

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 Committee on Transportation

BILL: CS/SB 1342

INTRODUCER: Transportation Committee and Senator Abruzzo

SUBJECT: Traffic Control

DATE: March 22, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.			ATD	
3.			AP	
4.				
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:

CS/SB 1342 revises various provisions relating to traffic infraction detectors, commonly known as “red light cameras,” used to enforce traffic laws by automatically photographing vehicles whose drivers run red lights.

Major provisions of the bill:

- provide that a notice of violation rather than a traffic citation, may be sent initially to a person identified in an affidavit,;
- provide that mailing (rather than delivery) of a traffic citation constitutes notice;
- provide that if the registered owner or the person identified in the affidavit, or a duly authorized representative is present at any proceeding, such person waives any challenge or dispute as to notification of the citation;
- require traffic signal plans (*e.g.*, yellow light timing) to comply with certain standards; and
- provide clarification relating to right-on-red violations.

This bill amends the following sections of the Florida Statutes: 316.0083 and 316.075.

II. Present Situation:

Traffic Infraction Detectors Generally

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 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. A second photograph typically shows the red light violator in the intersection. In some cases, video cameras are used. These video cameras record the license plate number, the date and time of day, the time elapsed since the signal has turned red and the vehicle’s speed.

Traffic Infraction Detectors in Florida

In 2010, the Florida Legislature enacted Chapter 2010-80, Laws of Florida. The law expressly preempted to the state regulation of the use of cameras for enforcing the provisions of Chapter 316, Florida Statutes.¹ The law authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to authorize officials to issue notices of 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 such violation was identified by a traffic infraction detector.²

Municipalities may install or authorize installation of traffic infraction detectors on streets and highways in accordance with FDOT standards, and on state roads within the incorporated area when permitted by FDOT.³ Counties may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with FDOT standards, and on state roads in unincorporated areas of the county when permitted by FDOT.⁴ DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of FDOT, when permitted by FDOT.⁵

If DHSMV, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must notify the public that a traffic infraction device may be in use at that intersection, including specific notification of enforcement of violations concerning right turns.⁶ Such signage must meet the specifications for uniform signals and devices adopted by FDOT pursuant to s. 316.0745, F.S.⁷

Notifications and Citations

If a traffic infraction detector identifies a vehicle violating ss. 316.074(1) or 316.075(1)(c)1., F.S., the visual information is captured and reviewed by a traffic infraction enforcement officer.

¹ s. 316.0076, F.S.

² *See generally* s. 316.0083, F.S.

³ s. 316.008(7), F.S.; s. 316.0776(1), F.S.

⁴ *Id.*

⁵ s. 321.50, F.S. DHSMV has not undertaken any effort to install or authorize traffic infraction detectors itself.

⁶ s. 316.0776(2), F.S.

⁷ *Id.*

A notification must be issued to the registered owner (first name on registration in cases of joint registration) of the vehicle within 30 days of the alleged violation.⁸ The notice must be accompanied by a photograph or other recorded image of the violation, a statement of the vehicle owner's right to review images or video of the violation, and the time and place, or Internet location where the evidence may be reviewed.⁹ Violations may not be issued if the driver is making a right-hand turn "in a careful and prudent manner."¹⁰

If the registered owner of the vehicle does not submit payment within 30 days of receipt of the notification described above, the traffic infraction enforcement officer must issue a UTC to the registered owner (first name on registration in cases of joint registration).¹¹ A citation must be mailed by certified mail, and must be issued no later than 60 days after the violation.¹² The citation must also include the photograph and statements described above regarding review of the photographic or video evidence.¹³ The report of a traffic infraction enforcement 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.¹⁴

A traffic infraction enforcement officer must 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 5 days after the issuance date of the citation to the violator.¹⁵

Defenses

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that 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;
- Was, at the time of the violation, in the care, custody, or control of another person; or
- Received a UTC for the alleged violation issued by a law enforcement officer.

An additional defense is available if the motor vehicle's owner was deceased on or before the date the UTC was issued.¹⁶

To establish any of these defenses, the owner of the vehicle must 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.¹⁷ If the owner submits an affidavit that another

⁸ s. 316.0083(1)(b), F.S.

⁹ *Id.*

¹⁰ s. 316.0083(2), F.S.

¹¹ s. 316.0083(1)(c), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ s. 316.0083(1)(e), F.S.

¹⁵ s. 316.650(3)(c), F.S.

¹⁶ s. 316.0083(1)(d), F.S.

¹⁷ *Id.*

driver was behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the driver's license number, of the driver.¹⁸ A traffic citation may be issued to this person, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation of ss. 316.074(1) or 316.075(1)(c)1., F.S.¹⁹ Submission of a false affidavit is a second degree misdemeanor.

If a vehicle is leased, the owner of the leased vehicle is not responsible for paying the citation, nor required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.²⁰ If a person presents documentation from the appropriate governmental entity that the citation was issued in error, the clerk of court may dismiss the case and may not charge for such service.²¹

Fines

A fine of \$158 is levied on violators who fail to stop at a traffic signal as required by ss. 316.074(1) or 316.075(1)(c)1., F.S. When the \$158 fine is the result of a local government's traffic infraction detector, \$75 is retained by the local government and \$83 is deposited with the Department of Revenue (DOR).²² DOR subsequently distributes the fines by depositing \$70 in the General Revenue Fund, \$10 in the Department of Health Administrative Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.²³

If a law enforcement officer cites a motorist for the same offense, the fine is still \$158, but the revenue is distributed from the local clerk of court to DOR, where \$30 is distributed to the General Revenue Fund, \$65 is distributed to the Department of Health Administrative Trust Fund, and \$3 is distributed to the Brain and Spinal Cord Injury Trust Fund. The remaining \$60 is distributed in small percentages to a number of funds pursuant to s. 318.21, F.S.²⁴

Violations of ss. 316.074(1) or 316.075(1)(c)1., F.S., enforced by traffic infraction detectors may not result in points being assessed against the operator's driver's license and may not be used for the purpose of setting motor vehicle insurance rates.²⁵

No Notice of Violation issued to Person Named in the Affidavit

In instances where the registered owner furnishes an affidavit raising the exemption that the vehicle was, at the time of the violation, in the care, custody or control of another person, the identified person is not issued a notice of violation. Instead, the person is immediately issued a traffic citation at a higher amount,²⁶ which includes associated court fees and costs.²⁷ The immediate issuance of a traffic citation comes as a result of time constraints imposed by the red-light camera statute. Because a traffic citation must be issued to the registered owner within 60 days after the date of the violation in cases of nonpayment, there is not enough time to issue

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ s. 318.18(15), F.S.

²² s. 318.18(15), F.S., s. 316.0083(1)(b)3., F.S.

²³ *Id.*

²⁴ s. 318.18(15), F.S.

²⁵ s. 322.27(3)(d)6., F.S.

²⁶ The UTC amount varies across jurisdictions due to differing court costs and fees, but is generally above \$200.

²⁷ s. 316.0083(1)(d)3., F.S.

another notice of violation – even if the registered owner furnishes an affidavit identifying someone else as the driver. As such, while registered owners are given the opportunity to pay a \$158 fine pursuant to the notice of violation, persons identified on the affidavit are subject to a higher fine and run the risk of having a conviction recorded on their driving record if they elect to attend a hearing and are found to have committed the violation.

Federal Rules on Traffic Control Devices

The Federal Highway Administration (“FHWA”) publishes a Manual on Uniform Traffic Control Devices (“MUTCD”) that defines standards related to the installation and maintenance of traffic control signals. The MUTCD is updated periodically to “accommodate the nation’s changing transportation needs and address new safety technologies, traffic control tools and traffic management techniques.”²⁸ On December 16, 2009, a final rule adopting the 2009 Edition of the MUTCD was published in the Federal Register with an effective date of January 15, 2010.²⁹ All states must adopt the 2009 edition of the MUTCD by January 15, 2012.³⁰ According to information published on FHWA’s website, Florida has adopted this national standard.³¹

Florida Laws and Rules on Traffic Control Devices

Section 316.0745(1), F.S., requires FDOT to adopt a uniform system of traffic control devices for use on the streets and highways of the state. Section 316.0745(2), F.S., requires FDOT to compile and publish a manual defining its uniform system. The statute also requires FDOT to compile and publish minimum specifications for traffic control signal devices “certified by [FDOT] as conforming with the uniform system.”³²

Following statutory requirements, FDOT publishes a Traffic Engineering Manual (“TEM”) to provide traffic engineering standards and guidelines.³³ The TEM covers the processes whereby standards and guidelines are adopted, as well as chapters devoted to “highway signs and markings, traffic signals, traffic optimization through the use of computer models . . . , and links to information on [FDOT’s] aging road user program –Safe Mobility for Life.”³⁴

In addition to FDOT’s TEM, many sections of Florida law require drivers to obey traffic control signal demands. Section 316.075, F.S., requires drivers to follow set traffic control signal commands and yield the right-of-way to pedestrians lawfully in intersections and crosswalks. Violators of s. 316.075, F.S., including those that run red lights, commit non-criminal traffic violations punishable pursuant to ch. 318, F.S.

Institute of Transportation Engineers

²⁸ See the Federal Highway Administration’s (FHWA) information on the MUTCD at <http://mutcd.fhwa.dot.gov/> (Last viewed 2/19/2013).

²⁹ *Id.*

³⁰ *Id.*

³¹ See FHWA’s site indicating Florida has adopted the 2009 Edition of the MUTCD. This information can be accessed at http://mutcd.fhwa.dot.gov/resources/state_info/florida/fl.htm (Last visited 2/19/2013).

³² s. 316.0745(2), F.S.

³³ Florida Department of Transportation *Traffic Engineering Manual*, “Adoption Procedure.” This information can be viewed at <http://www.dot.state.fl.us/trafficoperations/Operations/Studies/TEM/TEM.shtm> (Last visited 2/19/13).

³⁴ *Id.*

According to its website, the Institute of Transportation Engineers (“ITE”) is an international, educational and scientific association of transportation professionals.³⁵ Among other things, ITE offers recommendations to the MUTCD and is recognized as one of the leading organizations in transportation research. It publishes a Traffic Engineering Handbook containing information used by transportation officials nationwide. FDOT’s TEM calculates the minimum yellow signal change and all-red clearance intervals using formulas contained within the ITE’s Traffic Engineering Handbook. However, there is no express requirement in Florida law that FDOT’s TEM contain formulas contained within ITE’s Traffic Engineering Handbook.

Traffic Signal Yellow Intervals

The purpose of the yellow light display is “to provide a safe transition between two conflicting traffic signal phases.”³⁶ More specifically, the function of the yellow light display is “to warn traffic of an impending change in the right-of-way assignment.”³⁷ The MUTCD states that a yellow change interval should have a minimum duration of 3 seconds and a maximum duration of 6 seconds and a red clearance interval should have a duration not exceeding 6 seconds.³⁸

Drivers approaching a traffic signal displaying a yellow light face at least four conditions:

- The vehicle is traveling at a speed where the driver can stop comfortably;
- The vehicle is too close to the intersection to stop comfortably, and must thus continue at the same speed or accelerate to travel through the intersection before conflicting traffic movements begin;
- The driver can neither stop comfortably nor continue without encountering a conflicting traffic movement (prevalent with short yellow intervals and/or high approach speeds); or
- The driver can either stop or proceed safely through the intersection.

The ideal yellow interval accommodates conditions 1 and 2, eliminates condition 3, and minimizes condition 4. To accomplish this, traffic engineers nationwide typically employ the following formula, which is heavily influenced by vehicle approach speed, and was developed by the Institute of Transportation Engineers (ITE):

³⁵ See the Institute of Transportation Engineers website at <http://www.ite.org/aboutite/index.asp> (Last visited 2/19/13).

³⁶ Florida Department of Transportation *Traffic Engineering Manual*, s. 3.6.1, “Purpose.” This information can be viewed at http://www.dot.state.fl.us/trafficoperations/Operations/PDFs/FDOT_Traffic_Engineering_Manual_revised_January_2012.pdf (Last visited 2/19/13).

³⁷ *Id.*

³⁸ *Id.*

$$Y = t + \frac{1.47v}{2(a + Gg)}$$

Where:

Y= length of yellow interval, sec.

t = perception-reaction time, (Use 1 sec.).

v = speed of approaching vehicles, in mph.

a = deceleration rate in response to the onset of a yellow indication. (Use 10 ft/sec²)

g = acceleration due to gravity. (Use 32.2 ft/sec²)

G = grade, with uphill positive and downhill negative. (percent grade /100)

For Florida traffic signal timing, the FDOT TEM (Topic No. 750-000-005) provides required minimum durations for the yellow change interval in the following table which was computed using the ITE formula:

APPROACH SPEED (MPH)	YELLOW INTERVAL (SECONDS)
25	3.0
30	3.2
35	3.6
40	4.0
45	4.3
50	4.7
55	5.0
60	5.4
65	5.8
* For approach grades other than 0%, Use ITE Formula.	

III. Effect of Proposed Changes:

Section 1 of the bill makes several changes to s. 316.0083, F.S., governing administration of red light camera violations. Taken together, these provisions subject a person having care, custody, or control of the vehicle involved in the violation to the same procedure that applies to the registered owner. A notice of violation would be issued to that person before issuance of a UTC. The changes lift the time constraints on traffic infraction enforcement officers responsible for mailing notices of violations and UTCs and give the identified person the same rights as the registered owner. The bill allows the person identified to pay a \$158 fine that is not subject to court costs, fees, and risks associated with attending a hearing; namely, the possibility of a conviction being recorded on the person’s driving record. The identified person receives the same amount of time as a registered vehicle owner to pay the imposed fine before a UTC is issued.

Specifically, the bill:

- provides that a notice of violation rather than a traffic citation, may be sent initially to a person identified in an affidavit as having care, custody, or control of the vehicle at the time of the violation;
- provides that a notice of violation must be sent to the person identified in the affidavit within 30 days after receipt of the affidavit.; and
- requires that, when appropriate, a traffic citation must be sent to the person identified in the affidavit no later than 30 days after the date the notice of violation is mailed; and
- provides that mailing (rather than delivery) of a traffic citation constitutes notice; and
- provides that if the registered owner or the person identified in the affidavit, or a duly authorized representative is present at any proceeding, such person waives any challenge or dispute as to notification of the citation.

The bill further specifies that FDOT documentation demonstrating that the traffic infraction detector equipment meets requires testing specifications is prima facie evidence of the reliability of the detector. The burden of proof is on the person raising the reliability of the detector as a defense to the notice of violation to establish that the detector did not meet the specifications.

The bill also adds items for consideration by a traffic infraction officer³⁹ when examining evidence for purposes of issuing a notice of violation or a traffic citation for failure to stop at a red light before making a right turn. The officer is directed to consider one or more of the following factors that would indicate the turn was not made in a careful and prudent manner:

- The operator of the motor vehicle failed to yield to a pedestrian or bicyclist.
- The operator of the motor vehicle put a pedestrian or bicyclist in danger of injury.
- The operator of the motor vehicle failed to yield to another vehicle or oncoming traffic.
- The operator of the motor vehicle did not substantially reduce the speed of the motor vehicle before making the right-hand turn movement, with direction to the officer to approximate that the speed of the turn was made in excess of 10 miles per hour.

The bill prohibits issuance of a citation if the driver of the vehicle came to a complete stop before turning right, when permissible at a red light, but failed to stop before the point at which a stop is required. By January 1, 2014, cities and counties must install signs notifying the public that a traffic infraction detector is in use at a given intersection, which signage must specifically include notice of enforcement of right-on-red violations and must meet FDOT specifications for uniform signals and devices.

Section 2 of the bill amends s. 316.075, F.S., relating to traffic control signal devices. The bill requires the yellow signal display duration on traffic control signals to be based on the standards set forth in FDOT's Traffic Engineering Manual. Additionally, if the traffic control device does not meet the yellow signal display duration requirements, a person may not be found to have committed a violation of subparagraph (1)(c)1., F.S.⁴⁰

³⁹ The traffic infraction officer is additionally authorized to issue such notices or citations at his or her discretion, as if the citation has been issued by an officer observing the violation at an intersection.

⁴⁰ That subsection generally requires vehicular traffic facing a steady red signal to stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing, with exceptions for

Section 3 provides the act shall take effect July 1, 2013.

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 registered owner of a motor vehicle and the person identified as having care, custody, or control of the motor vehicle will be subject to the same procedure for the disposition of a red-light camera violation.

C. Government Sector Impact:

Indeterminate. Cities and counties may incur expenses associated with the required signage.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

right-on-red and left-on-red from a one-way street intersecting another one-way street on which traffic moves to the left, except when prohibited, in both cases, by a county or city and such prohibition is visibly posted.

VIII. Additional Information:

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

CS by Transportation on March 21, 2013:

The committee adopted two amendments at its meeting and incorporated them into a committee substitute. The amendments:

- remove provisions relating to governmental entity burden of proof and to the right to confront all witnesses and remove all “chain of evidence” provisions from the bill (required device authentication by any person who received or processed evidence, any person who reviewed the evidence to determine whether to issue a notice of violation, and any person who issued a notice of violation or a traffic citation);
- remove the prohibition against notices of violation or traffic citations for right-on-red violations detected by a traffic infraction detector;
- remove all provisions relating to the right to request a hearing, remove inclusion of attempted delivery relative to notices of violation and traffic citations; and remove the requirement that notice of violation must be sent by certified mail;
- removes all provisions relating to re-timing of all intersections, all provisions relating to dismissal of citations for failure to comply with the re-timing requirements, and the provisions relating to fines against local governmental entities for non-compliant intersections.

- B. **Amendments:**

None.