

1 certain timeframe; reenacting ss. 322.27(5) and
2 322.34(1), (2), (5), and (8)(a), F.S., relating
3 to the authority of the Department of Highway
4 Safety and Motor Vehicles to suspend or revoke
5 a driver license and driving while a driver
6 license is suspended, revoked, canceled, or
7 disqualified, for the purpose of incorporating
8 the amendment to s. 322.264, F.S., in
9 references thereto; providing for severability;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 316.0065, Florida Statutes, is
15 created to read:

16 316.0065 Local enforcement of red light violations.--

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

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

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

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

27 (b) "Traffic control photographic program" means the
28 selection, placement, utilization, and maintenance of a
29 traffic control photographic system at an intersection
30 utilizing a steady red light traffic signal.

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1 (c) "Traffic control photographic system" means a
2 device capable of recording a motor vehicle traveling through
3 an intersection in violation of a traffic control signal
4 steady red light indication.

5 (4) GENERAL PROVISIONS.--

6 (a) Notwithstanding s. 316.0745, each municipality and
7 county has the right to establish a traffic control
8 photographic program within its jurisdiction pursuant to the
9 provisions of this section.

10 (b) The traffic control photographic system must be
11 capable of recording at least two color digital images such
12 that the images record the rear of a motor vehicle, with at
13 least one of the images clearly recording the motor vehicle
14 behind the stop bar on a steady red light traffic signal
15 during the time the light is red and at least one image
16 recording the motor vehicle entering the intersection in
17 violation of the steady red light traffic signal.
18 Additionally, at least one of the images must clearly identify
19 the registration plate of the motor vehicle.

20 (c) The traffic control photographic system must be
21 designed and implemented so that it does not record a motor
22 vehicle as violating a steady red light traffic signal unless
23 the red light traffic signal was preceded by a steady yellow
24 light traffic signal that was displayed for a minimum of 3
25 seconds before such time as the signal became a steady red
26 light traffic signal.

27 (d) The traffic control photographic system must be
28 implemented so that it solely records images of motor vehicles
29 violating the steady red light traffic signal. It shall not be
30 implemented in a manner to record images of general traffic
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1 conditions or activities occurring within the intersection or
2 surrounding areas.

3 (5) OFFENSE AND CIVIL PENALTY.--

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

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

13 (c) Notwithstanding s. 318.21, upon collection of the
14 assessed fee under paragraph (b), \$15 of the assessed fee
15 shall be remitted to the Department of Revenue for deposit
16 into the State Transportation Trust Fund in the Department of
17 Transportation and \$5 shall be retained by the enforcing
18 municipality or county. The balance of the assessed fee shall
19 be deposited according to the following: 30 percent to the
20 Personal Care Attendant Program (PCA) with funds administered
21 by Able Trust; 30 percent to the Highway Safety Operating
22 Trust Fund for Florida Senior Safety Resource Centers; and 40
23 percent to the Administrative Trust Fund of the Department of
24 Health for verified trauma centers with funding distribution
25 based on trauma caseload volume.

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

29 1. The owner of a motor vehicle cited under this
30 section which was being operated without the permission of the
31 owner shall not be responsible for paying the fee for the

1 violation. This exception only applies if the motor vehicle
2 owner signs and submits an affidavit to the enforcing
3 municipality or county, within 21 days after receipt of the
4 citation, which specifically provides that the operator of the
5 motor vehicle was operating the motor vehicle without the
6 permission of the motor vehicle owner and lists the full legal
7 name, current address, and driver license number of the
8 operator of the motor vehicle and how the operator came into
9 possession of the motor vehicle, or the affidavit has attached
10 thereto a stolen motor vehicle report that has been filed with
11 a law enforcement agency.

12 2. If the driver of a motor vehicle is issued a
13 citation by a law enforcement officer for violating a steady
14 red light traffic signal, the motor vehicle owner may not be
15 issued a separate citation pursuant to this section as a
16 result of the traffic control photographic system recording
17 the same violation.

18 (6) CITATION.--

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

21 1. The name and address of the motor vehicle owner.

22 2. The registration number of the motor vehicle
23 involved in the violation.

24 3. Citations of this section and the local law
25 violated.

26 4. The location of the intersection where the
27 violation occurred.

28 5. The date and time of the violation.

29 6. A copy of the recorded image of the violation.

30 7. The amount of the fee and charges imposed and the
31 date by which the fee and charges must be paid or appealed.

1 8. That a traffic infraction enforcement officer, as
2 described in s. 316.640, has reviewed and observed the
3 recorded images evidencing the red light infraction and has
4 found reasonable and probable grounds to believe that an
5 offense has been committed and can identify the license tag
6 number of the violating vehicle.

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

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

12 (b) The citation shall be sent by regular first-class
13 or certified mail to the address of the motor vehicle owner
14 that is listed with the department as the titled owner of the
15 motor vehicle. If there is more than one motor vehicle owner,
16 the citation shall be sent to the first-named motor vehicle
17 owner as listed with the department as the titled owner of the
18 motor vehicle.

19 (c) If the motor vehicle owner does not pay, and the
20 enforcing municipality or county is required to personally
21 serve the citation for signature and acceptance, in addition
22 to the \$65 civil fee under paragraph (5)(b) and the penalties
23 and charges under chapter 318, the motor vehicle owner shall
24 be responsible for paying an additional \$25 for the violation
25 which shall be retained by the enforcing municipality or
26 county.

27 (d) Failure to pay the fee or file an appeal within 30
28 days after the motor vehicle owner signs and accepts the
29 citation shall result in the motor vehicle owner paying the
30 costs and attorney's fees required to collect the fee in
31 addition to any other fees and charges. The collection process

1 under this paragraph shall be the same as used by the
2 enforcing municipality or county to collect a parking fine. If
3 the motor vehicle owner files an appeal and is unsuccessful,
4 the motor vehicle owner shall be responsible for paying the
5 costs and attorney's fees required to collect the fee,
6 including costs of the appeal, in addition to any other fees
7 and charges.

8 (e) Notwithstanding s. 318.21, the additional \$25 fee
9 under paragraph (c) and all costs under paragraph (d) shall,
10 upon collection, be retained by the enforcing municipality or
11 county.

12 (7) APPEAL.--

13 (a) A notice of appeal must be filed within 21 days
14 after the motor vehicle owner signs and accepts the citation,
15 which day begins to run on the date of signature and
16 acceptance. Failure to give notice of appeal within this time
17 period shall constitute a waiver of the right to contest the
18 citation.

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

21 1. At the time of the violation, the motor vehicle was
22 being operated without the permission of the motor vehicle
23 owner. This exception only applies if the motor vehicle owner
24 signs and submits an affidavit to the enforcing municipality
25 or county, within 21 days after receipt of the citation, which
26 specifically provides that the operator of the motor vehicle
27 was operating the motor vehicle without the permission of the
28 motor vehicle owner and lists the full legal name, current
29 address, and driver license number of the operator of the
30 motor vehicle and how the operator came into possession of the
31 motor vehicle, or the affidavit has attached thereto a stolen

1 motor vehicle report that has been filed with a law
2 enforcement agency;

3 2. The motor vehicle driver was issued a citation by a
4 law enforcement officer, which was separate and distinct from
5 the citation issued under this section, for violating the
6 steady red light traffic signal;

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

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

13 5. The steady red light traffic signal was inoperable
14 or malfunctioning; or

15 6. Any other reason the trier of fact deems
16 appropriate.

17 (c) Appeals shall be considered through the same
18 process established by the enforcing municipality or county
19 for appealing parking citations.

20 (d) The recorded images of the violation shall be
21 admissible as evidence of the violation.

22 Section 2. Section 318.121, Florida Statutes, is
23 amended to read:

24 318.121 Preemption of additional fees, fines,
25 surcharges, and costs.--Notwithstanding any general or special
26 law, or municipal or county ordinance, additional fees, fines,
27 surcharges, or costs other than the court costs assessed under
28 s. 318.18(11) may not be added to the civil traffic penalties
29 assessed in this chapter. This section shall not apply to the
30 fees and charges assessed by a county or municipality under s.
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1 316.0065 to enforce violations of a traffic control signal
2 steady red light indication.

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

5 318.14 Noncriminal traffic infractions; exception;
6 procedures.--

7 (1) Except as provided in ss. 316.0065, 318.17, and
8 320.07(3)(c), any person cited for a violation of chapter 316,
9 s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1),
10 s. 322.16(2) or (3), s. 322.161(5), s. 322.19, or s.
11 1006.66(3) is charged with a noncriminal infraction and must
12 be cited for such an infraction and cited to appear before an
13 official. If another person dies as a result of the
14 noncriminal infraction, the person cited may be required to
15 perform 120 community service hours under s. 316.027(4), in
16 addition to any other penalties.

17 (2) Except as provided in ss. ~~s.~~ 316.0065 and
18 316.1001(2), any person cited for an infraction under this
19 section must sign and accept a citation indicating a promise
20 to appear. The officer may indicate on the traffic citation
21 the time and location of the scheduled hearing and must
22 indicate the applicable civil penalty established in s.
23 318.18.

24 Section 4. Section 322.264, Florida Statutes, is
25 amended to read:

26 322.264 "Habitual traffic offender" defined.--A
27 "habitual traffic offender" is any person whose record, as
28 maintained by the Department of Highway Safety and Motor
29 Vehicles, shows that such person has accumulated the specified
30 number of convictions for offenses described in subsection (1)
31 or subsection (2) within a 5-year period or the specified

1 number of convictions for offenses described in subsection (3)
2 within a 3-year period:

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

5 (a) Voluntary or involuntary manslaughter resulting
6 from the operation of a motor vehicle;

7 (b) Any violation of s. 316.193, former s. 316.1931,
8 or former s. 860.01;

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

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

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

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

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

21 (3) Three convictions under s. 316.0065 or s. 316.075
22 for a violation of a traffic control signal steady red light
23 indication.

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25 Any violation of any federal law, any law of another state or
26 country, or any valid ordinance of a municipality or county of
27 another state similar to a statutory prohibition specified in
28 subsection (1) or subsection (2) shall be counted as a
29 violation of such prohibition. In computing the number of
30 convictions, all convictions during the 5 years previous to
31 July 1, 1972, will be used, provided at least one conviction

1 | occurs after that date. The fact that previous convictions may
2 | have resulted in suspension, revocation, or disqualification
3 | under another section does not exempt them from being used for
4 | suspension or revocation under this section as a habitual
5 | offender.

6 | Section 5. For the purpose of incorporating the
7 | amendment to section 322.264, Florida Statutes, in a reference
8 | thereto, subsection (5) of section 322.27, Florida Statutes,
9 | is reenacted to read:

10 | 322.27 Authority of department to suspend or revoke
11 | license.--

12 | (5) The department shall revoke the license of any
13 | person designated a habitual offender, as set forth in s.
14 | 322.264, and such person shall not be eligible to be
15 | relicensed for a minimum of 5 years from the date of
16 | revocation, except as provided for in s. 322.271. Any person
17 | whose license is revoked may, by petition to the department,
18 | show cause why his or her license should not be revoked.

19 | Section 6. For the purpose of incorporating the
20 | amendment to section 322.264, Florida Statutes, in references
21 | thereto, subsections (1), (2), and (5) and paragraph (a) of
22 | subsection (8) of section 322.34, Florida Statutes, are
23 | reenacted to read:

24 | 322.34 Driving while license suspended, revoked,
25 | canceled, or disqualified.--

26 | (1) Except as provided in subsection (2), any person
27 | whose driver's license or driving privilege has been canceled,
28 | suspended, or revoked, except a "habitual traffic offender" as
29 | defined in s. 322.264, who drives a vehicle upon the highways
30 | of this state while such license or privilege is canceled,
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1 | suspended, or revoked is guilty of a moving violation,
2 | punishable as provided in chapter 318.

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

9 | (a) A first conviction is guilty of a misdemeanor of
10 | the second degree, punishable as provided in s. 775.082 or s.
11 | 775.083.

12 | (b) A second conviction is guilty of a misdemeanor of
13 | the first degree, punishable as provided in s. 775.082 or s.
14 | 775.083.

15 | (c) A third or subsequent conviction is guilty of a
16 | felony of the third degree, punishable as provided in s.
17 | 775.082, s. 775.083, or s. 775.084.

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19 | The element of knowledge is satisfied if the person has been
20 | previously cited as provided in subsection (1); or the person
21 | admits to knowledge of the cancellation, suspension, or
22 | revocation; or the person received notice as provided in
23 | subsection (4). There shall be a rebuttable presumption that
24 | the knowledge requirement is satisfied if a judgment or order
25 | as provided in subsection (4) appears in the department's
26 | records for any case except for one involving a suspension by
27 | the department for failure to pay a traffic fine or for a
28 | financial responsibility violation.

29 | (5) Any person whose driver's license has been revoked
30 | pursuant to s. 322.264 (habitual offender) and who drives any
31 | motor vehicle upon the highways of this state while such

1 license is revoked is guilty of a felony of the third degree,
2 punishable as provided in s. 775.082, s. 775.083, or s.
3 775.084.

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

8 1. Whether the person's driver's license is suspended
9 or revoked.

10 2. Whether the person's driver's license has remained
11 suspended or revoked since a conviction for the offense of
12 driving with a suspended or revoked license.

13 3. Whether the suspension or revocation was made under
14 s. 316.646 or s. 627.733, relating to failure to maintain
15 required security, or under s. 322.264, relating to habitual
16 traffic offenders.

17 4. Whether the driver is the registered owner or
18 coowner of the vehicle.

19 Section 7. If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 invalidity does not affect other provisions or applications of
22 this act which can be given effect without the invalid
23 provision or application, and to this end the provisions of
24 this act are declared severable.

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

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29 SENATE SUMMARY

30 Authorizes local governments to establish traffic control
31 photographic programs. (See bill for details.)