

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;  
14    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) SHORT TITLE.--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 Department of Health  
 98 Administrative Trust Fund to be used for trauma services and \$5  
 99 shall be retained by the enforcing municipality or county.

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

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

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

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

122 (6) CITATION.--

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

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

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

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

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

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

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

169 the appeal, in addition to any other fees and charges.

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

174 (7) APPEAL.--

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

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

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

194 2. The motor vehicle driver was issued a citation by a law  
 195 enforcement officer, which was separate and distinct from the  
 196 citation issued under this section, for violating the steady red

197 light traffic signal;

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

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

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

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

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

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

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

214 318.121 Preemption of additional fees, fines, surcharges,  
 215 and costs.--Notwithstanding any general or special law, or  
 216 municipal or county ordinance, additional fees, fines,  
 217 surcharges, or costs other than the court costs and surcharges  
 218 assessed under s. 318.18(11) and (13) may not be added to the  
 219 civil traffic penalties assessed in this chapter. This section  
 220 shall not apply to the fees and charges assessed by a county or  
 221 municipality under s. 316.0065 to enforce violations of a  
 222 traffic control signal steady red light indication.

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



225 318.14 Noncriminal traffic infractions; exception;  
 226 procedures.--

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

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

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

245 322.264 "Habitual traffic offender" defined.--A "habitual  
 246 traffic offender" is any person whose record, as maintained by  
 247 the Department of Highway Safety and Motor Vehicles, shows that  
 248 such person has accumulated the specified number of convictions  
 249 for offenses described in subsection (1) or subsection (2)  
 250 within a 5-year period or the specified number of convictions  
 251 for offenses described in subsection (3) within a 3-year period:

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

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

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

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

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

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

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

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

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

273  
 274 Any violation of any federal law, any law of another state or  
 275 country, or any valid ordinance of a municipality or county of  
 276 another state similar to a statutory prohibition specified in  
 277 subsection (1), ~~or~~ subsection (2), or subsection (3) shall be  
 278 counted as a violation of such prohibition. In computing the  
 279 number of convictions, all convictions during the 5 years

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

286 Section 5. For the purpose of incorporating the amendment  
 287 made by this act to section 322.264, Florida Statutes, in a  
 288 reference thereto, subsection (5) of section 322.27, Florida  
 289 Statutes, is reenacted 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 made by this act to section 322.264, Florida Statutes, in  
 301 references thereto, subsections (1), (2), and (5) and paragraph  
 302 (a) of subsection (8) of section 322.34, Florida Statutes, are  
 303 reenacted to read:

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

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

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

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

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

322 |       (b) A second conviction is guilty of a misdemeanor of the  
 323 | first degree, punishable as provided in s. 775.082 or s.  
 324 | 775.083.

325 |       (c) A third or subsequent conviction is guilty of a felony  
 326 | of the third degree, punishable as provided in s. 775.082, s.  
 327 | 775.083, or s. 775.084.

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

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

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

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

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

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

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

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

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

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