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LEGISLATIVE ACTION

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

Senate Amendment

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (2) of section 316.0083,
Florida Statutes, are amended to read:

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

(1) (a) For purposes of administering this section, the
department, a county, or a municipality may authorize a traffic
infraction enforcement officer under s. 316.640 to issue a
traffic citation for a violation of s. 316.074(1) or s.
316.075(1)(c)1. Neither a notice of violation nor ~~and~~ a traffic



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

29 (b)1.a. Within 30 days after a violation, notification must
30 be sent to the registered owner of the motor vehicle involved in
31 the violation specifying the remedies available under s. 318.14
32 and that the violator must pay the penalty of \$100 ~~\$158~~ to the
33 department, county, or municipality, or furnish an affidavit in
34 accordance with paragraph (d), or request a hearing to be held
35 in the county court for the county in which the violation
36 occurred, within 90 ~~30~~ days following the date of delivery or
37 attempted delivery of the notification in order to avoid court
38 fees, costs, and the issuance of a traffic citation. The
39 notification shall be sent by certified ~~first-class~~ mail.

40 b. Included with the notification to the registered owner
41 of the motor vehicle involved in the infraction must be a notice
42 that the owner has the right to review the photographic or



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43 electronic images or the streaming video evidence that
44 constitutes a rebuttable presumption against the owner of the
45 vehicle. The notice must state the time and place or Internet
46 location where the evidence may be examined and observed.

47 c. Notwithstanding any other provision of law, a person who
48 receives a notice of violation under this section shall have the
49 option of requesting a hearing within 90 days following the date
50 of delivery or attempted delivery of the notice of violation or
51 paying the penalty pursuant to the notice of violation, but no
52 payment or fee may be required before a hearing requested by the
53 person. The notice of violation must be accompanied by
54 information on the person's right to request a hearing and on
55 all court costs related thereto, and by a form to request a
56 hearing. For purposes of this subparagraph, the term "person"
57 includes a natural person, registered owner or coowner of a
58 motor vehicle, or person identified on an affidavit as having
59 care, custody, or control of the motor vehicle at the time of
60 the violation.

61 d. If the person requests a hearing, the request must be
62 made to the county or municipality in which the violation
63 occurred. The municipality in which the violation occurred, or,
64 if the violation occurred in an unincorporated area, the county
65 in which the violation occurred, shall forward the request for
66 hearing and a copy of the citation to the clerk of the circuit
67 court of the county where the violation occurred.

68 e. If the registered owner or coowner of the motor vehicle,
69 or the person designated as having care, custody, or control of
70 the motor vehicle at the time of the violation, or a duly
71 authorized representative of the owner, coowner, or designated



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72 person, initiates a proceeding to challenge the delivery or
73 attempted delivery of the notice of violation pursuant to this
74 paragraph, such person waives any challenge or dispute as to
75 delivery.

76 2. Penalties assessed and collected by the department,
77 county, or municipality authorized to collect the funds provided
78 for in this paragraph, less the amount retained by the county or
79 municipality pursuant to subparagraph 3., shall be paid to the
80 Department of Revenue weekly. Payment by the department, county,
81 or municipality to the state shall be made by means of
82 electronic funds transfers. In addition to the payment, summary
83 detail of the penalties remitted shall be reported to the
84 Department of Revenue.

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

87 a. One hundred ~~fifty-eight~~ dollars for a violation of s.
88 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
89 stop at a traffic signal if enforcement is by the department's
90 traffic infraction enforcement officer. Fifty-two ~~One hundred~~
91 dollars shall be remitted to the Department of Revenue for
92 deposit into the General Revenue Fund, \$10 shall be remitted to
93 the Department of Revenue for deposit into the Department of
94 Health Emergency Medical Services Trust Fund, \$3 shall be
95 remitted to the Department of Revenue for deposit into the Brain
96 and Spinal Cord Injury Trust Fund, \$35 ~~and \$45~~ shall be
97 distributed to the municipality in which the violation occurred,
98 unless a hearing is requested and the person is found to have
99 committed the violation, in which case, \$25 shall be distributed
100 to the municipality or county and ~~or~~, if the violation occurred



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101 in an unincorporated area, to the county in which the violation
102 occurred. Funds deposited into the Department of Health
103 Emergency Medical Services Trust Fund under this sub-
104 subparagraph shall be distributed as provided in s. 395.4036(1).
105 Proceeds of the infractions in the Brain and Spinal Cord Injury
106 Trust Fund shall be distributed quarterly to the Miami Project
107 to Cure Paralysis and shall be used for brain and spinal cord
108 research.

109 b. One hundred ~~fifty-eight~~ dollars for a violation of s.
110 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
111 stop at a traffic signal if enforcement is by a county or
112 municipal traffic infraction enforcement officer. Twenty Five
113 ~~Seventy~~ dollars shall be remitted by the county or municipality
114 to the Department of Revenue for deposit into the General
115 Revenue Fund, \$10 shall be remitted to the Department of Revenue
116 for deposit into the Department of Health Emergency Medical
117 Services Trust Fund, \$3 shall be remitted to the Department of
118 Revenue for deposit into the Brain and Spinal Cord Injury Trust
119 Fund, and \$62 ~~\$75~~ shall be retained by the county or
120 municipality enforcing the ordinance enacted pursuant to this
121 section unless a hearing is requested and the person is found to
122 have committed the violation, in which case, \$52 shall be
123 distributed to the municipality or county and and \$10 shall be
124 distributed to the clerk of the court of the county in which the
125 violation occurred. Funds deposited into the Department of
126 Health Emergency Medical Services 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



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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 90 ~~30~~ days after the date of delivery or attempted delivery of
143 the notification under paragraph (b), the registered owner has
144 not requested a hearing as permitted by paragraph (b), and the
145 registered owner has not submitted an affidavit under this
146 section subparagraph (b)1.

147 b. Delivery or attempted delivery of the traffic citation
148 constitutes notification under this paragraph. If the registered
149 owner or coowner of the motor vehicle, or the person designated
150 as having care, custody, or control of the motor vehicle at the
151 time of the violation, or a duly authorized representative of
152 the owner, coowner, or designated person, initiates a proceeding
153 to challenge the delivery or attempted delivery of the citation
154 pursuant to this section, such person waives any challenge or
155 dispute as to delivery.

156 c. In the case of joint ownership of a motor vehicle, the
157 traffic citation shall be mailed to the first name appearing on
158 the registration, unless the first name appearing on the



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159 registration is a business organization, in which case the
160 second name appearing on the registration may be used.

161 ~~d. The traffic citation shall be mailed to the registered~~
162 ~~owner of the motor vehicle involved in the violation no later~~
163 ~~than 60 days after the date of the violation.~~

164 2. Included with the notification to the registered owner
165 of the motor vehicle involved in the infraction shall be a
166 notice that the owner has the right to review, either in person
167 or remotely, the photographic or electronic images or the
168 streaming video evidence that constitutes a rebuttable
169 presumption against the owner of the vehicle. The notice must
170 state the time and place or Internet location where the evidence
171 may be examined and observed.

172 (d)1. The owner of the motor vehicle involved in the
173 violation is responsible and liable for paying the uniform
174 traffic citation issued for a violation of s. 316.074(1) or s.
175 316.075(1)(c)1. when the driver failed to stop at a traffic
176 signal, unless the owner can establish that:

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

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

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

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

187 e. The motor vehicle's owner was deceased on or before the



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188 date that the uniform traffic citation was issued, as
189 established by an affidavit submitted by the representative of
190 the motor vehicle owner's estate or other designated person or
191 family member.

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

197 a. An affidavit supporting an exemption under sub-
198 subparagraph 1.c. must include the name, address, date of birth,
199 and, if known, the driver license number of the person who
200 leased, rented, or otherwise had care, custody, or control of
201 the motor vehicle at the time of the alleged violation. If the
202 vehicle was stolen at the time of the alleged offense, the
203 affidavit must include the police report indicating that the
204 vehicle was stolen.

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

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

214 (I) A bill of sale or other document showing that the
215 deceased owner's motor vehicle was sold or transferred after his
216 or her death, but on or before the date of the alleged



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217 violation.

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

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

226

227 Upon receipt of the affidavit and documentation required under
228 this sub-subparagraph, the governmental entity must dismiss the
229 citation and provide proof of such dismissal to the person that
230 submitted the affidavit.

231 3. Upon receipt of an affidavit, the person designated as
232 having care, custody, or ~~and~~ control of the motor vehicle at the
233 time of the violation may be issued a notice of violation
234 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.
235 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
236 at a traffic signal. The affidavit is admissible in a proceeding
237 pursuant to this section for the purpose of providing proof that
238 the person identified in the affidavit was in actual care,
239 custody, or control of the motor vehicle. The owner of a leased
240 vehicle for which a traffic citation is issued for a violation
241 of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to
242 stop at a traffic signal is not responsible for paying the
243 traffic citation and is not required to submit an affidavit as
244 specified in this subsection if the motor vehicle involved in
245 the violation is registered in the name of the lessee of such



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246 motor vehicle.

247 4. Paragraphs (b) and (c) apply to the person identified on
248 the affidavit, except that the notification under sub-
249 subparagraph (b)1.a. must be sent to the person identified on
250 the affidavit within 30 days after receipt of an affidavit.

251 5.4. The submission of a false affidavit is a misdemeanor
252 of the second degree, punishable as provided in s. 775.082 or s.
253 775.083.

254 (e) The photographic or electronic images or streaming
255 video attached to or referenced in the traffic citation is
256 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.
257 when the driver failed to stop at a traffic signal has occurred
258 and is admissible in any proceeding to enforce this section and
259 raises a rebuttable presumption that the motor vehicle named in
260 the report or shown in the photographic or electronic images or
261 streaming video evidence was used in violation of s. 316.074(1)
262 or s. 316.075(1)(c)1. when the driver failed to stop at a
263 traffic signal.

264 (f) Notwithstanding any other provision of law, the burden
265 of proving guilt shall rest upon the governmental entity
266 bringing the charge under this section. A person appearing in
267 any hearing under this section may not be compelled to be a
268 witness against himself or herself.

269 (g) Notwithstanding any other provision of law, in any
270 hearing involving a traffic infraction detector used to enforce
271 the traffic laws of this state, each person so charged has the
272 right to confront the witnesses against him or her. Any evidence
273 obtained from such device must be authenticated in court by the
274 person receiving or processing the evidence, any person having



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275 reviewed such evidence in order to make a decision to issue a
276 notice of violation, and any person who issued the notice of
277 violation or traffic citation. An affidavit is not sufficient to
278 authenticate such evidence, and such evidence must be accounted
279 for in writing from the time of the alleged violation until the
280 issuance of any notice of violation or traffic citation.
281 Compensation of any witness for the prosecution shall be as
282 required in s. 92.143.

283 (2) Neither a notice of violation nor and a traffic
284 citation may not be issued under this section for a right-on-red
285 violation for failure to stop at a red light if the driver is
286 making a right-hand turn in a careful and prudent manner at an
287 intersection where right-hand turns are permissible.

288 Section 2. Section 316.075, Florida Statutes, is amended to
289 read:

290 316.075 Traffic control signal devices.—

291 (1) Except for automatic warning signal lights installed or
292 to be installed at railroad crossings, whenever traffic,
293 including municipal traffic, is controlled by traffic control
294 signals exhibiting different colored lights, or colored lighted
295 arrows, successively one at a time or in combination, only the
296 colors green, red, and yellow shall be used, except for special
297 pedestrian signals carrying a word legend, and the lights shall
298 indicate and apply to drivers of vehicles and pedestrians as
299 follows:

300 (a) *Green indication.*—

301 1. Vehicular traffic facing a circular green signal may
302 proceed cautiously straight through or turn right or left unless
303 a sign at such place prohibits either such turn. But vehicular



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304 traffic, including vehicles turning right or left, shall yield
305 the right-of-way to other vehicles and to pedestrians lawfully
306 within the intersection or an adjacent crosswalk at the time
307 such signal is exhibited.

308 2. Vehicular traffic facing a green arrow signal, shown
309 alone or in combination with another indication, as directed by
310 the manual, may cautiously enter the intersection only to make
311 the movement indicated by such arrow, or such other movement as
312 is permitted by other indications shown at the same time, except
313 the driver of any vehicle may U-turn, so as to proceed in the
314 opposite direction unless such movement is prohibited by posted
315 traffic control signs. Such vehicular traffic shall yield the
316 right-of-way to pedestrians lawfully within an adjacent
317 crosswalk and to other traffic lawfully using the intersection.

318 3. Unless otherwise directed by a pedestrian control signal
319 as provided in s. 316.0755, pedestrians facing any green signal,
320 except when the sole green signal is a turn arrow, may proceed
321 across the roadway within any marked or unmarked crosswalk.

322 (b) *Steady yellow indication.*—

323 1. Vehicular traffic facing a steady yellow signal is
324 thereby warned that the related green movement is being
325 terminated or that a red indication will be exhibited
326 immediately thereafter when vehicular traffic shall not enter
327 the intersection.

328 2. Pedestrians facing a steady yellow signal, unless
329 otherwise directed by a pedestrian control signal as provided in
330 s. 316.0755, are thereby advised that there is insufficient time
331 to cross the roadway before a red indication is shown and no
332 pedestrian shall start to cross the roadway.



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333 (c) *Steady red indication.*—

334 1. Vehicular traffic facing a steady red signal shall stop
335 before entering the crosswalk on the near side of the
336 intersection or, if none, then before entering the intersection
337 and shall remain standing until a green indication is shown;
338 however:

339 a. The driver of a vehicle which is stopped at a clearly
340 marked stop line, but if none, before entering the crosswalk on
341 the near side of the intersection, or, if none then at the point
342 nearest the intersecting roadway where the driver has a view of
343 approaching traffic on the intersecting roadway before entering
344 the intersection in obedience to a steady red signal may make a
345 right turn, but shall yield the right-of-way to pedestrians and
346 other traffic proceeding as directed by the signal at the
347 intersection, except that municipal and county authorities may
348 prohibit any such right turn against a steady red signal at any
349 intersection, which prohibition shall be effective when a sign
350 giving notice thereof is erected in a location visible to
351 traffic approaching the intersection.

352 b. The driver of a vehicle on a one-way street that
353 intersects another one-way street on which traffic moves to the
354 left shall stop in obedience to a steady red signal, but may
355 then make a left turn into the one-way street, but shall yield
356 the right-of-way to pedestrians and other traffic proceeding as
357 directed by the signal at the intersection, except that
358 municipal and county authorities may prohibit any such left turn
359 as described, which prohibition shall be effective when a sign
360 giving notice thereof is attached to the traffic control signal
361 device at the intersection.



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362 2.a. The driver of a vehicle facing a steady red signal
363 shall stop before entering the crosswalk and remain stopped to
364 allow a pedestrian, with a permitted signal, to cross a roadway
365 when the pedestrian is in the crosswalk or steps into the
366 crosswalk and is upon the half of the roadway upon which the
367 vehicle is traveling or when the pedestrian is approaching so
368 closely from the opposite half of the roadway as to be in
369 danger.

370 b. Unless otherwise directed by a pedestrian control signal
371 as provided in s. 316.0755, pedestrians facing a steady red
372 signal shall not enter the roadway.

373 (2) In the event an official traffic control signal is
374 erected and maintained at a place other than an intersection,
375 the provisions of this section shall be applicable except as to
376 those provisions which by their nature can have no application.
377 Any stop required shall be made at a sign or marking on the
378 pavement indicating where the stop shall be made, but in the
379 absence of any such sign or marking the stop shall be made at
380 the signal.

381 (3) (a) A ~~No~~ traffic control signal device may not ~~shall~~
382 used unless it exhibits which does not exhibit a yellow or
383 "caution" light between the green or "go" signal and the red or
384 "stop" signal. The yellow signal display duration on traffic
385 control signals shall be based on the standards set forth in the
386 Florida Department of Transportation's Traffic Engineering
387 Manual.

388 (b) A ~~No~~ traffic control signal device may not ~~shall~~
389 display other than the color red at the top of the vertical
390 signal, nor may ~~shall~~ it display other than the color red at the



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391 extreme left of the horizontal signal.

392 (4) (a) A violation of subsection (1) or subsection (2) ~~this~~
393 ~~section~~ is a noncriminal traffic infraction, punishable pursuant
394 to chapter 318 as either a pedestrian violation or, if the
395 infraction resulted from the operation of a vehicle, as a moving
396 violation. However, no person issued a citation by a traffic
397 enforcement officer shall be found to have committed a violation
398 of subparagraph (1)(c)1. if the traffic control device at the
399 intersection did not meet all requirements under subsection (3).

400

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