

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Needelman offered the following:

2
3 **Amendment to Amendment (615905) (with title amendment)**

4 Between lines 1988 and 1989, insert:

5 Section 48. Subsection (86) is added to section 316.003,
6 Florida Statutes, to read:

7 316.003 Definitions.--The following words and phrases,
8 when used in this chapter, shall have the meanings respectively
9 ascribed to them in this section, except where the context
10 otherwise requires:

11 (86) TRAFFIC INFRACTION DETECTOR.--A device that uses a
12 vehicle sensor installed to work in conjunction with a traffic
13 control signal and one or more cameras synchronized to
14 automatically record two or more sequenced photographic or
15 electronic images or streaming video of the driver and the rear
16 of a motor vehicle at the time the vehicle fails to stop behind

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17 the stop bar or clearly marked stop line when facing a traffic
18 control signal steady red light. Any citation issued by the use
19 of a traffic infraction detector must include photographs or
20 images showing the driver and license tag of the offending
21 vehicle and the traffic control device being violated.

22 Section 49. Section 316.0083, Florida Statutes, is created
23 to read:

24 316.0083 Mark Wandall Traffic Safety Program;
25 administration; report.--

26 (1) There is created the Mark Wandall Traffic Safety
27 Program governing the operation of traffic infraction detectors.
28 The program shall be administered by the Department of Highway
29 Safety and Motor Vehicles and shall include the following
30 provisions:

31 (a) In order to use a traffic infraction detector, a
32 county or municipality must enact an ordinance that provides for
33 the use of a traffic infraction detector to enforce s.
34 316.075(1)(c), which requires the driver of a vehicle to stop
35 the vehicle when facing a traffic control signal steady red
36 light on the streets and highways under the jurisdiction of the
37 county or municipality. A county or municipality that operates a
38 traffic infraction detector must authorize a traffic infraction
39 enforcement officer to issue a ticket for a violation of s.
40 316.075(1)(c) and to enforce the payment of tickets for such
41 violation. This paragraph does not authorize a traffic
42 infraction enforcement officer to carry a firearm or other
43 weapon and does not authorize such an officer to make arrests.
44 The ordinance must require signs to be posted at locations

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45 designated by the county or municipality providing notification
46 that a traffic infraction detector may be in use. Such signage
47 must conform to the standards and requirements adopted by the
48 Department of Transportation under s. 316.0745. The ordinance
49 must also require that the county or municipality make a public
50 announcement and conduct a public awareness campaign of the
51 proposed use of traffic infraction detectors at least 30 days
52 before commencing the enforcement program. In addition, the
53 ordinance must establish a fine of \$125 to be assessed against
54 the registered owner driving or in actual physical control of a
55 motor vehicle that fails to stop when facing a traffic control
56 signal steady red light as determined through the use of a
57 traffic infraction detector. Any other provision of law to the
58 contrary notwithstanding, an additional surcharge, fee, or cost
59 may not be added to the civil penalty authorized by this
60 paragraph.

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

63 (c) A county or municipality must adopt an ordinance under
64 this section that provides for the use of a traffic infraction
65 detector in order to impose a fine on the registered owner of a
66 motor vehicle for a violation of s. 316.075(1)(c). The fine
67 shall be imposed in the same manner and is subject to the same
68 limitations as provided for parking violations under s.
69 316.1967. Except as specifically provided in this section,
70 chapter 318 and s. 322.27 do not apply to a violation of s.
71 316.075(1)(c) for which a ticket has been issued under an
72 ordinance enacted pursuant to this section. Enforcement of a

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73 ticket issued under the ordinance is not a conviction of the
74 operator of the motor vehicle, may not be made a part of the
75 driving record of the operator, and may not be used for purposes
76 of setting motor vehicle insurance rates. Points under s. 322.27
77 may not be assessed based upon such enforcement.

78 (d) The procedures set forth in s. 316.1967(2)-(5) apply
79 to an ordinance enacted pursuant to this section, except that
80 the ticket must contain the name and address of the person
81 alleged to be liable as the registered owner of the motor
82 vehicle involved in the violation, the registration number of
83 the motor vehicle, the violation charged, a copy of the recorded
84 images, the location where the violation occurred, the date and
85 time of the violation, information that identifies the device
86 that recorded the violation, and a signed statement by a
87 specifically trained technician employed by the agency or its
88 contractor that, based on inspection of recorded images, the
89 motor vehicle was being operated in violation of s.
90 316.075(1)(c). The ticket must advise the registered owner of
91 the motor vehicle involved in the violation of the amount of the
92 fine, the date by which the fine must be paid, and the procedure
93 for contesting the violation alleged in the ticket. The ticket
94 must contain a warning that failure to contest the violation in
95 the manner and time provided is deemed an admission of the
96 liability and that a default may be entered thereon. The
97 violation shall be processed by the county or municipality that
98 has jurisdiction over the street or highway where the violation
99 occurred or by any entity authorized by the county or
100 municipality to prepare and mail the ticket.

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

104 (f)1. The registered owner of the motor vehicle involved
105 in a violation is responsible and liable for payment of the fine
106 assessed pursuant to this section unless the owner can establish
107 that:

108 a. The motor vehicle passed through the intersection in
109 order to yield right-of-way to an emergency vehicle or as part
110 of a funeral procession;

111 b. The motor vehicle passed through the intersection at
112 the direction of a law enforcement officer;

113 c. The motor vehicle was stolen at the time of the alleged
114 violation;

115 d. A uniform traffic citation was issued to the driver of
116 the motor vehicle for the alleged violation of s. 316.075(1)(c);
117 or

118 e. Someone other than the registered owner was driving or
119 in actual physical control of the motor vehicle at the time of
120 the alleged violation.

121 2. In order to establish any such fact, the registered
122 owner of the vehicle must, within 20 days after receipt of
123 notification of the alleged violation, furnish to the county or
124 municipality, as appropriate, an affidavit that sets forth
125 detailed information supporting an exemption as provided in
126 subparagraph 1. For an exemption under sub-subparagraph 1.c.,
127 the affidavit must set forth that the vehicle was stolen and be
128 accompanied by a copy of the police report indicating that the

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129 vehicle was stolen at the time of the alleged violation. For an
130 exemption under sub-subparagraph 1.d., the affidavit must set
131 forth that a citation was issued and be accompanied by a copy of
132 the citation indicating the time of the alleged violation and
133 the location of the intersection where it occurred.

134 (g) A person may contest the determination that such
135 person failed to stop at a traffic control signal steady red
136 light as evidenced by a traffic infraction detector by electing
137 to appear before any judge authorized by law to preside over a
138 court hearing that adjudicates traffic infractions. A person who
139 elects to appear before the court to present evidence is deemed
140 to have waived the limitation of civil penalties imposed for the
141 violation. The court, after hearing, shall determine whether the
142 violation was committed and may impose a civil penalty not to
143 exceed \$125 plus costs. The court may take appropriate measures
144 to enforce collection of any penalty not paid within the time
145 permitted by the court.

146 (h) A certificate sworn to or affirmed by a person
147 authorized under this section who is employed by or under
148 contract with the county or municipality where the infraction
149 occurred, or a facsimile thereof that is based upon inspection
150 of photographs or other recorded images produced by a traffic
151 infraction detector, is prima facie evidence of the facts
152 contained in the certificate. A photograph or other recorded
153 image evidencing a violation of s. 316.075(1)(c) must be
154 available for inspection in any proceeding to adjudicate
155 liability under an ordinance enacted pursuant to this section,
156 and the court must be able to clearly and unmistakably identify

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157 the driver in the image as the registered owner of the motor
158 vehicle.

159 (i) In any county or municipality in which tickets are
160 issued as provided in this section, the names of persons who
161 have one or more outstanding violations may be included on the
162 list authorized under s. 316.1967(6).

163 (j) If the driver of the motor vehicle received a citation
164 from a traffic enforcement officer at the time of the violation,
165 a ticket may not be issued pursuant to this section.

166 (k) The penalty of \$125 established under paragraph (a)
167 shall be assessed on a graduated scale as follows:

168 1. For a first offense, a warning shall be issued.

169 2. For a second offense, a fine of \$41.67 shall be
170 assessed.

171 3. For a third offense, a fine of \$83.34 shall be
172 assessed.

173 4. For a fourth or subsequent offense, a fine of \$125
174 shall be assessed.

175 (2) To cover administrative and maintenance costs, 5
176 percent of the proceeds from the fines imposed under subsection
177 (1) shall be retained by the county or municipality enforcing
178 the ordinance enacted pursuant to this section. The remaining
179 proceeds from such fines shall be remitted to the Department of
180 Revenue for deposit into the Brain and Spinal Cord Injury
181 Program Trust Fund to be used as provided in s. 381.79.

182 (3) (a) A traffic infraction detector used in this state
183 must be owned and operated by a county or municipality to carry
184 out enforcement under subsection (1).

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185 (b) A county or municipality may not enter into any
186 contract which authorizes or pledges a portion of the fines
187 collected under subsection (1) as payment for any traffic
188 infraction detector or for any services or equipment used to
189 implement or operate traffic infraction detectors or to carry
190 out enforcement pursuant to traffic infraction detectors under
191 subsection (1).

192 (4) A complaint that a county or municipality is employing
193 traffic infraction detectors for purposes other than the
194 promotion of public health, welfare, and safety or in a manner
195 inconsistent with this section may be submitted to the governing
196 body of such county or municipality. Such complaints, along with
197 any investigation and corrective action taken by the county or
198 municipal governing body, shall be included in the annual report
199 to the department and in the department's annual summary report
200 to the Governor, the President of the Senate, and the Speaker of
201 the House Representatives, as required by this section. Based on
202 its review of the report, the Legislature may exclude a county
203 or municipality from further participation in the program.

204 (5) (a) Each county or municipality that operates a traffic
205 infraction detector shall submit an annual report to the
206 department that details the results of using the traffic
207 infraction detector and the procedures for enforcement.

208 (b) The department shall provide an annual summary report
209 to the Governor, the President of the Senate, and the Speaker of
210 the House of Representatives regarding the use and operation of
211 traffic infraction detectors under this section. The summary
212 report must include a review of the information submitted to the

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213 department by the counties and municipalities and must describe
214 the enhancement of the traffic safety and enforcement programs.
215 The department shall report its recommendations, including any
216 necessary legislation, on or before December 1, 2009, to the
217 Governor, the President of the Senate, and the Speaker of the
218 House of Representatives.

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222 **T I T L E A M E N D M E N T**

223 Between lines 2171 and 2172, insert:
224 amending s. 316.003, F.S.; defining the term "traffic infraction
225 detector"; creating s. 316.0083, F.S.; creating the Mark Wandall
226 Traffic Safety Program to be administered by the Department of
227 Highway Safety and Motor Vehicles; requiring a county or
228 municipality to enact an ordinance in order to use a traffic
229 infraction detector to identify a motor vehicle that fails to
230 stop at a traffic control signal steady red light; requiring
231 authorization of a traffic infraction enforcement officer to
232 issue and enforce a ticket for such violation; requiring
233 signage; requiring certain public awareness procedures;
234 requiring the ordinance to establish a fine of a certain amount;
235 prohibiting additional charges; exempting emergency vehicles;
236 providing that the registered owner driving of in actual
237 physical control of the motor vehicle involved in the violation
238 is responsible and liable for payment of the fine assessed;
239 providing exceptions; providing procedures for disposition and
240 enforcement of tickets; providing for an incremental assessment

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241 of the fine; providing for disposition of revenue; requiring
242 traffic infraction detectors be owned and operated by a county
243 or municipality; prohibiting use of fines collected as payment
244 for such detectors or related equipment and services; providing
245 complaint procedures; providing for the Legislature to exclude a
246 county or municipality from the program; requiring reports from
247 participating municipalities and counties to the department;
248 requiring the department to make reports to the Governor and the
249 Legislature;