number of violations should be expected subsequent to the implementation of a red light camera system.

The General Revenue Fund will receive $30 for each citation for a violation of s. 316.074(1), F.S., or s. 316.075(1)(c)1. F.S., enforced by a law enforcement officer.

The General Revenue Fund will receive $80 for each citation enforced by the Department's traffic infraction enforcement officer.

The General Revenue Fund will receive $45 for each citation enforced by a county or municipality's traffic infraction enforcement officer.

The Brain and Spinal Cord Injury Trust Fund will receive $5 for each citation enforced by the Department, a county, or a municipality's traffic infraction enforcement officer.

The Grants and Donations Trust Fund of the Agency for Health Care Administration will receive $8 for each citation enforced by the Department, a county, or a municipality's traffic infraction enforcement officer.

The Department of Health Administrative Trust Fund will receive $20 from each citation enforced by the department, a county or municipality's traffic infraction enforcement officer. Specifically, the fines are to be distributed as follows:

- 18 percent to verified trauma centers that have a local funding contribution ;
- 39 percent to verified trauma centers based on trauma caseload volume;
- 39 percent to verified trauma centers based on severity of trauma patients;
- 2 percent to public hospitals that qualify for disproportionate share dollars and that are not verified trauma centers but are located in trauma service areas that do not have a verified trauma center based on their proportionate number of emergency room visits on an annual basis; and
- 2 percent to provide an enhanced Medicaid payment to nursing homes that serve residents who require ventilator care and who are Medicaid recipients.

The bill provides that $80 of the revenue generated by the citations enforced by a county or municipality's traffic infraction enforcement officer is retained by the local jurisdiction. As a result, there may be an increase in fine revenue for any local governments that choose to permit the use of traffic infraction detectors. The amount of revenue is indeterminate, as the number of violations to be issued is unknown and depends on driver awareness and future behavior.

In addition, $45 of the revenue generated by the citations enforced by the department's traffic infraction enforcement officer is distributed to the respective local jurisdiction in which the infraction occurred.

The bill requires the Department to collect reports from municipalities and to prepare an annual report for the Legislature. The bill also requires the FDOT to prepare standards for traffic infraction detectors.

Local court systems may see a caseload increase, in the event that vehicle operators choose to contest citations as permitted under the bill. There may be an indeterminate cost to the local court system.

VI. Technical Deficiencies:

The bill amends s. 395.4036, F.S., to provide funds collected under s. 318.15(a) and (c), F.S., and deposited into the DOH Administrative Trust Fund are to be disbursed accordingly; however s. 318.15(b), F.S., also requires $20 of the fine when enforced by the Department's traffic

infraction enforcement officers to be deposited into the DOH Administrative Trust Fund, but was omitted from the amended distribution of fines in s. 395.4036, F.S.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

Barcode 436478 by Transportation on March 17, 2010:
Increases from 7 days to 10 days after the date of the violation that the citation must be mailed.

Barcode 904148 by Transportation on March 17, 2010:
Clarifies the due date of the annual report a county or municipality operating a traffic infraction detector must submit to the Department. Specifically, the report must be submitted by October 1 of each year.

Barcode 177538 by Transportation on March 17, 2010:

- Requires a traffic engineer to review and certify all other applicable safety-related engineering measures have been considered before installing a traffic infraction detector at an intersection.
- Clarifies that if the state, a county, or a municipality begins a traffic infraction detector program, the respective entity, at least 30 days prior to commencing such program, must conduct a public awareness campaign.
- Clarifies language for those counties and municipalities currently engaged in the use of traffic detectors or who enter into an agreement to acquire such equipment on or before July 1, 2011. Specifically, an affected county or municipality is not required to meet FDOT specifications until July 1, 2011, or 180 days after the issuance of FDOT's specifications, whichever occurs last.

Barcode 957138 by Transportation on March 17, 2010:
Prohibits a manufacturer or vendor from receiving a fee or remuneration based upon the number of citations issued due to a traffic infraction detector enforcement system.

Barcode 918732 by Transportation on March 17, 2010:
Corrects a technical deficiency to provide for the disbursement of $20 of the fine when enforced by the Department's traffic infraction enforcement officers that is deposited into the DOH Administrative Trust Fund.