

1 A bill to be entitled
2 An act relating to uniform traffic control; creating the
3 "Mark Wandall Traffic Safety Act"; amending s. 316.003,
4 F.S.; defining the term "traffic infraction detector";
5 creating the Mark Wandall Traffic Safety Program to be
6 administered by the Department of Highway Safety and Motor
7 Vehicles; authorizing counties and municipalities to enact
8 ordinances permitting the use of traffic infraction
9 detectors; requiring signage; requiring certain public
10 awareness procedures; requiring the ordinance to establish
11 a fine of a certain amount; prohibiting additional
12 charges; providing exceptions; providing penalties for
13 traffic control signal violations detected by traffic
14 infraction detectors; providing procedures; providing for
15 tickets to be issued; providing for disposition of tickets
16 issued; providing for disposition of revenue; providing
17 complaint procedures; providing for the Legislature to
18 exclude a county or municipality from the program;
19 requiring reports from municipalities and counties in the
20 program to the department; requiring the department to
21 make reports to the Governor and the Legislature; amending
22 s. 316.0745, F.S.; providing that traffic infraction
23 detectors must meet certain requirements; amending s.
24 322.264, F.S.; revising the definition of the term
25 "habitual traffic offender" to include a certain number of
26 violations of a traffic control signal steady red light
27 indication within a certain timeframe; reenacting ss.
28 322.27(5) and 322.34(1), (2), (5), and (8)(a), F.S.,

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29 relating to the authority of the Department of Highway
30 Safety and Motor Vehicles to suspend or revoke a driver
31 license and driving while a driver license is suspended,
32 revoked, canceled, or disqualified, for the purpose of
33 incorporating the amendment to s. 322.264, F.S., in
34 references thereto; providing for severability; providing
35 an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. This act may be cited as the "Mark Wandall
40 Traffic Safety Act."

41 Section 2. Subsection (86) is added to section 316.003,
42 Florida Statutes, to read:

43 316.003 Definitions.--The following words and phrases,
44 when used in this chapter, shall have the meanings respectively
45 ascribed to them in this section, except where the context
46 otherwise requires:

47 (86) TRAFFIC INFRACTION DETECTOR.--A device that uses a
48 vehicle sensor installed to work in conjunction with a traffic
49 control signal and a camera synchronized to automatically record
50 two or more sequenced photographic or electronic images or
51 streaming video of only the rear of a motor vehicle at the time
52 the vehicle fails to stop behind the stop bar or clearly marked
53 stop line when facing a traffic control signal steady red light.
54 Any citation issued by the use of a traffic infraction detector
55 must include a photograph showing both the license tag of the
56 offending vehicle and the traffic control device being violated.

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57 Section 3. Mark Wandall Traffic Safety Program;
58 administration, report.--

59 (1) There is hereby created the Mark Wandall Traffic
60 Safety Program governing the operation of traffic infraction
61 detectors. The program shall be administered by the Department
62 of Highway Safety and Motor Vehicles and shall include the
63 following provisions:

64 (a) In order to utilize a traffic infraction detector, a
65 county or municipality must enact an ordinance that provides for
66 the use of a traffic infraction detector to enforce s.
67 316.075(1)(c), Florida Statutes, which requires the driver of a
68 motor vehicle to stop the vehicle when facing a traffic control
69 signal steady red light on the streets and highways under the
70 jurisdiction of the county or municipality. A county or
71 municipality that operates a traffic infraction detector must
72 authorize a traffic infraction enforcement officer to issue a
73 ticket for a violation of s. 316.075(1)(c), Florida Statutes,
74 and to enforce the payment of tickets for such violation. This
75 paragraph does not authorize a traffic infraction enforcement
76 officer to carry a firearm or other weapon and does not
77 authorize such an officer to make arrests. The ordinance must
78 require signs to be posted at locations designated by the county
79 or municipality providing notification that a traffic infraction
80 detector may be in use. Such signage must conform to the
81 standards and requirements adopted by the Department of
82 Transportation under s. 316.0745, Florida Statutes. The
83 ordinance also must require that the county or municipality make
84 a public announcement and conduct a public awareness campaign of

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85 the proposed use of traffic infraction detectors at least 30
86 days before commencing the enforcement program. In addition, the
87 ordinance must establish a fine of \$125 to be assessed against
88 the registered owner of a motor vehicle whose vehicle fails to
89 stop when facing a traffic control signal steady red light, as
90 determined through the use of a traffic infraction detector. Any
91 other provision of law to the contrary notwithstanding, an
92 additional surcharge, fee, or cost may not be added to the civil
93 penalty authorized by this paragraph.

94 (b) When responding to an emergency call, an emergency
95 vehicle is exempt from any ordinance enacted under this section.

96 (c) A county or municipality must adopt an ordinance that
97 provides for the use of a traffic infraction detector in order
98 to impose a fine on the registered owner of a motor vehicle for
99 a violation of an ordinance enacted under s. 316.008, Florida
100 Statutes. The fine shall be imposed in the same manner and is
101 subject to the same limitations as provided for parking
102 violations under s. 316.1967, Florida Statutes. Chapter 318 and
103 s. 322.27, Florida Statutes, do not apply to a violation of an
104 ordinance enacted under s. 316.008, Florida Statutes. Such a
105 violation is not a conviction of the operator, may not be made a
106 part of the driving record of the operator, and may not be used
107 for purposes of setting motor vehicle insurance rates. Points
108 may not be assessed based upon such a violation.

109 (d) The procedures set forth in s. 316.1967(2) - (5),
110 Florida Statutes, apply to a violation of an ordinance enacted
111 under s. 316.008, Florida Statutes, except that the ticket must
112 contain the name and address of the person alleged to be liable

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113 as the registered owner or operator of the motor vehicle
114 involved in the violation, the registration number of the
115 vehicle, the violation charged, a copy of the recorded image,
116 the location where the violation occurred, the date and time of
117 the violation, information that identifies the device that
118 recorded the violation, and a signed statement by a specifically
119 trained technician employed by the agency or its contractor
120 that, based on inspection of recorded images, the motor vehicle
121 was being operated in violation of s. 316.075(1)(c), Florida
122 Statutes. The ticket must advise the registered owner of the
123 motor vehicle responsible for the violation of the amount of the
124 fine, the date by which the fine must be paid, and the procedure
125 for contesting the violation alleged in the ticket. The ticket
126 must contain a warning that failure to contest the violation in
127 the manner and time provided is deemed an admission of the
128 liability and that a default may be entered thereon. The
129 violation shall be processed by the county or municipality that
130 has jurisdiction over the street or highway where the violation
131 occurred or by any entity authorized by the county or
132 municipality to prepare and mail the ticket.

133 (e) The ticket shall be sent by first-class mail addressed
134 to the registered owner of the motor vehicle and postmarked no
135 later than 14 days after the date of the violation.

136 (f)1. The registered owner of the motor vehicle involved
137 in a violation is responsible and liable for payment of the fine
138 assessed under this section unless the owner can establish:

139 a. That the vehicle passed through the intersection in
140 order to yield right-of-way to an emergency vehicle or as part

141 of a funeral procession;
 142 b. That the vehicle passed through the intersection at the
 143 direction of a law enforcement officer; or
 144 c. That the vehicle was, at the time of the violation, in
 145 the care, custody, or control of another person.
 146 2. In order to establish such facts, the registered owner
 147 of the vehicle must, within 20 days after receipt of
 148 notification of the alleged violation, furnish to the county or
 149 municipality, as appropriate, an affidavit that sets forth:
 150 a. The name, address, and, if known, driver's license
 151 number of the person who leased, rented, or otherwise had care,
 152 custody, or control of the motor vehicle at the time of the
 153 alleged violation; or
 154 b. That the vehicle was stolen, with a copy of the police
 155 report indicating that the vehicle was stolen at the time of the
 156 alleged violation.
 157 3. Upon receipt of an affidavit, the agency may issue a
 158 ticket to the person designated as having had care, custody, or
 159 control of the motor vehicle at the time of the violation. The
 160 ticket must be issued no later than 14 days after the agency's
 161 receipt of the affidavit. The affidavit is admissible in a
 162 proceeding under this section for the purpose of proving that
 163 the person identified in the affidavit was in actual care,
 164 custody, or control of the motor vehicle.
 165 (g) A person may elect to contest the determination that
 166 such person failed to stop at a traffic control signal steady
 167 red light as evidenced by a traffic infraction detector by
 168 electing to appear before any judge authorized by law to preside

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169 over a court hearing that adjudicates traffic infractions. A
170 person who elects to appear before the court to present evidence
171 is deemed to have waived the limitation of civil penalties
172 imposed for the violation. The court, after hearing, shall
173 determine whether the violation was committed and may impose a
174 civil penalty not to exceed \$125 plus costs. The court may take
175 appropriate measures to enforce collection of any penalty not
176 paid within the time permitted by the court.

177 (h) A certificate sworn to or affirmed by a person
178 authorized under s. 316.008, Florida Statutes, who is employed
179 by or under contract with the county or municipality where the
180 infraction occurred, or a facsimile thereof that is based upon
181 inspection of photographs or other recorded images produced by a
182 traffic infraction detector, is prima facie evidence of the
183 facts contained in the certificate. A photograph or other
184 recorded image evidencing such a violation must be available for
185 inspection in any proceeding to adjudicate liability for
186 violation of an ordinance enacted under s. 316.008, Florida
187 Statutes.

188 (i) In any county or municipality in which tickets are
189 issued as provided in this section, the names of persons who
190 have one or more outstanding violations may be included on the
191 list authorized under s. 316.1967(6), Florida Statutes.

192 (j) If the driver of the motor vehicle received a citation
193 from a police officer at the time of the violation, a ticket may
194 not be issued pursuant to this section.

195 (k) The uniform traffic citation prepared by the
196 department under s. 316.650, Florida Statutes, may not be issued

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197 for any violation for which a ticket is issued as provided in
198 this section.

199 (2) The fine imposed pursuant to paragraph (1)(a) or
200 paragraph (1)(g) shall be remitted to the Department of Revenue
201 for distribution as follows:

202 (a) Sixty-five dollars of the fine amount shall be
203 deposited into the Administrative Trust Fund of the Department
204 of Health for distribution pursuant to s. 395.4036, Florida
205 Statutes.

206 (b) The remaining \$60 shall be distributed pursuant to s.
207 318.21(1) and (2), Florida Statutes.

208 (3) A complaint that a county or municipality is employing
209 traffic infraction detectors for purposes other than the
210 promotion of public health, welfare, and safety or in a manner
211 inconsistent with this section may be submitted to the governing
212 board of such county or municipality. Such complaints, along
213 with any investigation and corrective action taken by the county
214 or municipal governing body, shall be included in the annual
215 report to the Department of Highway Safety and Motor Vehicles
216 and in the department's annual summary report to the Governor,
217 the President of the Senate, and the Speaker of the House
218 Representatives, as required by this section. Based on its
219 review of the report, the Legislature may exclude a county or
220 municipality from further participation in the program.

221 (4)(a) Each county or municipality that operates a traffic
222 infraction detector shall submit an annual report to the
223 Department of Highway Safety and Motor Vehicles which details
224 the results of using the traffic infraction detector and the

225 procedures for enforcement.

226 (b) The Department of Highway Safety and Motor Vehicles
 227 shall provide a summary report to the Governor, the President of
 228 the Senate, and the Speaker of the House of Representatives
 229 regarding the use and operation of traffic infraction detectors
 230 under s. 316.008, Florida Statutes. The summary report must
 231 include a review of the information submitted to the department
 232 by the counties and municipalities and must describe the
 233 enhancement of the traffic safety and enforcement programs. The
 234 department shall report its recommendations, including any
 235 necessary legislation, on or before December 1, 2008, to the
 236 Governor, the President of the Senate, and the Speaker of the
 237 House of Representatives.

238 Section 4. Subsection (6) of section 316.0745, Florida
 239 Statutes, is amended to read:

240 316.0745 Uniform signals and devices.--

241 (6) (a) Any system of traffic control devices controlled
 242 and operated from a remote location by electronic computers or
 243 similar devices must ~~shall~~ meet all requirements established for
 244 the uniform system, and, if where such a system affects ~~systems~~
 245 ~~affect~~ the movement of traffic on state roads, the design of the
 246 system must ~~shall~~ be reviewed and approved by the Department of
 247 Transportation.

248 (b) Any traffic infraction detector deployed on the
 249 streets and highways of the state must meet requirements
 250 established by the Department of Transportation and must be
 251 tested at regular intervals according to procedures prescribed
 252 by that department.

253 Section 5. Subsection (6) of section 316.1967, Florida
 254 Statutes, reads:

255 316.1967 Liability for payment of parking ticket
 256 violations and other parking violations.--

257 (6) Any county or municipality may provide by ordinance
 258 that the clerk of the court or the traffic violations bureau
 259 shall supply the department with a magnetically encoded computer
 260 tape reel or cartridge or send by other electronic means data
 261 which is machine readable by the installed computer system at
 262 the department, listing persons who have three or more
 263 outstanding parking violations, including violations of s.
 264 316.1955. Each county shall provide by ordinance that the clerk
 265 of the court or the traffic violations bureau shall supply the
 266 department with a magnetically encoded computer tape reel or
 267 cartridge or send by other electronic means data that is machine
 268 readable by the installed computer system at the department,
 269 listing persons who have any outstanding violations of s.
 270 316.1955 or any similar local ordinance that regulates parking
 271 in spaces designated for use by persons who have disabilities.
 272 The department shall mark the appropriate registration records
 273 of persons who are so reported. Section 320.03(8) applies to
 274 each person whose name appears on the list.

275 Section 6. Subsection (8) of section 320.03, Florida
 276 Statutes, reads:

277 320.03 Registration; duties of tax collectors;
 278 International Registration Plan.--

279 (8) If the applicant's name appears on the list referred
 280 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a

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281 license plate or revalidation sticker may not be issued until
282 that person's name no longer appears on the list or until the
283 person presents a receipt from the clerk showing that the fines
284 outstanding have been paid. This subsection does not apply to
285 the owner of a leased vehicle if the vehicle is registered in
286 the name of the lessee of the vehicle. The tax collector and the
287 clerk of the court are each entitled to receive monthly, as
288 costs for implementing and administering this subsection, 10
289 percent of the civil penalties and fines recovered from such
290 persons. As used in this subsection, the term "civil penalties
291 and fines" does not include a wrecker operator's lien as
292 described in s. 713.78(13). If the tax collector has private tag
293 agents, such tag agents are entitled to receive a pro rata share
294 of the amount paid to the tax collector, based upon the
295 percentage of license plates and revalidation stickers issued by
296 the tag agent compared to the total issued within the county.
297 The authority of any private agent to issue license plates shall
298 be revoked, after notice and a hearing as provided in chapter
299 120, if he or she issues any license plate or revalidation
300 sticker contrary to the provisions of this subsection. This
301 section applies only to the annual renewal in the owner's birth
302 month of a motor vehicle registration and does not apply to the
303 transfer of a registration of a motor vehicle sold by a motor
304 vehicle dealer licensed under this chapter, except for the
305 transfer of registrations which is inclusive of the annual
306 renewals. This section does not affect the issuance of the title
307 to a motor vehicle, notwithstanding s. 319.23(7)(b).

308 Section 7. Section 322.264, Florida Statutes, is amended
 309 to read:

310 322.264 "Habitual traffic offender" defined.--A "habitual
 311 traffic offender" is any person whose record, as maintained by
 312 the Department of Highway Safety and Motor Vehicles, shows that
 313 such person has accumulated the specified number of convictions
 314 for offenses described in subsection (1) or subsection (2)
 315 within a 5-year period or the specified number of convictions
 316 for offenses described in subsection (3) within a 3-year period:

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

319 (a) Voluntary or involuntary manslaughter resulting from
 320 the operation of a motor vehicle;

321 (b) Any violation of s. 316.193, former s. 316.1931, or
 322 former s. 860.01;

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

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

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

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

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

335 (3) Three convictions under s. 316.075 for a violation of
336 a traffic control signal steady red light indication.

337
338 Any violation of any federal law, any law of another state or
339 country, or any valid ordinance of a municipality or county of
340 another state similar to a statutory prohibition specified in
341 subsection (1), ~~or~~ subsection (2), or subsection (3) shall be
342 counted as a violation of such prohibition. In computing the
343 number of convictions, all convictions during the 5 years
344 previous to July 1, 1972, will be used, provided at least one
345 conviction occurs after that date. In computing the number of
346 convictions for offenses listed in subsection (3), all
347 convictions during the 3 years previous to July 1, 2007, will be
348 used, provided at least one conviction occurs after that date.

349 The fact that previous convictions may have resulted in
350 suspension, revocation, or disqualification under another
351 section does not exempt them from being used for suspension or
352 revocation under this section as a habitual offender.

353 Section 8. For the purpose of incorporating the amendment
354 made by this act to section 322.264, Florida Statutes, in a
355 reference thereto, subsection (5) of section 322.27, Florida
356 Statutes, is reenacted to read:

357 322.27 Authority of department to suspend or revoke
358 license.--

359 (5) The department shall revoke the license of any person
360 designated a habitual offender, as set forth in s. 322.264, and
361 such person shall not be eligible to be relicensed for a minimum
362 of 5 years from the date of revocation, except as provided for

363 in s. 322.271. Any person whose license is revoked may, by
 364 petition to the department, show cause why his or her license
 365 should not be revoked.

366 Section 9. For the purpose of incorporating the amendment
 367 made by this act to section 322.264, Florida Statutes, in
 368 references thereto, subsections (1), (2), and (5) and paragraph
 369 (a) of subsection (8) of section 322.34, Florida Statutes, are
 370 reenacted to read:

371 322.34 Driving while license suspended, revoked, canceled,
 372 or disqualified.--

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

380 (2) Any person whose driver's license or driving privilege
 381 has been canceled, suspended, or revoked as provided by law,
 382 except persons defined in s. 322.264, who, knowing of such
 383 cancellation, suspension, or revocation, drives any motor
 384 vehicle upon the highways of this state while such license or
 385 privilege is canceled, suspended, or revoked, upon:

386 (a) A first conviction is guilty of a misdemeanor of the
 387 second degree, punishable as provided in s. 775.082 or s.
 388 775.083.

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389 (b) A second conviction is guilty of a misdemeanor of the
390 first degree, punishable as provided in s. 775.082 or s.
391 775.083.

392 (c) A third or subsequent conviction is guilty of a felony
393 of the third degree, punishable as provided in s. 775.082, s.
394 775.083, or s. 775.084.

395

396 The element of knowledge is satisfied if the person has been
397 previously cited as provided in subsection (1); or the person
398 admits to knowledge of the cancellation, suspension, or
399 revocation; or the person received notice as provided in
400 subsection (4). There shall be a rebuttable presumption that the
401 knowledge requirement is satisfied if a judgment or order as
402 provided in subsection (4) appears in the department's records
403 for any case except for one involving a suspension by the
404 department for failure to pay a traffic fine or for a financial
405 responsibility violation.

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

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

414 1. Whether the person's driver's license is suspended or
415 revoked.

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416 2. Whether the person's driver's license has remained
417 suspended or revoked since a conviction for the offense of
418 driving with a suspended or revoked license.

419 3. Whether the suspension or revocation was made under s.
420 316.646 or s. 627.733, relating to failure to maintain required
421 security, or under s. 322.264, relating to habitual traffic
422 offenders.

423 4. Whether the driver is the registered owner or coowner
424 of the vehicle.

425 Section 10. If any provision of this act or its
426 application to any person or circumstance is held invalid, the
427 invalidity does not affect other provisions or applications of
428 this act which can be given effect without the invalid provision
429 or application, and to this end the provisions of this act are
430 declared severable.

431 Section 11. This act shall take effect upon becoming a
432 law.