

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.,

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.

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

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

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 detailed information supporting an exemption as provided in sub-  
151 subparagraph 1.a., subparagraph 1.b., or subparagraph  
152 1.c. For an exemption under subparagraph 1.c., the affidavit  
153 must set forth:

154 a. The name, address, and, if known, driver's license  
155 number of the person who leased, rented, or otherwise had care,  
156 custody, or control of the motor vehicle at the time of the  
157 alleged violation; or

158 b. That the vehicle was stolen, with a copy of the police  
159 report indicating that the vehicle was stolen at the time of the  
160 alleged violation.

161 3. Upon receipt of an affidavit, the agency may issue a  
162 ticket to the person designated as having had care, custody, or  
163 control of the motor vehicle at the time of the violation. The  
164 ticket must be issued no later than 14 days after the agency's  
165 receipt of the affidavit. The affidavit is admissible in a  
166 proceeding under this section for the purpose of proving that  
167 the person identified in the affidavit was in actual care,  
168 custody, or control of the motor vehicle.

169       (g) A person may elect to contest the determination that  
170 such person failed to stop at a traffic control signal steady  
171 red light as evidenced by a traffic infraction detector by  
172 electing to appear before any judge authorized by law to preside  
173 over a court hearing that adjudicates traffic infractions. A  
174 person who elects to appear before the court to present evidence  
175 is deemed to have waived the limitation of civil penalties  
176 imposed for the violation. The court, after hearing, shall  
177 determine whether the violation was committed and may impose a  
178 civil penalty not to exceed \$125 plus costs. The court may take  
179 appropriate measures to enforce collection of any penalty not  
180 paid within the time permitted by the court.

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

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

196       (j) If the driver of the motor vehicle received a citation

197 from a police officer at the time of the violation, a ticket may  
 198 not be issued pursuant to this section.

199 (k) The uniform traffic citation prepared by the  
 200 department under s. 316.650, Florida Statutes, may not be issued  
 201 for any violation for which a ticket is issued as provided in  
 202 this section.

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

206 (a) Sixty-five dollars of the fine amount shall be  
 207 deposited into the Administrative Trust Fund of the Department  
 208 of Health for distribution pursuant to s. 395.4036, Florida  
 209 Statutes.

210 (b) The remaining \$60 shall be distributed pursuant to s.  
 211 318.21(1) and (2), Florida Statutes.

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



225       (4) (a) Each county or municipality that operates a traffic  
 226 infraction detector shall submit an annual report to the  
 227 Department of Highway Safety and Motor Vehicles which details  
 228 the results of using the traffic infraction detector and the  
 229 procedures for enforcement.

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

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

244       316.0745 Uniform signals and devices.--

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

252       (b) Any traffic infraction detector deployed on the

253 streets and highways of the state must meet requirements  
 254 established by the Department of Transportation and must be  
 255 tested at regular intervals according to procedures prescribed  
 256 by that department.

257 Section 5. Subsection (6) of section 316.1967, Florida  
 258 Statutes, reads:

259 316.1967 Liability for payment of parking ticket  
 260 violations and other parking violations.--

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

279 Section 6. Subsection (8) of section 320.03, Florida  
 280 Statutes, reads:

281           320.03 Registration; duties of tax collectors;  
282 International Registration Plan.--

283           (8) If the applicant's name appears on the list referred  
284 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a  
285 license plate or revalidation sticker may not be issued until  
286 that person's name no longer appears on the list or until the  
287 person presents a receipt from the clerk showing that the fines  
288 outstanding have been paid. This subsection does not apply to  
289 the owner of a leased vehicle if the vehicle is registered in  
290 the name of the lessee of the vehicle. The tax collector and the  
291 clerk of the court are each entitled to receive monthly, as  
292 costs for implementing and administering this subsection, 10  
293 percent of the civil penalties and fines recovered from such  
294 persons. As used in this subsection, the term "civil penalties  
295 and fines" does not include a wrecker operator's lien as  
296 described in s. 713.78(13). If the tax collector has private tag  
297 agents, such tag agents are entitled to receive a pro rata share  
298 of the amount paid to the tax collector, based upon the  
299 percentage of license plates and revalidation stickers issued by  
300 the tag agent compared to the total issued within the county.  
301 The authority of any private agent to issue license plates shall  
302 be revoked, after notice and a hearing as provided in chapter  
303 120, if he or she issues any license plate or revalidation  
304 sticker contrary to the provisions of this subsection. This  
305 section applies only to the annual renewal in the owner's birth  
306 month of a motor vehicle registration and does not apply to the  
307 transfer of a registration of a motor vehicle sold by a motor  
308 vehicle dealer licensed under this chapter, except for the

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309 transfer of registrations which is inclusive of the annual  
310 renewals. This section does not affect the issuance of the title  
311 to a motor vehicle, notwithstanding s. 319.23(7)(b).

312 Section 7. Section 322.264, Florida Statutes, is amended  
313 to read:

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

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

323 (a) Voluntary or involuntary manslaughter resulting from  
324 the operation of a motor vehicle;

325 (b) Any violation of s. 316.193, former s. 316.1931, or  
326 former s. 860.01;

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

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

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

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

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

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

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

353 The fact that previous convictions may have resulted in  
 354 suspension, revocation, or disqualification under another  
 355 section does not exempt them from being used for suspension or  
 356 revocation under this section as a habitual offender.

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

361 322.27 Authority of department to suspend or revoke  
 362 license.--

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363 (5) The department shall revoke the license of any person  
364 designated a habitual offender, as set forth in s. 322.264, and  
365 such person shall not be eligible to be relicensed for a minimum  
366 of 5 years from the date of revocation, except as provided for  
367 in s. 322.271. Any person whose license is revoked may, by  
368 petition to the department, show cause why his or her license  
369 should not be revoked.

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

375 322.34 Driving while license suspended, revoked, canceled,  
376 or disqualified.--

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

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

390 (a) A first conviction is guilty of a misdemeanor of the  
 391 second degree, punishable as provided in s. 775.082 or s.  
 392 775.083.

393 (b) A second conviction is guilty of a misdemeanor of the  
 394 first degree, punishable as provided in s. 775.082 or s.  
 395 775.083.

396 (c) A third or subsequent conviction is guilty of a felony  
 397 of the third degree, punishable as provided in s. 775.082, s.  
 398 775.083, or s. 775.084.

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

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

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

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418 1. Whether the person's driver's license is suspended or  
419 revoked.

420 2. Whether the person's driver's license has remained  
421 suspended or revoked since a conviction for the offense of  
422 driving with a suspended or revoked license.

423 3. Whether the suspension or revocation was made under s.  
424 316.646 or s. 627.733, relating to failure to maintain required  
425 security, or under s. 322.264, relating to habitual traffic  
426 offenders.

427 4. Whether the driver is the registered owner or coowner  
428 of the vehicle.

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

435 Section 11. This act shall take effect upon becoming a  
436 law.