

1 A bill to be entitled
2 An act relating to red light violations; creating s.
3 316.0065, F.S.; creating the "Mark Wandall Traffic Safety
4 Act"; providing for a county or municipality to enforce a
5 traffic control signal steady red light indication using a
6 traffic control photographic system; providing
7 definitions; providing system capability, design, and
8 implementation requirements; providing for citation of the
9 motor vehicle owner; providing for a civil fee; providing
10 for distribution of moneys collected; requiring payment of
11 a civil fee; providing for exceptions; prohibiting dual
12 enforcement; providing for citation and enforcement;
13 providing for additional fees and costs of collection to
14 be paid; providing for distribution of such fees and costs
15 collected; providing procedures and grounds for appeal of
16 citation; providing for admissibility of recorded images
17 as evidence of violation; amending s. 318.121, F.S.;
18 exempting local enforcement under the act from certain
19 civil traffic penalty restrictions; amending s. 318.14,
20 F.S.; exempting local enforcement under the act from
21 certain traffic infraction enforcement procedures;
22 amending s. 322.264, F.S.; revising the definition of the
23 term "habitual traffic offender" to include a certain
24 number of violations of traffic control signal steady red
25 light indication within a certain timeframe; reenacting
26 ss. 322.27(5) and 322.34(1), (2), (5), and (8)(a), F.S.,
27 relating to the authority of the Department of Highway
28 Safety and Motor Vehicles to suspend or revoke a driver

29 license and driving while a driver license is suspended,
 30 revoked, canceled, or disqualified, for the purpose of
 31 incorporating the amendment to s. 322.264, F.S., in
 32 references thereto; providing for severability; providing
 33 an effective date.

34

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

36

37 Section 1. Section 316.0065, Florida Statutes, is created
 38 to read:

39 316.0065 Local enforcement of red light violations.--

40 (1) POPULAR NAME.--This section may be cited as the "Mark
 41 Wandall Traffic Safety Act."

42 (2) PURPOSE.--It is the intent of the Legislature to
 43 provide counties and municipalities the right to enact local
 44 laws for the automated enforcement of violations of steady red
 45 light traffic signals within their jurisdictions.

46 (3) DEFINITIONS.--As used in this section, except when the
 47 context otherwise requires, the term:

48 (a) "Citation" means the printed notice of a violation
 49 that is recorded by a traffic control photographic system.

50 (b) "Traffic control photographic program" means the
 51 selection, placement, utilization, and maintenance of a traffic
 52 control photographic system at an intersection utilizing a
 53 steady red light traffic signal.

54 (c) "Traffic control photographic system" means a device
 55 capable of recording a motor vehicle traveling through an
 56 intersection in violation of a traffic control signal steady red

57 light indication.

58 (4) GENERAL PROVISIONS.--

59 (a) Notwithstanding s. 316.0745, each municipality and
60 county has the right to establish a traffic control photographic
61 program within its jurisdiction pursuant to the provisions of
62 this section.

63 (b) The traffic control photographic system must be
64 capable of recording at least two color digital images such that
65 the images record the rear of a motor vehicle, with at least one
66 of the images clearly recording the motor vehicle behind the
67 stop bar on a steady red light traffic signal during the time
68 the light is red and at least one image recording the motor
69 vehicle entering the intersection in violation of the steady red
70 light traffic signal. Additionally, at least one of the images
71 must clearly identify the registration plate of the motor
72 vehicle.

73 (c) The traffic control photographic system must be
74 designed and implemented so that it does not record a motor
75 vehicle as violating a steady red light traffic signal unless
76 the red light traffic signal was preceded by a steady yellow
77 light traffic signal that was displayed for a minimum of 3
78 seconds before such time as the signal became a steady red light
79 traffic signal.

80 (d) The traffic control photographic system must be
81 implemented so that it solely records images of motor vehicles
82 violating the steady red light traffic signal. It shall not be
83 implemented in a manner to record images of general traffic
84 conditions or activities occurring within the intersection or

85 surrounding areas.

86 (5) OFFENSE AND CIVIL PENALTY.--

87 (a) A violation of s. 316.075 by any motor vehicle
 88 entering an intersection while facing a steady red light traffic
 89 signal may be cited as a violation under this section when the
 90 violation is recorded by a traffic control photographic system.

91 (b) A violation cited under this section shall be deemed a
 92 noncriminal, moving violation for which, in addition to the
 93 penalties and charges assessed under s. 318.18, a \$65 civil fee
 94 will be assessed against the motor vehicle owner.

95 (c) Notwithstanding s. 318.21, upon collection, \$60 of the
 96 fee assessed under paragraph (b) shall be remitted to the
 97 Department of Revenue for deposit into the Administrative Trust
 98 Fund in the Department of Health to be used for trauma services
 99 and \$5 shall be retained by the enforcing municipality or
 100 county.

101 (d) The owner of a motor vehicle cited under this section
 102 shall be responsible for paying the civil fee for the violation,
 103 except under the following circumstances:

104 1. The owner of a motor vehicle cited under this section
 105 which was being operated without the permission of the owner
 106 shall not be responsible for paying the fee for the violation.
 107 This exception only applies if the motor vehicle owner signs and
 108 submits an affidavit to the enforcing municipality or county,
 109 within 21 days after receipt of the citation, which specifically
 110 provides that the operator of the motor vehicle was operating
 111 the motor vehicle without the permission of the motor vehicle
 112 owner and lists the full legal name, current address, and driver

113 license number of the operator of the motor vehicle and how the
 114 operator came into possession of the motor vehicle, or the
 115 affidavit has attached thereto a stolen motor vehicle report
 116 that has been filed with a law enforcement agency.

117 2. If the driver of a motor vehicle is issued a citation
 118 by a law enforcement officer for violating a steady red light
 119 traffic signal, the motor vehicle owner may not be issued a
 120 separate citation pursuant to this section as a result of the
 121 traffic control photographic system recording the same
 122 violation.

123 (6) CITATION.--

124 (a) The citation must be printed on a uniform citation
 125 form that must provide the following:

- 126 1. The name and address of the motor vehicle owner.
- 127 2. The registration number of the motor vehicle involved
 128 in the violation.
- 129 3. Citations of this section and the local law violated.
- 130 4. The location of the intersection where the violation
 131 occurred.
- 132 5. The date and time of the violation.
- 133 6. A copy of the recorded image of the violation.
- 134 7. The amount of the fee and charges imposed and the date
 135 by which the fee and charges must be paid or appealed.
- 136 8. That a traffic infraction enforcement officer, as
 137 described in s. 316.640, has reviewed and observed the recorded
 138 images evidencing the red light infraction and has found
 139 reasonable and probable grounds to believe that an offense has
 140 been committed and can identify the license tag number of the

141 violating vehicle.

142 9. A clear statement of the time limit to file an appeal
 143 and describing the procedure for appealing the citation.

144 10. A clear statement describing the penalty for failing
 145 to pay the fee or appealing the citation.

146 (b) The citation shall be sent by regular first-class or
 147 certified mail to the address of the motor vehicle owner that is
 148 listed with the department as the titled owner of the motor
 149 vehicle. If there is more than one motor vehicle owner, the
 150 citation shall be sent to the first-named motor vehicle owner as
 151 listed with the department as the titled owner of the motor
 152 vehicle.

153 (c) If the motor vehicle owner does not pay, and the
 154 enforcing municipality or county is required to personally serve
 155 the citation for signature and acceptance, in addition to the
 156 \$65 civil fee under paragraph (5)(b) and the penalties and
 157 charges under chapter 318, the motor vehicle owner shall be
 158 responsible for paying an additional \$25 for the violation which
 159 shall be retained by the enforcing municipality or county.

160 (d) Failure to pay the fee or file an appeal within 30
 161 days after the motor vehicle owner signs and accepts the
 162 citation shall result in the motor vehicle owner paying the
 163 costs and attorney's fees required to collect the fee in
 164 addition to any other fees and charges. The collection process
 165 under this paragraph shall be the same as used by the enforcing
 166 municipality or county to collect a parking fine. If the motor
 167 vehicle owner files an appeal and is unsuccessful, the motor
 168 vehicle owner shall be responsible for paying the costs and

169 attorney's fees required to collect the fee, including costs of
 170 the appeal, in addition to any other fees and charges.

171 (e) Notwithstanding s. 318.21, the additional \$25 fee
 172 under paragraph (c) and all costs under paragraph (d) shall,
 173 upon collection, be retained by the enforcing municipality or
 174 county.

175 (7) APPEAL.--

176 (a) A notice of appeal must be filed within 21 days after
 177 the motor vehicle owner signs and accepts the citation, which
 178 day begins to run on the date of signature and acceptance.
 179 Failure to give notice of appeal within this time period shall
 180 constitute a waiver of the right to contest the citation.

181 (b) The motor vehicle owner receiving a citation may
 182 contest the citation on the following grounds:

183 1. At the time of the violation, the motor vehicle was
 184 being operated without the permission of the motor vehicle
 185 owner. This exception only applies if the motor vehicle owner
 186 signs and submits an affidavit to the enforcing municipality or
 187 county, within 21 days after receipt of the citation, which
 188 specifically provides that the operator of the motor vehicle was
 189 operating the motor vehicle without the permission of the motor
 190 vehicle owner and lists the full legal name, current address,
 191 and driver license number of the operator of the motor vehicle
 192 and how the operator came into possession of the motor vehicle,
 193 or the affidavit has attached thereto a stolen motor vehicle
 194 report that has been filed with a law enforcement agency;

195 2. The motor vehicle driver was issued a citation by a law
 196 enforcement officer, which was separate and distinct from the

197 citation issued under this section, for violating the steady red
 198 light traffic signal;

199 3. The motor vehicle driver was required to violate the
 200 steady red light traffic signal in order to comply with other
 201 governing laws;

202 4. The motor vehicle driver was required to violate the
 203 steady red light traffic signal in order to reasonably protect
 204 the property or person of another;

205 5. The steady red light traffic signal was inoperable or
 206 malfunctioning; or

207 6. Any other reason the trier of fact deems appropriate.

208 (c) Appeals shall be considered through the same process
 209 established by the enforcing municipality or county for
 210 appealing parking citations.

211 (d) The recorded images of the violation shall be
 212 admissible as evidence of the violation.

213 Section 2. Section 318.121, Florida Statutes, is amended
 214 to read:

215 318.121 Preemption of additional fees, fines, surcharges,
 216 and costs.--Notwithstanding any general or special law, or
 217 municipal or county ordinance, additional fees, fines,
 218 surcharges, or costs other than the court costs assessed under
 219 s. 318.18(11) may not be added to the civil traffic penalties
 220 assessed in this chapter. This section shall not apply to the
 221 fees and charges assessed by a county or municipality under s.
 222 316.0065 to enforce violations of a traffic control signal
 223 steady red light indication.

224 Section 3. Subsections (1) and (2) of section 318.14,
 225 Florida Statutes, are amended to read:

226 318.14 Noncriminal traffic infractions; exception;
 227 procedures.--

228 (1) Except as provided in ss. 316.0065, 318.17, and
 229 320.07(3)(c), any person cited for a violation of chapter 316,
 230 s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1),
 231 s. 322.16(2) or (3), s. 322.161(5), s. 322.19, or s. 1006.66(3)
 232 is charged with a noncriminal infraction and must be cited for
 233 such an infraction and cited to appear before an official. If
 234 another person dies as a result of the noncriminal infraction,
 235 the person cited may be required to perform 120 community
 236 service hours under s. 316.027(4), in addition to any other
 237 penalties.

238 (2) Except as provided in ss. ~~s.~~ 316.0065 and 316.1001(2),
 239 any person cited for an infraction under this section must sign
 240 and accept a citation indicating a promise to appear. The
 241 officer may indicate on the traffic citation the time and
 242 location of the scheduled hearing and must indicate the
 243 applicable civil penalty established in s. 318.18.

244 Section 4. Section 322.264, Florida Statutes, is amended
 245 to read:

246 322.264 "Habitual traffic offender" defined.--A "habitual
 247 traffic offender" is any person whose record, as maintained by
 248 the Department of Highway Safety and Motor Vehicles, shows that
 249 such person has accumulated the specified number of convictions
 250 for offenses described in subsection (1) or subsection (2)

251 within a 5-year period or the specified number of convictions
 252 for offenses described in subsection (3) within a 3-year period:

253 (1) Three or more convictions of any one or more of the
 254 following offenses arising out of separate acts:

255 (a) Voluntary or involuntary manslaughter resulting from
 256 the operation of a motor vehicle;

257 (b) Any violation of s. 316.193, former s. 316.1931, or
 258 former s. 860.01;

259 (c) Any felony in the commission of which a motor vehicle
 260 is used;

261 (d) Driving a motor vehicle while his or her license is
 262 suspended or revoked;

263 (e) Failing to stop and render aid as required under the
 264 laws of this state in the event of a motor vehicle crash
 265 resulting in the death or personal injury of another; or

266 (f) Driving a commercial motor vehicle while his or her
 267 privilege is disqualified.

268 (2) Fifteen convictions for moving traffic offenses for
 269 which points may be assessed as set forth in s. 322.27,
 270 including those offenses in subsection (1).

271 (3) Three convictions under s. 316.0065 or s. 316.075 for
 272 a violation of a traffic control signal steady red light
 273 indication.

274
 275 Any violation of any federal law, any law of another state or
 276 country, or any valid ordinance of a municipality or county of
 277 another state similar to a statutory prohibition specified in
 278 subsection (1) or subsection (2) shall be counted as a violation

279 of such prohibition. In computing the number of convictions, all
 280 convictions during the 5 years previous to July 1, 1972, will be
 281 used, provided at least one conviction occurs after that date.
 282 The fact that previous convictions may have resulted in
 283 suspension, revocation, or disqualification under another
 284 section does not exempt them from being used for suspension or
 285 revocation under this section as a habitual offender.

286 Section 5. For the purpose of incorporating the amendment
 287 to section 322.264, Florida Statutes, in a reference thereto,
 288 subsection (5) of section 322.27, Florida Statutes, is reenacted
 289 to read:

290 322.27 Authority of department to suspend or revoke
 291 license.--

292 (5) The department shall revoke the license of any person
 293 designated a habitual offender, as set forth in s. 322.264, and
 294 such person shall not be eligible to be relicensed for a minimum
 295 of 5 years from the date of revocation, except as provided for
 296 in s. 322.271. Any person whose license is revoked may, by
 297 petition to the department, show cause why his or her license
 298 should not be revoked.

299 Section 6. For the purpose of incorporating the amendment
 300 to section 322.264, Florida Statutes, in references thereto,
 301 subsections (1), (2), and (5) and paragraph (a) of subsection
 302 (8) of section 322.34, Florida Statutes, are reenacted to read:

303 322.34 Driving while license suspended, revoked, canceled,
 304 or disqualified.--

305 (1) Except as provided in subsection (2), any person whose
 306 driver's license or driving privilege has been canceled,

307 | suspended, or revoked, except a "habitual traffic offender" as
 308 | defined in s. 322.264, who drives a vehicle upon the highways of
 309 | this state while such license or privilege is canceled,
 310 | suspended, or revoked is guilty of a moving violation,
 311 | punishable as provided in chapter 318.

312 | (2) Any person whose driver's license or driving privilege
 313 | has been canceled, suspended, or revoked as provided by law,
 314 | except persons defined in s. 322.264, who, knowing of such
 315 | cancellation, suspension, or revocation, drives any motor
 316 | vehicle upon the highways of this state while such license or
 317 | privilege is canceled, suspended, or revoked, upon:

318 | (a) A first conviction is guilty of a misdemeanor of the
 319 | second degree, punishable as provided in s. 775.082 or s.
 320 | 775.083.

321 | (b) A second conviction is guilty of a misdemeanor of the
 322 | first degree, punishable as provided in s. 775.082 or s.
 323 | 775.083.

324 | (c) A third or subsequent conviction is guilty of a felony
 325 | of the third degree, punishable as provided in s. 775.082, s.
 326 | 775.083, or s. 775.084.

327 |
 328 | The element of knowledge is satisfied if the person has been
 329 | previously cited as provided in subsection (1); or the person
 330 | admits to knowledge of the cancellation, suspension, or
 331 | revocation; or the person received notice as provided in
 332 | subsection (4). There shall be a rebuttable presumption that the
 333 | knowledge requirement is satisfied if a judgment or order as
 334 | provided in subsection (4) appears in the department's records

335 for any case except for one involving a suspension by the
 336 department for failure to pay a traffic fine or for a financial
 337 responsibility violation.

338 (5) Any person whose driver's license has been revoked
 339 pursuant to s. 322.264 (habitual offender) and who drives any
 340 motor vehicle upon the highways of this state while such license
 341 is revoked is guilty of a felony of the third degree, punishable
 342 as provided in s. 775.082, s. 775.083, or s. 775.084.

343 (8)(a) Upon the arrest of a person for the offense of
 344 driving while the person's driver's license or driving privilege
 345 is suspended or revoked, the arresting officer shall determine:

346 1. Whether the person's driver's license is suspended or
 347 revoked.

348 2. Whether the person's driver's license has remained
 349 suspended or revoked since a conviction for the offense of
 350 driving with a suspended or revoked license.

351 3. Whether the suspension or revocation was made under s.
 352 316.646 or s. 627.733, relating to failure to maintain required
 353 security, or under s. 322.264, relating to habitual traffic
 354 offenders.

355 4. Whether the driver is the registered owner or coowner
 356 of the vehicle.

357 Section 7. If any provision of this act or its application
 358 to any person or circumstance is held invalid, the invalidity
 359 does not affect other provisions or applications of this act
 360 which can be given effect without the invalid provision or
 361 application, and to this end the provisions of this act are
 362 declared severable.

HB 1439

2005

363

Section 8. This act shall take effect upon becoming a law.