

By Senator Bennett

21-1169-07

See HB

1 A bill to be entitled

2 An act relating to uniform traffic control;

3 creating the "Mark Wandall Traffic Safety Act";

4 amending s. 316.003, F.S.; defining the term

5 "traffic infraction detector"; creating the

6 Mark Wandall Traffic Safety Program to be

7 administered by the Department of Highway

8 Safety and Motor Vehicles; authorizing counties

9 and municipalities to enact ordinances

10 permitting the use of traffic infraction

11 detectors; requiring signage; requiring certain

12 public awareness procedures; requiring the

13 ordinance to establish a fine of a certain

14 amount; prohibiting additional charges;

15 providing exceptions; providing penalties for

16 traffic control signal violations detected by

17 traffic infraction detectors; providing

18 procedures; providing for tickets to be issued;

19 providing for disposition of tickets issued;

20 providing for disposition of revenue; providing

21 complaint procedures; providing for the

22 Legislature to exclude a county or municipality

23 from the program; requiring reports from

24 municipalities and counties in the program to

25 the department; requiring the department to

26 make reports to the Governor and the

27 Legislature; amending s. 316.0745, F.S.;

28 providing that traffic infraction detectors

29 must meet certain requirements; amending s.

30 322.264, F.S.; revising the definition of the

31 term "habitual traffic offender" to include a

1 certain number of violations of a traffic
2 control signal steady red light indication
3 within a certain timeframe; reenacting ss.
4 322.27(5) and 322.34(1), (2), (5), and (8)(a),
5 F.S., relating to the authority of the
6 Department of Highway Safety and Motor Vehicles
7 to suspend or revoke a driver license and
8 driving while a driver license is suspended,
9 revoked, canceled, or disqualified, for the
10 purpose of incorporating the amendment to s.
11 322.264, F.S., in references thereto; providing
12 for severability; providing an effective date.
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14 Be It Enacted by the Legislature of the State of Florida:
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16 Section 1. This act may be cited as the "Mark Wandall
17 Traffic Safety Act."

18 Section 2. Subsection (86) is added to section
19 316.003, Florida Statutes, to read:

20 316.003 Definitions.--The following words and phrases,
21 when used in this chapter, shall have the meanings
22 respectively ascribed to them in this section, except where
23 the context otherwise requires:

24 (86) TRAFFIC INFRACTION DETECTOR.--A device that uses
25 a vehicle sensor installed to work in conjunction with a
26 traffic control signal and a camera synchronized to
27 automatically record two or more sequenced photographic or
28 electronic images or streaming video of only the rear of a
29 motor vehicle at the time the vehicle fails to stop behind the
30 stop bar or clearly marked stop line when facing a traffic
31 control signal steady red light. Any citation issued by the

1 use of a traffic infraction detector must include a photograph
2 showing both the license tag of the offending vehicle and the
3 traffic control device being violated.

4 Section 3. Mark Wandall Traffic Safety Program;
5 administration, report.--

6 (1) There is hereby created the Mark Wandall Traffic
7 Safety Program governing the operation of traffic infraction
8 detectors. The program shall be administered by the Department
9 of Highway Safety and Motor Vehicles and shall include the
10 following provisions:

11 (a) In order to utilize a traffic infraction detector,
12 a county or municipality must enact an ordinance that provides
13 for the use of a traffic infraction detector to enforce s.
14 316.075(1)(c), Florida Statutes, which requires the driver of
15 a motor vehicle to stop the vehicle when facing a traffic
16 control signal steady red light on the streets and highways
17 under the jurisdiction of the county or municipality. A county
18 or municipality that operates a traffic infraction detector
19 must authorize a traffic infraction enforcement officer to
20 issue a ticket for a violation of s. 316.075(1)(c), Florida
21 Statutes, and to enforce the payment of tickets for such
22 violation. This paragraph does not authorize a traffic
23 infraction enforcement officer to carry a firearm or other
24 weapon and does not authorize such an officer to make arrests.
25 The ordinance must require signs to be posted at locations
26 designated by the county or municipality providing
27 notification that a traffic infraction detector may be in use.
28 Such signage must conform to the standards and requirements
29 adopted by the Department of Transportation under s. 316.0745,
30 Florida Statutes. The ordinance also must require that the
31 county or municipality make a public announcement and conduct

1 a public awareness campaign of the proposed use of traffic
2 infraction detectors at least 30 days before commencing the
3 enforcement program. In addition, the ordinance must establish
4 a fine of \$125 to be assessed against the registered owner of
5 a motor vehicle whose vehicle fails to stop when facing a
6 traffic control signal steady red light, as determined through
7 the use of a traffic infraction detector. Any other provision
8 of law to the contrary notwithstanding, an additional
9 surchARGE, fee, or cost may not be added to the civil penalty
10 authorized by this paragraph.

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

14 (c) A county or municipality must adopt an ordinance
15 that provides for the use of a traffic infraction detector in
16 order to impose a fine on the registered owner of a motor
17 vehicle for a violation of an ordinance enacted under s.
18 316.008, Florida Statutes. The fine shall be imposed in the
19 same manner and is subject to the same limitations as provided
20 for parking violations under s. 316.1967, Florida Statutes.
21 Chapter 318 and s. 322.27, Florida Statutes, do not apply to a
22 violation of an ordinance enacted under s. 316.008, Florida
23 Statutes. Such a violation is not a conviction of the
24 operator, may not be made a part of the driving record of the
25 operator, and may not be used for purposes of setting motor
26 vehicle insurance rates. Points may not be assessed based upon
27 such a violation.

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

1 liable as the registered owner or operator of the motor
2 vehicle involved in the violation, the registration number of
3 the vehicle, the violation charged, a copy of the recorded
4 image, the location where the violation occurred, the date and
5 time of the violation, information that identifies the device
6 that recorded the violation, and a signed statement by a
7 specifically trained technician employed by the agency or its
8 contractor that, based on inspection of recorded images, the
9 motor vehicle was being operated in violation of s.
10 316.075(1)(c), Florida Statutes. The ticket must advise the
11 registered owner of the motor vehicle responsible for the
12 violation of the amount of the fine, the date by which the
13 fine must be paid, and the procedure for contesting the
14 violation alleged in the ticket. The ticket must contain a
15 warning that failure to contest the violation in the manner
16 and time provided is deemed an admission of the liability and
17 that a default may be entered thereon. The violation shall be
18 processed by the county or municipality that has jurisdiction
19 over the street or highway where the violation occurred or by
20 any entity authorized by the county or municipality to prepare
21 and mail the ticket.

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

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

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1 a. That the vehicle passed through the intersection in
2 order to yield right-of-way to an emergency vehicle or as part
3 of a funeral procession;

4 b. That the vehicle passed through the intersection at
5 the direction of a law enforcement officer; or

6 c. That the vehicle was, at the time of the violation,
7 in the care, custody, or control of another person.

8 2. In order to establish such facts, the registered
9 owner of the vehicle must, within 20 days after receipt of
10 notification of the alleged violation, furnish to the county
11 or municipality, as appropriate, an affidavit that sets forth:

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

16 b. That the vehicle was stolen, with a copy of the
17 police report indicating that the vehicle was stolen at the
18 time of the alleged violation.

19 3. Upon receipt of an affidavit, the agency may issue
20 a ticket to the person designated as having had care, custody,
21 or control of the motor vehicle at the time of the violation.
22 The ticket must be issued no later than 14 days after the
23 agency's receipt of the affidavit. The affidavit is admissible
24 in a proceeding under this section for the purpose of proving
25 that the person identified in the affidavit was in actual
26 care, custody, or control of the motor vehicle.

27 (g) A person may elect to contest the determination
28 that such person failed to stop at a traffic control signal
29 steady red light as evidenced by a traffic infraction detector
30 by electing to appear before any judge authorized by law to
31 preside over a court hearing that adjudicates traffic

1 infractions. A person who elects to appear before the court to
2 present evidence is deemed to have waived the limitation of
3 civil penalties imposed for the violation. The court, after
4 hearing, shall determine whether the violation was committed
5 and may impose a civil penalty not to exceed \$125 plus costs.
6 The court may take appropriate measures to enforce collection
7 of any penalty not paid within the time permitted by the
8 court.

9 (h) A certificate sworn to or affirmed by a person
10 authorized under s. 316.008, Florida Statutes, who is employed
11 by or under contract with the county or municipality where the
12 infraction occurred, or a facsimile thereof that is based upon
13 inspection of photographs or other recorded images produced by
14 a traffic infraction detector, is prima facie evidence of the
15 facts contained in the certificate. A photograph or other
16 recorded image evidencing such a violation must be available
17 for inspection in any proceeding to adjudicate liability for
18 violation of an ordinance enacted under s. 316.008, Florida
19 Statutes.

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

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

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

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

4 (a) Sixty-five dollars of the fine amount shall be
5 deposited into the Administrative Trust Fund of the Department
6 of Health for distribution pursuant to s. 395.4036, Florida
7 Statutes.

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

10 (3) A complaint that a county or municipality is
11 employing traffic infraction detectors for purposes other than
12 the promotion of public health, welfare, and safety or in a
13 manner inconsistent with this section may be submitted to the
14 governing board of such county or municipality. Such
15 complaints, along with any investigation and corrective action
16 taken by the county or municipal governing body, shall be
17 included in the annual report to the Department of Highway
18 Safety and Motor Vehicles and in the department's annual
19 summary report to the Governor, the President of the Senate,
20 and the Speaker of the House Representatives, as required by
21 this section. Based on its review of the report, the
22 Legislature may exclude a county or municipality from further
23 participation in the program.

24 (4)(a) Each county or municipality that operates a
25 traffic infraction detector shall submit an annual report to
26 the Department of Highway Safety and Motor Vehicles which
27 details the results of using the traffic infraction detector
28 and the procedures for enforcement.

29 (b) The Department of Highway Safety and Motor
30 Vehicles shall provide a summary report to the Governor, the
31 President of the Senate, and the Speaker of the House of

1 Representatives regarding the use and operation of traffic
2 infraction detectors under s. 316.008, Florida Statutes. The
3 summary report must include a review of the information
4 submitted to the department by the counties and municipalities
5 and must describe the enhancement of the traffic safety and
6 enforcement programs. The department shall report its
7 recommendations, including any necessary legislation, on or
8 before December 1, 2008, to the Governor, the President of the
9 Senate, and the Speaker of the House of Representatives.

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

12 316.0745 Uniform signals and devices.--

13 (6)(a) Any system of traffic control devices
14 controlled and operated from a remote location by electronic
15 computers or similar devices must ~~shall~~ meet all requirements
16 established for the uniform system, and, if where such a
17 system affects ~~systems affect~~ the movement of traffic on state
18 roads, the design of the system must ~~shall~~ be reviewed and
19 approved by the Department of Transportation.

20 (b) Any traffic infraction detector deployed on the
21 streets and highways of the state must meet requirements
22 established by the Department of Transportation and must be
23 tested at regular intervals according to procedures prescribed
24 by that department.

25 Section 5. Subsection (6) of section 316.1967, Florida
26 Statutes, reads:

27 316.1967 Liability for payment of parking ticket
28 violations and other parking violations.--

29 (6) Any county or municipality may provide by
30 ordinance that the clerk of the court or the traffic
31 violations bureau shall supply the department with a

1 magnetically encoded computer tape reel or cartridge or send
2 by other electronic means data which is machine readable by
3 the installed computer system at the department, listing
4 persons who have three or more outstanding parking violations,
5 including violations of s. 316.1955. Each county shall provide
6 by ordinance that the clerk of the court or the traffic
7 violations bureau shall supply the department with a
8 magnetically encoded computer tape reel or cartridge or send
9 by other electronic means data that is machine readable by the
10 installed computer system at the department, listing persons
11 who have any outstanding violations of s. 316.1955 or any
12 similar local ordinance that regulates parking in spaces
13 designated for use by persons who have disabilities. The
14 department shall mark the appropriate registration records of
15 persons who are so reported. Section 320.03(8) applies to each
16 person whose name appears on the list.

17 Section 6. Subsection (8) of section 320.03, Florida
18 Statutes, reads:

19 320.03 Registration; duties of tax collectors;
20 International Registration Plan.--

21 (8) If the applicant's name appears on the list
22 referred to in s. 316.1001(4), s. 316.1967(6), or s.
23 713.78(13), a license plate or revalidation sticker may not be
24 issued until that person's name no longer appears on the list
25 or until the person presents a receipt from the clerk showing
26 that the fines outstanding have been paid. This subsection
27 does not apply to the owner of a leased vehicle if the vehicle
28 is registered in the name of the lessee of the vehicle. The
29 tax collector and the clerk of the court are each entitled to
30 receive monthly, as costs for implementing and administering
31 this subsection, 10 percent of the civil penalties and fines

1 recovered from such persons. As used in this subsection, the
2 term "civil penalties and fines" does not include a wrecker
3 operator's lien as described in s. 713.78(13). If the tax
4 collector has private tag agents, such tag agents are entitled
5 to receive a pro rata share of the amount paid to the tax
6 collector, based upon the percentage of license plates and
7 revalidation stickers issued by the tag agent compared to the
8 total issued within the county. The authority of any private
9 agent to issue license plates shall be revoked, after notice
10 and a hearing as provided in chapter 120, if he or she issues
11 any license plate or revalidation sticker contrary to the
12 provisions of this subsection. This section applies only to
13 the annual renewal in the owner's birth month of a motor
14 vehicle registration and does not apply to the transfer of a
15 registration of a motor vehicle sold by a motor vehicle dealer
16 licensed under this chapter, except for the transfer of
17 registrations which is inclusive of the annual renewals. This
18 section does not affect the issuance of the title to a motor
19 vehicle, notwithstanding s. 319.23(7)(b).

20 Section 7. 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. 316.075 for a violation
18 of a traffic control signal steady red light indication.

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20 Any violation of any federal law, any law of another state or
21 country, or any valid ordinance of a municipality or county of
22 another state similar to a statutory prohibition specified in
23 subsection (1), ~~or~~ subsection (2), or subsection (3) shall be
24 counted as a violation of such prohibition. In computing the
25 number of convictions, all convictions during the 5 years
26 previous to July 1, 1972, will be used, provided at least one
27 conviction occurs after that date. In computing the number of
28 convictions for offenses listed in subsection (3), all
29 convictions during the 3 years previous to July 1, 2007, will
30 be used, provided at least one conviction occurs after that
31 date. The fact that previous convictions may have resulted in

1 suspension, revocation, or disqualification under another
2 section does not exempt them from being used for suspension or
3 revocation under this section as a habitual offender.

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

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

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

17 Section 9. For the purpose of incorporating the
18 amendment made by this act to section 322.264, Florida
19 Statutes, in references thereto, subsections (1), (2), and (5)
20 and paragraph (a) of subsection (8) of section 322.34, Florida
21 Statutes, are reenacted to read:

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

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

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

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

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

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

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

27 (5) Any person whose driver's license has been revoked
28 pursuant to s. 322.264 (habitual offender) and who drives any
29 motor vehicle upon the highways of this state while such
30 license is revoked is guilty of a felony of the third degree,
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1 | punishable as provided in s. 775.082, s. 775.083, or s.
2 | 775.084.

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

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

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

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

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

18 | Section 10. If any provision of this act or its
19 | application to any person or circumstance is held invalid, the
20 | invalidity does not affect other provisions or applications of
21 | this act which can be given effect without the invalid
22 | provision or application, and to this end the provisions of
23 | this act are declared severable.

24 | Section 11. This act shall take effect upon becoming a
25 | law.

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