

STORAGE NAME: h1159.ca

DATE: April 15, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 1159

RELATING TO: Red Light Safety Act of 2000

SPONSOR(S): Representatives Effman; Levine and others

TIED BILL(S): None

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

- (1) LAW ENFORCEMENT & CRIME PREVENTION (CRC) YEAS 7 NAYS 1
 - (2) TRANSPORTATION (EDC) YEAS 8 NAYS 2
 - (3) COMMUNITY AFFAIRS (PRC)
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
 - (5)
-

I. SUMMARY:

This bill creates the "Red Light Safety Act of 2000". The bill authorizes Palm Beach County and Broward County and any municipality within the two counties to implement a pilot program, administered by the Department of Highway Safety and Motor Vehicles, to test traffic infraction detectors (cameras) for the purpose of taking pictures of the rear of motor vehicles that run red lights.

This bill authorizes these two counties and any municipality within them to enact ordinances permitting the use of traffic infraction detectors. It also mandates a public awareness campaign and public announcement and requires local ordinances to be enacted for the purpose of levying fines not to exceed \$100 for a red light violation. The bill also describes requirements that must be met when issuing a ticket issued through documentation by the traffic infraction detector and the procedure that must be followed if someone other than the owner is driving the car at the time of a violation.

The bill provides for a summary report by the Department of Highway Safety and Motor Vehicles (DHS&MV) to the Senate President, House Speaker, and the Governor. The department must also make a recommendation on whether or not the program should be expanded statewide.

The bill has a minimal fiscal impact. It has an indeterminate fiscal impact on local governments and the private sector due to the uncertainty of which local authorities within Palm Beach and Broward Counties will choose to implement this project.

The Committee on Transportation adopted one strike-everything amendment that is traveling with the bill. See the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of the analysis for a description of the amendment.

The Committee on Law Enforcement & Crime Prevention adopted two amendments that are traveling with the bill. See the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of the analysis for a description of the amendments to the amendment.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

If enacted, violations documented through the traffic infraction devices would create a greater work load for law enforcement agencies and the court system.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

There is a concern that the privacy of individuals may be violated by the government using this method of electronic surveillance to document violations of Florida law.

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

B. PRESENT SITUATION:

Currently, to issue a traffic citation, a law enforcement officer is required to observe or have independent evidence that a violation has occurred. There is no statutory provision that allows traffic light violation citations to be issued on the basis of photographic evidence.

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 must be 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.

C. EFFECT OF PROPOSED CHANGES:

The bill authorizes Palm Beach and Broward Counties or any municipality within these two counties 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 motor vehicle. The ticket must contain:

- the name and address of the person who is considered liable as the registered owner or the operator of the vehicle involved in the violation;
- the location where the violation occurred;
- the date and time the violation occurred; and
- identify the device that recorded the violation.

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.

The bill amends portions of Chapters 316 and 320, to create the "Red Light Safety Act of 2000". It authorizes the creation of a pilot project for traffic infraction detectors, administered by the department, in Palm Beach and Broward Counties through December 1, 2002. These traffic infraction detectors must meet established requirements and be regularly tested by the Department of Transportation.

These two counties (and municipalities included within them) are authorized to enact ordinances providing for the use of traffic infraction detectors to enforce stop light violations. The bill mandates these ordinances to establish a schedule of fines not to exceed \$100 for violations.

Counties or municipalities operating the traffic infraction detectors are required to submit an annual report to DHS&MV detailing the results of the use and operation of traffic infraction detectors and the procedures and results of enforcement. The department must then provide, on or before December 1, 2002, to the Senate President, House Speaker, and Governor a summary report regarding the use and operation of the traffic infraction detectors and recommendation on statewide implementation.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: provides for the short title of the bill -- Red Light Safety Act of 2000.

Section 2: amends 316.003, Florida Statutes, to define the term "Traffic Infraction Detector."

Section 3: creates the traffic infraction detector pilot project in Palm Beach and Broward Counties.

The two counties and the municipalities within their territorial jurisdictions are authorized to enact ordinances to provide for the use of traffic infraction detectors and enforcement of fines not to exceed \$100 for a red light violation. The section requires signs to be posted at intersections using the detectors and requires a public awareness campaign by the participating municipality or county. This section provides for exceptions for emergency vehicles responding to an emergency call.

The counties participating in the pilot project are authorized to impose fines on the registered owner of a vehicle. This section requires fines to be issued and handled similar to a parking violation provided in 316.1967, F.S. Further, the violation may not be made

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part of the driving record of the driver, may not be used for setting insurances rates, and points may not be assessed for violations.

This section requires specific information regarding the location of the violation, vehicle information, and registered owner information to be printed on the ticket. A disclaimer must be printed that states liability is admitted if the violation is not contested. The county or municipality with jurisdiction over the street where the violation occurred is required to prepare and enforce the ticket.

This section requires the owner of the vehicle involved in the violation to be liable for the payment of the ticket unless the owner can provide the county or municipality with:

- A name, address, and driver's license information, if known, of the driver who had custody of the car at the time of the violations, or
- A police report proving that the vehicle was stolen.

It also provides that the person identified in the affidavit may be issued a citation. The affidavit can be used in a proceeding to prove the person identified in the affidavit had custody of the car at the time of violation.

This section allows a driver to challenge the determination that he or she ran a red light by appearing in a court with jurisdiction over traffic infractions. This section waives civil penalty limitations for individuals electing to appear in court. The court must determine if a violation occurred and may impose a penalty not to exceed \$100 on the driver and may take steps to enforce the penalty if it is not paid within a time frame set by the court.

This section provides that a certificate or a copy of a certificate that is sworn to or affirmed by a county or municipal employee that is based on the inspection of photographs by the traffic infraction device is prima facie evidence (sufficient to establish a fact or case unless disproved) of the facts in the certificate. The section provides that a photograph of a violation must be available for inspection if it is to be used in a hearing that decides if a violation occurred. The section provides that a person who has outstanding violations may be included on the list authorized under s. 316.1967(6), F.S. This law authorizes the clerk of court or traffic violation bureau to send a machine readable electronic list to the DHS&MV of individuals with three or more outstanding parking violations or disabled parking space violations for the purpose of marking the registration records of the offender.

This section prohibits the DHS&MV uniform traffic citation form use for traffic enforcement to be used for this program.

This section provides that each county or municipality participating in the pilot program must submit an annual report to DHS&MV showing funds received from fines under the program. This report must contain the results of the use of traffic infraction detectors and the procedures for enforcement. The department must then provide to the Senate President, House Speaker, and Governor a summary report by December 1, 2001 that includes:

- a review of the information provided by the participating counties or municipalities;
- the enhancements of the traffic safety and enforcement programs; and

- its recommendation on statewide implementation of the program, including any necessary legislation.

A sunset provision is included that repeals this section on December 1, 2002.

Section 4: amends subsection (6) of s. 316.0745, F.S., to provide for traffic control devices controlled from a remote location on any state road, street, or highway to meet all requirements for uniform systems approved by the Department of Transportation. The section requires traffic infraction detectors to meet requirements established by the Department of Transportation. It also requires traffic infraction detectors to be regularly tested as prescribed by the department.

Section 5: amends subsection (8) of s. 380.03, F.S., to provide a cross reference in conformance to the act.

Section 6: provides an effective date of upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

C. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no impact on state government revenues.

2. Expenditures:

The Department of Highway Safety and Motor Vehicles will require contracted programming modifications to their driver license software system costing \$43,750.

D. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill may generate additional fine revenue for local governments participating in the pilot program.

2. Expenditures:

Indeterminate. Participating local governments are required under this bill to execute a public awareness campaign and to make a public announcement.

E. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. See Fiscal Comments.

F. FISCAL COMMENTS:

The bill has an indeterminate fiscal impact on local governments and the private sector due to the uncertainty of which local authorities within Palm Beach and Broward Counties will choose to implement this project.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

According to DHS&MV, in 1998, 267,403 traffic light violations were issued by Florida law enforcement officers.

Evidence from implementation of similar traffic infraction devices is inconclusive. However, there are some reports of accident rate decreases in intersections where they are used, and a decrease in the number of red light violations. For example, in Fairfax, Virginia, traffic light violations fell by 40% after one year of enforcement. In Victoria, Australia, the Road Traffic Authority found a 32% decrease in right-angle collisions and a 10% reduction in injuries after the cameras were installed. Past attempts to pass similar legislation have failed due to privacy concerns of individuals.

Opponents

A representative of the Florida State Chapter of the National Motorists Association submitted information challenging the need for this bill as well as the ability of traffic infraction detectors (cameras) to prevent crashes or save lives.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Law Enforcement and Crime Prevention

On March 22, 2000 the Committee on Law Enforcement and Crime Prevention passed two amendments to HB 1159. Amendment one removes the references to s. 316.008 (7), F.S., and inserts: "this section" in it's place. Amendment two removes references to s. 316.1971(5), F.S., which does not appear in the statutes.

Committee on Transportation

The Committee on Transportation subsequently considered the bill on April 10, 2000 and adopted one strike-everything amendment which does the following:

- Eliminates the type of film that may be used in the traffic infraction detector;
- Provides that a county or municipality electing to use a traffic infraction detector *must* enact an ordinance for its use;
- Provides that no portion of any fine assessed through the use of the detector can be paid to the vendor or manufacturer;
- Provides that the compensation paid by the county or municipality for the equipment must be based on the value of the equipment and not on the number of citations issued or the revenue generated from the equipment;
- Requires the county or municipality that elects to implement the program to reimburse the Department of Transportation for the posting of notification signs;
- Provides that the fine for violations may not exceed \$52;
- Provides that 75 percent of all net proceeds from violations of traffic infraction detectors within a county or municipality must be deposited into the Highway Safety Operating Trust Fund and the remaining proceeds used for law enforcement and correctional officer personnel and salary enhancements;
- Provides for Department of Transportation review and approval of traffic control devices;
- Provides for specific notification requirements to violations;
- Authorizes the tax collector to withhold the issuance of a license plate or revalidation sticker if a person's name appears on a list of outstanding fines;
- Requires that a county or municipality that elects to implement this program to submit an annual report to the Department of Highway Safety and Motor Vehicles; and
- Requires the Department of Highway Safety and Motor Vehicles to submit an annual report to the Governor, President of the Senate, and Speaker of the House, beginning on July 1, 2001, detailing the use and operation of the traffic infraction detectors and a description of the enhancement of the department's traffic safety and enforcement programs due to the increase in funds generated from the pilot project.

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The bill was reported favorably.

VI. SIGNATURES:

COMMITTEE ON Law Enforcement & Crime Prevention:

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