

By Senator Evers

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1                   A bill to be entitled  
2           An act relating to traffic infraction procedures;  
3           amending s. 318.14, F.S.; providing that a person  
4           receiving a notice of violation involving a traffic  
5           infraction detector or similar unattended device may  
6           request a hearing or pay a fine; providing that if a  
7           hearing is requested, the person is not required to  
8           pay the fine until after adjudication or settlement;  
9           prohibiting issuance of a subsequent traffic citation  
10          based on the original violation; specifying that the  
11          burden for proving guilt in a traffic infraction  
12          proceeding rests with the governmental entity bringing  
13          the charge; providing that a person is not compelled  
14          to be a witness against himself or herself in a  
15          traffic court; providing that a person charged with a  
16          violation of a traffic infraction detector statute or  
17          any similar law has the right to confront witnesses  
18          used against himself or herself; providing that  
19          evidence from an unattended device must be  
20          authenticated in court by specified persons; providing  
21          that an affidavit is not sufficient to authenticate  
22          the evidence; requiring the governmental entity to  
23          account for all evidence collected from the time of  
24          the alleged violation until the issuance of a notice  
25          of violation or traffic citation in writing; providing  
26          for compensation for witnesses as required by law;  
27          providing an effective date.

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29   Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (2) and (6) of section 318.14, Florida Statutes, are amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(2) (a) Except as provided in ss. 316.1001(2) and 316.0083, any person cited for a violation requiring a mandatory hearing listed in s. 318.19 or any other criminal traffic violation listed in chapter 316 must sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing and must indicate the applicable civil penalty established in s. 318.18. For all other infractions under this section, except for infractions under s. 316.1001, the officer must certify by electronic, electronic facsimile, or written signature that the citation was delivered to the person cited. This certification is prima facie evidence that the person cited was served with the citation.

(b) Notwithstanding any other law, a person receiving a notice of violation involving a traffic infraction detector or similar unattended device has the option of requesting a hearing to contest the notice of violation or of paying a penalty. If the person elects to request a hearing, he or she is not required to pay the penalty until after adjudication or settlement. A second or subsequent traffic citation may not be issued to this person if the traffic citation is based on the original violation involving a traffic infraction detector.

(6) (a) The commission of a charged infraction at a hearing under this chapter must be proved beyond a reasonable doubt.

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59       (b) Notwithstanding any other law, the governmental entity  
60 bringing the charge bears the burden of proving guilt in a non-  
61 criminal traffic court hearing. A person appearing in a traffic  
62 court proceeding may not be compelled to be a witness against  
63 himself or herself.

64       (c)1. Notwithstanding any other law, a person charged in a  
65 prosecution involving a traffic infraction detector or similar  
66 unattended device used to enforce the traffic laws of this state  
67 has the right to confront at trial adverse witnesses used  
68 against himself or herself.

69       2. Evidence obtained from an unattended device must be  
70 authenticated in court by the person:

71       a. Receiving or processing the evidence;

72       b. Reviewing such evidence before making the decision to  
73 file a notice of violation; and

74       c. Issuing the notice of violation or traffic citation.

75       3. An affidavit submitted by the governmental entity is  
76 insufficient to authenticate the evidence. The governmental  
77 entity shall account for all evidence collected from the time of  
78 the alleged violation until the issuance of a notice of  
79 violation or traffic citation in writing.

80       4. Any witness used to prosecute the proceeding shall be  
81 compensated as required in s. 92.143.

82       Section 2. This act shall take effect July 1, 2013.