

By the Committee on Transportation; and Senators Garcia, Wise,  
and Evers

596-03072-12

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1                                   A bill to be entitled  
2           An act relating to noncriminal traffic infractions;  
3           amending s. 316.0083, F.S., relating to use of a  
4           traffic infraction detector when a driver has failed  
5           to stop at a traffic control signal pursuant to  
6           specified provisions; revising procedures applied to a  
7           person identified by a motor vehicle owner as having  
8           care, custody, and control of the vehicle when a  
9           violation occurred; providing for notification and  
10          citation within certain time periods after receipt of  
11          an affidavit from the owner identifying such person;  
12          providing that the owner of a motor vehicle involved  
13          in a violation is responsible for paying the uniform  
14          traffic citation unless the motor vehicle's owner was  
15          deceased on or before the date the uniformed traffic  
16          citation was issued; requiring the representative of  
17          the deceased owner to submit certain documentation to  
18          prove the death of the owner of the vehicle; providing  
19          for a traffic citation to be issued at the discretion  
20          of the reviewing traffic infraction enforcement  
21          officer for failure to stop before making a left-hand  
22          turn or right-hand turn where such turn is  
23          permissible; specifying factors for the reviewing  
24          traffic infraction enforcement officer to consider;  
25          requiring that the Department of Highway Safety and  
26          Motor Vehicles and counties and municipalities that  
27          install a traffic infraction detector to submit a  
28          report to the Department of Transportation which  
29          provides specified data; amending s. 316.075, F.S.;

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30 requiring the establishment of minimum yellow light  
31 change interval times for intersections where traffic  
32 infraction detectors are used; requiring notices of  
33 violation for violations at such intersections to  
34 contain specific information regarding the yellow  
35 light times; providing that such notices establish a  
36 presumption; requiring testing to such traffic control  
37 signals; requiring such signals to comply with certain  
38 standards; requiring that certain detectors be in  
39 compliance with the act by a specified date; amending  
40 s. 316.0776, F.S.; revising provisions to conform to  
41 changes made by the act; providing an effective date.

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Subsections (1) and (2) of section 316.0083,  
46 Florida Statutes, are amended, and subsection (5) is added to  
47 that section, to read:

48 316.0083 Mark Wandall Traffic Safety Program;  
49 administration; report.—

50 (1) (a) For purposes of administering this section, the  
51 department, a county, or a municipality may authorize a traffic  
52 infraction enforcement officer under s. 316.640 to issue a  
53 traffic citation for a violation of s. 316.074(1) or s.  
54 316.075(1) (c)1. A notice of violation and a traffic citation may  
55 not be issued for failure to stop at a red light if the driver  
56 is making a right-hand turn in a careful and prudent manner at  
57 an intersection where right-hand turns are permissible. This  
58 paragraph does not prohibit a review of information from a

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59 traffic infraction detector by an authorized employee or agent  
60 of the department, a county, or a municipality before issuance  
61 of the traffic citation by the traffic infraction enforcement  
62 officer. This paragraph does not prohibit the department, a  
63 county, or a municipality from issuing notification as provided  
64 in paragraph (b) to the registered owner of the motor vehicle or  
65 to another person identified as having care, custody, and  
66 control of the motor vehicle involved in the violation of s.  
67 316.074(1) or s. 316.075(1)(c)1.

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

77 b. Included with the notification to the registered owner  
78 of the motor vehicle involved in the infraction must be a notice  
79 that the owner has the right to review the photographic or  
80 electronic images or the streaming video evidence that  
81 constitutes a rebuttable presumption against the owner of the  
82 vehicle. The notice must state the time and place or Internet  
83 location where the evidence may be examined and observed.

84 2. Penalties assessed and collected by the department,  
85 county, or municipality authorized to collect the funds provided  
86 for in this paragraph, less the amount retained by the county or  
87 municipality pursuant to subparagraph 3., shall be paid to the

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88 Department of Revenue weekly. Payment by the department, county,  
89 or municipality to the state shall be made by means of  
90 electronic funds transfers. In addition to the payment, summary  
91 detail of the penalties remitted shall be reported to the  
92 Department of Revenue.

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

95 a. One hundred fifty-eight dollars for a violation of s.  
96 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
97 stop at a traffic signal if enforcement is by the department's  
98 traffic infraction enforcement officer. One hundred dollars  
99 shall be remitted to the Department of Revenue for deposit into  
100 the General Revenue Fund, \$10 shall be remitted to the  
101 Department of Revenue for deposit into the Department of Health  
102 Administrative Trust Fund, \$3 shall be remitted to the  
103 Department of Revenue for deposit into the Brain and Spinal Cord  
104 Injury Trust Fund, and \$45 shall be distributed to the  
105 municipality in which the violation occurred, or, if the  
106 violation occurred in an unincorporated area, to the county in  
107 which the violation occurred. Funds deposited into the  
108 Department of Health Administrative Trust Fund under this sub-  
109 subparagraph shall be distributed as provided in s. 395.4036(1).  
110 Proceeds of the infractions in the Brain and Spinal Cord Injury  
111 Trust Fund shall be distributed quarterly to the Miami Project  
112 to Cure Paralysis and shall be used for brain and spinal cord  
113 research.

114 b. One hundred fifty-eight dollars for a violation of s.  
115 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
116 stop at a traffic signal if enforcement is by a county or

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117 municipal traffic infraction enforcement officer. Seventy  
118 dollars shall be remitted by the county or municipality to the  
119 Department of Revenue for deposit into the General Revenue Fund,  
120 \$10 shall be remitted to the Department of Revenue for deposit  
121 into the Department of Health Administrative Trust Fund, \$3  
122 shall be remitted to the Department of Revenue for deposit into  
123 the Brain and Spinal Cord Injury Trust Fund, and \$75 shall be  
124 retained by the county or municipality enforcing the ordinance  
125 enacted pursuant to this section. Funds deposited into the  
126 Department of Health Administrative Trust Fund under this sub-  
127 subparagraph shall be distributed as provided in s. 395.4036(1).  
128 Proceeds of the infractions in the Brain and Spinal Cord Injury  
129 Trust Fund shall be distributed quarterly to the Miami Project  
130 to Cure Paralysis and shall be used for brain and spinal cord  
131 research.

132 4. An individual may not receive a commission from any  
133 revenue collected from violations detected through the use of a  
134 traffic infraction detector. A manufacturer or vendor may not  
135 receive a fee or remuneration based upon the number of  
136 violations detected through the use of a traffic infraction  
137 detector.

138 (c)1.a. A traffic citation issued under this section shall  
139 be issued by mailing the traffic citation by certified mail to  
140 the address of the registered owner of the motor vehicle  
141 involved in the violation when payment has not been made within  
142 30 days after notification under subparagraph (b)1.

143 b. Delivery of the traffic citation constitutes  
144 notification under this paragraph.

145 c. In the case of joint ownership of a motor vehicle, the

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146 traffic citation shall be mailed to the first name appearing on  
147 the registration, unless the first name appearing on the  
148 registration is a business organization, in which case the  
149 second name appearing on the registration may be used.

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

153 2. Included with the notification to the registered owner  
154 of the motor vehicle involved in the infraction shall be a  
155 notice that the owner has the right to review, either in person  
156 or remotely, the photographic or electronic images or the  
157 streaming video evidence that constitutes a rebuttable  
158 presumption against the owner of the vehicle. The notice must  
159 state the time and place or Internet location where the evidence  
160 may be examined and observed.

161 (d)1. The owner of the motor vehicle involved in the  
162 violation is responsible and liable for paying the uniform  
163 traffic citation issued for a violation of s. 316.074(1) or s.  
164 316.075(1)(c)1. when the driver failed to stop at a traffic  
165 signal, unless the owner can establish that:

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

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

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

173 d. A uniform traffic citation was issued by a law  
174 enforcement officer to the driver of the motor vehicle for the

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175 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1; or-

176 e. The motor vehicle's owner was deceased on or before the  
177 date the uniformed traffic citation was issued, as established  
178 by an affidavit submitted by the representative of the motor  
179 vehicle owner's estate, or other designated person or family  
180 member.

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

186 a. An affidavit supporting an exemption under sub-  
187 subparagraph 1.c. must include the name, address, date of birth,  
188 and, if known, the driver ~~driver's~~ license number of the person  
189 who leased, rented, or otherwise had care, custody, or control  
190 of the motor vehicle at the time of the alleged violation. If  
191 the vehicle was stolen at the time of the alleged offense, the  
192 affidavit must include the police report indicating that the  
193 vehicle was stolen.

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

198 c. If the motor vehicle's owner to whom a traffic citation  
199 has been issued is deceased, the affidavit must include a  
200 certified copy of the owner's death certificate showing the date  
201 of death occurred on or before the issuance of the uniform  
202 traffic citation and one of the following:

203 (I) A bill of sale or other document showing that the

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204 deceased owner's motor vehicle was sold after his or her death;

205 (II) Documentary proof that the registered license plate  
206 belonging to the deceased owner's vehicle was turned in to the  
207 Department of Highway Safety and Motor Vehicles, including any  
208 branch or authorized office thereof; or

209 (III) A copy of a police report showing that the deceased  
210 owner's registered license plate or motor vehicle was stolen  
211 after the owner's death.

212  
213 Upon receipt of the affidavit and documentation required under  
214 this sub-subparagraph, the governmental entity shall dismiss the  
215 citation and provide proof of such dismissal to the person who  
216 submitted the affidavit.

217 3. Upon receipt of an affidavit, the person designated as  
218 having care, custody, and control of the motor vehicle at the  
219 time of the violation may be issued a notice of violation  
220 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.  
221 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop  
222 at a traffic signal. The affidavit is admissible in a proceeding  
223 pursuant to this section for the purpose of providing proof that  
224 the person identified in the affidavit was in actual care,  
225 custody, or control of the motor vehicle. The owner of a leased  
226 vehicle for which a traffic citation is issued for a violation  
227 of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to  
228 stop at a traffic signal is not responsible for paying the  
229 traffic citation and is not required to submit an affidavit as  
230 specified in this subsection if the motor vehicle involved in  
231 the violation is registered in the name of the lessee of such  
232 motor vehicle.

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233 4. Paragraphs (b) and (c) apply to the person identified on  
234 the affidavit, except that the notification under sub-  
235 subparagraph (b)1.a. must be sent within 30 days after receipt  
236 of an affidavit and the traffic citation mailed pursuant to sub-  
237 subparagraph (c)1.d. must be mailed no later than 60 days after  
238 the date of receipt of an affidavit.

239 ~~5.4.~~ The submission of a false affidavit is a misdemeanor  
240 of the second degree, punishable as provided in s. 775.082 or s.  
241 775.083.

242 (e) The photographic or electronic images or streaming  
243 video attached to or referenced in the traffic citation is  
244 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.  
245 when the driver failed to stop at a traffic signal has occurred  
246 and is admissible in any proceeding to enforce this section and  
247 raises a rebuttable presumption that the motor vehicle named in  
248 the report or shown in the photographic or electronic images or  
249 streaming video evidence was used in violation of s. 316.074(1)  
250 or s. 316.075(1)(c)1. when the driver failed to stop at a  
251 traffic signal.

252 (2) A notice of violation and a traffic citation may not be  
253 issued for failure to stop at a red light if the driver is  
254 making a right-hand turn in a careful and prudent manner at an  
255 intersection where right-hand turns are permissible or when  
256 making a left-hand turn in a careful and prudent manner from a  
257 one-way street onto a one-way street where left-hand turns are  
258 permissible. A notice of violation or traffic citation for  
259 failure to stop at a red light before making a right or left  
260 turn shall be issued at the discretion of the reviewing traffic  
261 infraction enforcement officer, as if the citation had been

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262 issued by an officer at an intersection. When examining evidence  
263 for violations under this subsection, a traffic infraction  
264 enforcement officer shall consider one or more of the following  
265 factors that would indicate the turn was not made in careful or  
266 prudent manner:

267 (a) The operator of the motor vehicle failed to yield to a  
268 pedestrian or bicyclist;

269 (b) The operator of the motor vehicle put a pedestrian or  
270 bicyclist in danger of injury;

271 (c) The operator of the motor vehicle failed to yield to  
272 another vehicle or oncoming traffic; or

273 (d) The operator of the motor vehicle commenced the turn in  
274 disregard for the safety of a person or property.

275  
276 A citation may not be issued under this subsection if the driver  
277 of the vehicle came to a complete stop before turning right or  
278 left when permissible at a red light, but failed to achieve a  
279 stop before the point at which a stop is required.

280 (5) Within 15 months or when 1 year of data is available  
281 following the date of installation of a traffic infraction  
282 detector, the department, each county, or each municipality  
283 shall submit a report to the Department of Transportation which  
284 includes a comparison and analysis of:

285 (a) Month-to-month violations of ss. 316.074(1) and  
286 316.075(1)(c)1. which occur at the intersections where traffic  
287 infraction detectors are enforcing the law to stop at a red  
288 light; and

289 (b) The number and type of related traffic collisions that  
290 occur at each intersection prior to and after the use of traffic

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291 infraction detectors.

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293 The report shall also describe instances when camera results are  
294 not used and other data, such as traffic crash reports, are used  
295 in the comparison and analysis by the department, county, or  
296 municipality.

297 Section 2. Subsection (4) of section 316.075, Florida  
298 Statutes, is amended, and subsection (5) is added to that  
299 section, to read:

300 316.075 Traffic control signal devices.—

301 (4) A violation of subsection (1) or subsection (2) ~~this~~  
302 ~~section~~ is a noncriminal traffic infraction, punishable pursuant  
303 to chapter 318 as either a pedestrian violation or, if the  
304 infraction resulted from the operation of a vehicle, as a moving  
305 violation.

306 (5) (a) Before initiating the use of a traffic infraction  
307 detector for any intersection approach pursuant to s. 316.0083,  
308 each jurisdiction shall establish minimum yellow light change  
309 interval time for the designated intersection approach in  
310 accordance with engineering standards set forth in the Institute  
311 of Transportation Engineers Traffic Engineering Handbook, as  
312 adopted by the Department of Transportation, and any such  
313 established time may not be less than the recognized national  
314 minimum standard. The Department of Transportation shall adopt  
315 the latest edition of Institute of Transportation Engineers  
316 Traffic Engineering Handbook for use in compliance with this  
317 subsection.

318 (b) A jurisdiction issuing a notice of violation sent  
319 pursuant to s. 316.0083, must include the length of the yellow

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320 light time during the signal phase of the traffic control signal  
321 immediately before the violation on the notice or must maintain  
322 records of the most recent programmed yellow intervals for  
323 inspection in order to ensure compliance with this subsection.

324 (c) Unless each notice of violation for a particular  
325 approach states the length of the yellow light duration, the  
326 yellow light interval shall be tested at least once during every  
327 calendar year beginning in 2013. A traffic infraction detector  
328 monitoring a traffic signal that is not in compliance with the  
329 Institute of Transportation Engineers Traffic Engineering  
330 Handbook standards, as adopted by the Department of  
331 Transportation, shall be disabled until that signal is brought  
332 into compliance with the standards.

333 (d) Issuance of a notice stating the length of the yellow  
334 light duration, or annual testing of the yellow light change  
335 interval time according to this subsection, establishes a  
336 presumption that the yellow light cycle was operating in  
337 compliance with this subsection at the time the violation is  
338 alleged to have occurred. Production of a certificate, or a  
339 signed affidavit, showing that the yellow light cycle was tested  
340 in compliance with this subsection, establishes a presumption  
341 that the testing of the yellow light cycle was completed in  
342 compliance with this subsection and the certificate or affidavit  
343 is admissible as proof of such compliance.

344 (e) A person raising the length of the yellow light cycle  
345 as an affirmative defense to the notice of violation must  
346 establish by clear and convincing evidence that the signal was  
347 not operating in compliance with the Institute of Transportation  
348 Engineers Traffic Engineering Handbook standards, as adopted by

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349 the Department of Transportation.

350 (f) A traffic infraction detector that is operational on  
351 July 1, 2012, must be in compliance with this section by January  
352 1, 2013.

353 Section 3. Paragraph (a) of subsection (2) of section  
354 316.0776, Florida Statutes, is amended to read:

355 316.0776 Traffic infraction detectors; placement and  
356 installation.-

357 (2) (a) If the department, county, or municipality installs  
358 a traffic infraction detector at an intersection, the  
359 department, county, or municipality shall notify the public that  
360 a traffic infraction device may be in use at that intersection  
361 and must specifically include notification of camera enforcement  
362 of violations concerning ~~right~~ turns. Such signage used to  
363 notify the public must meet the specifications for uniform  
364 signals and devices adopted by the Department of Transportation  
365 pursuant to s. 316.0745.

366 Section 4. This act shall take effect July 1, 2012.