

By Senator Wise

5-1327-06

See HB 259

1   A bill to be entitled

2           An act relating to red light violations;

3           creating s. 316.0065, F.S.; creating the "Mark

4           Wandall Traffic Safety Act"; providing for a

5           county or municipality to enforce a traffic

6           control signal steady red light indication

7           using a traffic control photographic system;

8           providing definitions; providing system

9           capability, design, and implementation

10          requirements; providing for citation of the

11          motor vehicle owner; providing for a civil fee;

12          providing for distribution of moneys collected;

13          requiring payment of a civil fee; providing for

14          exceptions; prohibiting dual enforcement;

15          providing for citation and enforcement;

16          providing for additional fees and costs of

17          collection; providing for distribution of such

18          fees and costs collected; providing procedures

19          and grounds for appeal of citation; providing

20          for admissibility of recorded images as

21          evidence of violation; amending s. 318.121,

22          F.S.; exempting local enforcement under the act

23          from certain civil traffic penalty

24          restrictions; amending s. 318.14, F.S.;

25          exempting local enforcement under the act from

26          certain traffic infraction enforcement

27          procedures; amending s. 322.264, F.S.; revising

28          the definition of the term "habitual traffic

29          offender" to include a certain number of

30          violations of traffic control signal steady red

31          light indication within a certain timeframe;

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

1 reenacting ss. 322.27(5) and 322.34(1), (2),  
2 (5), and (8)(a), F.S., relating to the  
3 authority of the Department of Highway Safety  
4 and Motor Vehicles to suspend or revoke a  
5 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) SHORT TITLE.--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, \$60 of  
14 the fee assessed under paragraph (b) shall be remitted to the  
15 Department of Revenue for deposit into the Department of  
16 Health Administrative Trust Fund to be used for trauma  
17 services and \$5 shall be retained by the enforcing  
18 municipality or county.

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

22 1. The owner of a motor vehicle cited under this  
23 section which was being operated without the permission of the  
24 owner shall not be responsible for paying the fee for the  
25 violation. This exception only applies if the motor vehicle  
26 owner signs and submits an affidavit to the enforcing  
27 municipality or county, within 21 days after receipt of the  
28 citation, which specifically provides that the operator of the  
29 motor vehicle was operating the motor vehicle without the  
30 permission of the motor vehicle owner and lists the full legal  
31 name, current address, and driver license number of the

1 operator of the motor vehicle and how the operator came into  
2 possession of the motor vehicle, or the affidavit has attached  
3 thereto a stolen motor vehicle report that has been filed with  
4 a law enforcement agency.

5 2. If the driver of a motor vehicle is issued a  
6 citation by a law enforcement officer for violating a steady  
7 red light traffic signal, the motor vehicle owner may not be  
8 issued a separate citation pursuant to this section as a  
9 result of the traffic control photographic system recording  
10 the same violation.

11 (6) CITATION.--

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

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

15 2. The registration number of the motor vehicle  
16 involved in the violation.

17 3. Citations of this section and the local law  
18 violated.

19 4. The location of the intersection where the  
20 violation occurred.

21 5. The date and time of the violation.

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

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

25 8. That a traffic infraction enforcement officer, as  
26 described in s. 316.640, has reviewed and observed the  
27 recorded images evidencing the red light infraction and has  
28 found reasonable and probable grounds to believe that an  
29 offense has been committed and can identify the license tag  
30 number of the violating vehicle.

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1           9. A clear statement of the time limit to file an  
2 appeal and describing the procedure for appealing the  
3 citation.

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

6           (b) The citation shall be sent by regular first-class  
7 or certified mail to the address of the motor vehicle owner  
8 that is listed with the department as the titled owner of the  
9 motor vehicle. If there is more than one motor vehicle owner,  
10 the citation shall be sent to the first-named motor vehicle  
11 owner as listed with the department as the titled owner of the  
12 motor vehicle.

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

21           (d) Failure to pay the fee or file an appeal within 30  
22 days after the motor vehicle owner signs and accepts the  
23 citation shall result in the motor vehicle owner paying the  
24 costs and attorney's fees required to collect the fee in  
25 addition to any other fees and charges. The collection process  
26 under this paragraph shall be the same as used by the  
27 enforcing municipality or county to collect a parking fine. If  
28 the motor vehicle owner files an appeal and is unsuccessful,  
29 the motor vehicle owner shall be responsible for paying the  
30 costs and attorney's fees required to collect the fee,  
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1 including costs of the appeal, in addition to any other fees  
2 and charges.

3 (e) Notwithstanding s. 318.21, the additional \$25 fee  
4 under paragraph (c) and all costs under paragraph (d) shall,  
5 upon collection, be retained by the enforcing municipality or  
6 county.

7 (7) APPEAL.--

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

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

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

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

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

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

9 5. The steady red light traffic signal was inoperable  
10 or malfunctioning; or

11 6. Any other reason the trier of fact deems  
12 appropriate.

13 (c) Appeals shall be considered through the same  
14 process established by the enforcing municipality or county  
15 for appealing parking citations.

16 (d) The recorded images of the violation shall be  
17 admissible as evidence of the violation.

18 Section 2. Section 318.121, Florida Statutes, is  
19 amended to read:

20 318.121 Preemption of additional fees, fines,  
21 surcharges, and costs.--Notwithstanding any general or special  
22 law, or municipal or county ordinance, additional fees, fines,  
23 surcharges, or costs other than the court costs and surcharges  
24 assessed under s. 318.18(11) and (13) may not be added to the  
25 civil traffic penalties assessed in this chapter. This section  
26 shall not apply to the fees and charges assessed by a county  
27 or municipality under s. 316.0065 to enforce violations of a  
28 traffic control signal steady red light indication.

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

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1           318.14 Noncriminal traffic infractions; exception;  
2 procedures.--

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

13           (2) Except as provided in ss. 316.0065 and ~~s.~~  
14 316.1001(2), any person cited for an infraction under this  
15 section must sign and accept a citation indicating a promise  
16 to appear. The officer may indicate on the traffic citation  
17 the time and location of the scheduled hearing and must  
18 indicate the applicable civil penalty established in s.  
19 318.18.

20           Section 4. Section 322.264, Florida Statutes, is  
21 amended to read:

22           322.264 "Habitual traffic offender" defined.--A  
23 "habitual traffic offender" is any person whose record, as  
24 maintained by the Department of Highway Safety and Motor  
25 Vehicles, shows that such person has accumulated the specified  
26 number of convictions for offenses described in subsection (1)  
27 or subsection (2) within a 5-year period or the specified  
28 number of convictions for offenses described in subsection (3)  
29 within a 3-year period:

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

1 (a) Voluntary or involuntary manslaughter resulting  
2 from the operation of a motor vehicle;

3 (b) Any violation of s. 316.193, former s. 316.1931,  
4 or former s. 860.01;

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

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

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

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

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

17 (3) Three convictions under s. 316.0065 or s. 316.075  
18 for a violation of a traffic control signal steady red light  
19 indication.

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21 Any violation of any federal law, any law of another state or  
22 country, or any valid ordinance of a municipality or county of  
23 another state similar to a statutory prohibition specified in  
24 subsection (1), ~~or~~ subsection (2), or subsection (3) shall be  
25 counted as a violation of such prohibition. In computing the  
26 number of convictions, all convictions during the 5 years  
27 previous to July 1, 1972, will be used, provided at least one  
28 conviction occurs after that date. The fact that previous  
29 convictions may have resulted in suspension, revocation, or  
30 disqualification under another section does not exempt them  
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1 from being used for suspension or revocation under this  
2 section as a habitual offender.

3 Section 5. For the purpose of incorporating the  
4 amendment made by this act to section 322.264, Florida  
5 Statutes, in a reference thereto, subsection (5) of section  
6 322.27, Florida Statutes, is reenacted to read:

7 322.27 Authority of department to suspend or revoke  
8 license.--

9 (5) The department shall revoke the license of any  
10 person designated a habitual offender, as set forth in s.  
11 322.264, and such person shall not be eligible to be  
12 relicensed for a minimum of 5 years from the date of  
13 revocation, except as provided for in s. 322.271. Any person  
14 whose license is revoked may, by petition to the department,  
15 show cause why his or her license should not be revoked.

16 Section 6. For the purpose of incorporating the  
17 amendment made by this act to section 322.264, Florida  
18 Statutes, in references thereto, subsections (1), (2), and (5)  
19 and paragraph (a) of subsection (8) of section 322.34, Florida  
20 Statutes, are reenacted to read:

21 322.34 Driving while license suspended, revoked,  
22 canceled, or disqualified.--

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

30 (2) Any person whose driver's license or driving  
31 privilege has been canceled, suspended, or revoked as provided

1 by law, except persons defined in s. 322.264, who, knowing of  
2 such cancellation, suspension, or revocation, drives any motor  
3 vehicle upon the highways of this state while such license or  
4 privilege is canceled, suspended, or revoked, upon:

5 (a) A first conviction is guilty of a misdemeanor of  
6 the second degree, punishable as provided in s. 775.082 or s.  
7 775.083.

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

11 (c) A third or subsequent conviction is guilty of a  
12 felony of the third degree, punishable as provided in s.  
13 775.082, s. 775.083, or s. 775.084.

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

25 (5) Any person whose driver's license has been revoked  
26 pursuant to s. 322.264 (habitual offender) and who drives any  
27 motor vehicle upon the highways of this state while such  
28 license is revoked is guilty of a felony of the third degree,  
29 punishable as provided in s. 775.082, s. 775.083, or s.  
30 775.084.

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

5           1. Whether the person's driver's license is suspended  
6 or revoked.

7           2. Whether the person's driver's license has remained  
8 suspended or revoked since a conviction for the offense of  
9 driving with a suspended or revoked license.

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

14           4. Whether the driver is the registered owner or  
15 coowner of the vehicle.

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

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

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