

STORAGE NAME: h0335s1.lecp

DATE: March 26, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: CS/HB 335

RELATING TO: Traffic Infraction Detectors

SPONSOR(S): Committee on Transportation and Representatives Effman, Cosgrove, and others

COMPANION BILL(S): SB 266 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 6 NAYS 3
 - (2) LAW ENFORCEMENT AND CRIME PREVENTION
 - (3) JUDICIARY
 - (4) FINANCE & TAXATION
 - (5) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
-

I. SUMMARY:

The bill authorizes counties and municipalities to use photographic traffic enforcement for failure to stop at a red traffic light. Tickets, similar to parking tickets, for these infractions as documented by a traffic infraction detector would be issued and mailed to vehicle owners. The vehicle owner would be liable for paying the fine, unless the owner provides evidence that the vehicle was in the control of another person at the time of the violation.

Local governments that establish photographic traffic enforcement programs would have discretion in implementing such a program, including regulating the number of traffic detectors used and setting fine amounts up to a maximum of \$52. Depending on the effectiveness of such photographic traffic enforcement efforts implemented by local governments, the amount of traffic crashes and fatalities could be reduced due to increased compliance with traffic laws.

Counties and municipalities that adopt ordinances to implement this bill would incur the cost of implementing photographic traffic enforcement. All revenues collected would remain at the local level, except that 20 percent of the net proceeds collected are to be deposited into Highway Safety Operating Trust Fund. In addition, the bill may also have minor costs to the Department of Highway Safety and Motor Vehicles (DHS&MV) for establishing training and operation requirements for traffic infraction detector officers, and to the Department of Transportation for adopting uniform standards for traffic infraction detectors.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Except for photographic enforcement for failure to pay a toll, local governments are not specifically authorized to use photographic traffic enforcement efforts to enforce state traffic laws. Section 316.1001, F.S., authorizes local governments to issue citations by mail to vehicle owners who fail to pay tolls on toll facilities based on photographic evidence.

Chapter 316, F.S., provides that a driver of a vehicle must obey traffic control devices and authorizes local governments to enforce traffic laws on the roads within their jurisdiction. Law enforcement officers issue citations for traffic violations which occur in their presence or for violations, which after investigation, occur at the scene of a traffic crash. A violation of s. 316.074, F.S., which requires obedience to traffic control devices, currently has to be witnessed by the officer or evidence obtained at the scene of a traffic crash for a citation to be lawfully issued to a violator.

Section 316.1967, F.S., establishes a process that local governments use to enforce parking ordinances. The law provides that the owner of a vehicle is liable for the payment of any parking ticket violation unless the owner can furnish evidence that the vehicle was in the care, custody, or control of another person at the time of the parking violation.

B. EFFECT OF PROPOSED CHANGES:

The bill authorizes counties and municipalities to use photographic traffic enforcement devices (which meet requirements established by the Department of Transportation) to enforce compliance with the requirement to stop at a red traffic signal. Tickets, similar to parking tickets, would be issued and mailed to the vehicle owner for failing to stop when facing a steady red traffic control signal as documented by a traffic infraction detector. The detector would record photographs or images of only the rear of the vehicle. The ticket must include a photograph showing the offending vehicle and the traffic control device being violated in the same frame. The vehicle owner would be liable for paying the fine as set by the local government, unless the owner provides evidence that the vehicle was in the control of another person at the time of the violation. If the fines are not paid, DHS&MV will place a "stop" on the motor vehicle records so that the owner of the vehicle will not be allowed to renew their registration. When a person is issued two tickets within 12 months, that person would be required to attend a driver improvement course. Such violations would not be convictions, are not part of the driving record, and may not be used for purposes of setting motor vehicle insurance rates. Further, points may not be assessed against the operator's license based on a traffic infraction detector violation.

Counties and municipalities that adopt ordinances to establish photographic traffic enforcement programs would have discretion for how such programs would be designed and implemented, including regulating the number of traffic detectors used and determining the fine amounts, up to a maximum of \$52 per violation. If a county or municipality elects to use a traffic-infraction detector to enforce compliance, then no portion of any fine collected through the use of such system may be paid to the manufacturer or vendor of the traffic-infraction detector equipment. The compensation paid by the county or municipality for such equipment shall be based on the value of the photographic traffic enforcement program and may not be based on the number of traffic citations issued or the revenue generated by such equipment.

Traffic infraction detector officers must successfully meet training and qualification standards established by DHS&MV. The bill requires that signs be posted and public awareness campaigns be conducted to provide motorists with advance notification that traffic infraction detectors are in use.

All revenues collected by use of traffic infraction detectors would remain at the local level, except that 20 percent of the net proceeds collected are to be deposited into Highway Safety Operating Trust Fund. These funds are to be used for the general purposes of the trust fund, including as a priority, the hiring of additional personnel for the Florida Highway Patrol, and if additional funds are available enhancing salaries of existing highway patrol employees. The bill provides that local governments may use up to 50 percent of the remaining proceeds collected to fund law enforcement and correctional officer positions and salary enhancements.

Each county or municipality that operates a traffic infraction detector must submit an annual report to DHS&MV detailing the results of using traffic infraction detectors and the procedures for enforcement. DHS&MV is directed to provide a summary report to the Legislature and the Governor regarding the use and operation of traffic infraction detectors.

Depending on how photographic traffic enforcement programs are designed and implemented, motorist obedience to traffic signals could increase and result in fewer traffic crashes and fatalities than might have been experienced without the photographic enforcement program.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, local governments would be specifically authorized to set up ordinances that impose and collect fines (up to \$52) for traffic violations detected by photographic means. The fines would be imposed based on photographs of activities which are currently violations of state traffic control laws.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 316.003, 316.008, 316.0745, 316.1971, 320.03, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 316.003(82), F.S., to define "traffic infraction detector."

Section 2: Creates s. 316.008(7), F.S., to provide counties and municipalities the authority to use traffic infraction detectors for the purposes of enforcing obedience to traffic laws relating to running red lights. The subsection further provides that:

1. an operator of a traffic infraction detector may qualify as a traffic infraction enforcement officer;
2. signs be posted and public awareness campaigns be conducted informing motorists that a traffic infraction detector is in use;
3. a schedule of fines (up to \$52) be established by the authorizing local government;
4. when a person is issued two tickets within 12 months, that person would be required to attend a driver improvement course;
5. emergency vehicles responding to an emergency are exempt from traffic infraction enforcement;
6. 20 percent of the net proceeds collected are to be deposited into Highway Safety Operating Trust Fund, with the hiring of additional personnel for the Florida Highway Patrol as a priority; and

7. local governments may use up to 50 percent of the remaining proceeds for law enforcement and correctional officers.

Section 3: Amends s. 316.0745, F.S., to provide that all traffic infraction detectors must comply with uniform standards established by the Department of Transportation.

Section 4: Creates s. 316.1971(1)(a), F.S., to provide that a ticket may be issued to the owner of a motor vehicle for a violation documented by a traffic infraction detector in the same manner and subject to the same limitations as a parking ticket defined by s. 316.1967, F.S., except that the provisions of chapter 318 (disposition of traffic infractions) and s. 322.27, F.S. (authority of the Department of Highway Safety and Motor Vehicles to suspend or revoke licenses), would not apply.

Subsection (1)(b) is created to provide that the same procedure for issuing a parking ticket will be used for issuing a ticket for a violation documented by a traffic infraction detector, except that the ticket issued based on photographic evidence would be issued by certified mail.

Subsection (2) provides that the owner of the motor vehicle is responsible for paying the fine unless the motor vehicle owner can furnish evidence that the car was in the care, custody, or control of another person at the time the violation occurred.

Subsection (3) provides that a person may contest a traffic infraction detector violation by appearing before any judge authorized to adjudicate traffic infractions. A person electing to appear in court is deemed to have waived the \$52 limitation on penalties.

Subsection (4) provides that a certificate sworn to by a local government employee based on inspection of photographs or other recorded images produced by a traffic infraction detector is prima facie evidence of the facts alleged in the certificate. In addition, photographs and other recorded images evidencing violations are to be available for inspection in any proceeding to adjudicate liability for violations pursuant to the local ordinance.

Subsection (5) provides that the names of persons with one or more outstanding violations documented by a traffic infraction detector may be included on the list authorized by s. 316.1967(6), F.S. A person may not be issued a license plate or revalidation sticker for their motor vehicle if their name appears on the list.

Subsection (6) provides that uniform traffic citations may not be issued for an infraction documented by a traffic infraction detector.

Section 5: Amends s. 320.03(8), F.S., to make a conforming change.

Section 6: Provides that each county or municipality that operates a traffic infraction detector must submit an annual report to DHS&MV, detailing the results of using traffic infraction detectors and procedures for enforcement. DHS&MV is directed to provide a summary report to the Legislature and the Governor regarding the use and operation of traffic infraction detectors.

Section 8: Provides that the act became effective upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate, see D. Fiscal Comments, below.

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2. Recurring Effects:

Indeterminate, see D. Fiscal Comments, below.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

Indeterminate, see D. Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate, see D. Fiscal Comments, below.

2. Recurring Effects:

Indeterminate, see D. Fiscal Comments, below.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

A vehicle owner could be subject to a fine (up to \$52) for failing to stop at a red light if the violation was photographed or recorded by a traffic infraction detector. Also, when a person is issued two tickets within 12 months, that person would be required to attend a driver improvement course. If such a violation was observed by a law enforcement officer and the driver issued a standard uniform traffic citation, the fine is \$60, plus local additional fees, and 3 points assessed against the driver's license.

2. Direct Private Sector Benefits:

To the extent that additional drivers are required to attend driver improvement schools, such schools will benefit from collecting more school fees.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

State Impacts: DHS&MV will incur minor costs for establishing training and operation requirements for traffic infraction detector officers. The Department of Transportation will experience some initial costs of developing uniform standards for traffic infraction detectors.

The bill requires that 20 percent of the net proceeds collected by local governments as a result of using traffic infraction detectors to impose fines for failure to stop at a red traffic control signal be deposited into the Highway Safety Operating Trust Fund. The Highway Safety Operating Trust Fund could experience an increase in revenues, but this amount will be determined to the extent that local governments create traffic infraction detector programs, and therefore the amount of revenue is unknown.

Local Government Impacts: Local governments which create traffic infraction detector programs will incur costs associated with developing appropriate ordinances and procedures, for required signage, and public awareness campaigns. These costs are likely to be minor, and will be offset

by fine revenues generated by the traffic infraction detectors. The amount of this net revenue is unknown because: 1) it will be based on the extent that local governments create traffic infraction detector programs; and 2) the costs of developing and operating traffic infraction detectors is unknown.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 11, 1999, the Committee on Transportation adopted 1 main "strike everything" amendment to HB 335 and 7 amendments to the main amendment. The main amendment conformed the bill to its Senate companion. Differences include: 1) tickets would be delivered within 30 days of the violation instead of 15; 2) 20% of net proceeds instead of gross proceeds would go to the FHP; 3) Deletes provision that allows local governments to use code enforcement procedures to enforce the payment of tolls at toll facilities based on photographic evidence. The remaining amendments were primarily related to implementing the bill's provisions and did not alter the substance of the bill.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Thomas E. Duncan

Staff Director:

John R. Johnston

AS REVISED BY THE COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

Kurt E. Ahrendt

Staff Director:

Kurt E. Ahrendt