

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 s. 316.0083, F.S.; creating the Mark Wandall
6 Traffic Safety Program to be administered by the
7 Department of Highway Safety and Motor Vehicles; requiring
8 a county or municipality to enact an ordinance in order to
9 use a traffic infraction detector to identify a motor
10 vehicle that fails to stop at a traffic control signal
11 steady red light; requiring authorization of a traffic
12 infraction enforcement officer to issue and enforce a
13 ticket for such violation; requiring signage; requiring
14 certain public awareness procedures; requiring the
15 ordinance to establish a fine of a certain amount;
16 prohibiting additional charges; exempting emergency
17 vehicles; providing that the registered owner of the motor
18 vehicle involved in the violation is responsible and
19 liable for payment of the fine assessed; providing
20 exceptions; providing procedures for disposition and
21 enforcement of tickets; providing for disposition of
22 revenue; providing complaint procedures; providing for the
23 Legislature to exclude a county or municipality from the
24 program; requiring reports from participating
25 municipalities and counties to the department; requiring
26 the department to make reports to the Governor and the
27 Legislature; amending s. 316.0745, F.S.; providing that
28 traffic infraction detectors must meet certain

29 requirements; amending s. 316.1967, F.S.; providing for
 30 inclusion of persons with outstanding violations in a list
 31 sent to the department for enforcement purposes; amending
 32 s. 322.264, F.S.; revising the definition of the term
 33 "habitual traffic offender" to include a certain number of
 34 violations of a traffic control signal steady red light
 35 indication within a certain timeframe; reenacting ss.
 36 322.27(5) and 322.34(1), (2), (5), and (8)(a), F.S.,
 37 relating to the authority of the Department of Highway
 38 Safety and Motor Vehicles to suspend or revoke a driver
 39 license and driving while a driver license is suspended,
 40 revoked, canceled, or disqualified, for the purpose of
 41 incorporating the amendment to s. 322.264, F.S., in
 42 references thereto; providing for severability; providing
 43 an effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. This act may be cited as the "Mark Wandall
 48 Traffic Safety Act."

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

51 316.003 Definitions.--The following words and phrases,
 52 when used in this chapter, shall have the meanings respectively
 53 ascribed to them in this section, except where the context
 54 otherwise requires:

55 (86) TRAFFIC INFRACTION DETECTOR.--A device that uses a
 56 vehicle sensor installed to work in conjunction with a traffic

57 control signal and a camera synchronized to automatically record
58 two or more sequenced photographic or electronic images or
59 streaming video of only the rear of a motor vehicle at the time
60 the vehicle fails to stop behind the stop bar or clearly marked
61 stop line when facing a traffic control signal steady red light.
62 Any citation issued by the use of a traffic infraction detector
63 must include a photograph showing both the license tag of the
64 offending vehicle and the traffic control device being violated.

65 Section 3. Section 316.0083, Florida Statutes, is created
66 to read:

67 316.0083 Mark Wandall Traffic Safety Program;
68 administration; report.--

69 (1) There is created the Mark Wandall Traffic Safety
70 Program governing the operation of traffic infraction detectors.
71 The program shall be administered by the Department of Highway
72 Safety and Motor Vehicles and shall include the following
73 provisions:

74 (a) In order to use a traffic infraction detector, a
75 county or municipality must enact an ordinance that provides for
76 the use of a traffic infraction detector to enforce s.
77 316.075(1)(c), which requires the driver of a vehicle to stop
78 the vehicle when facing a traffic control signal steady red
79 light on the streets and highways under the jurisdiction of the
80 county or municipality. A county or municipality that operates a
81 traffic infraction detector must authorize a traffic infraction
82 enforcement officer to issue a ticket for a violation of s.
83 316.075(1)(c) and to enforce the payment of tickets for such
84 violation. This paragraph does not authorize a traffic

85 infraction enforcement officer to carry a firearm or other
86 weapon and does not authorize such an officer to make arrests.
87 The ordinance must require signs to be posted at locations
88 designated by the county or municipality providing notification
89 that a traffic infraction detector may be in use. Such signage
90 must conform to the standards and requirements adopted by the
91 Department of Transportation under s. 316.0745. The ordinance
92 must also require that the county or municipality make a public
93 announcement and conduct a public awareness campaign of the
94 proposed use of traffic infraction detectors at least 30 days
95 before commencing the enforcement program. In addition, the
96 ordinance must establish a fine of \$125 to be assessed against
97 the registered owner of a motor vehicle that fails to stop when
98 facing a traffic control signal steady red light as determined
99 through the use of a traffic infraction detector. Any other
100 provision of law to the contrary notwithstanding, an additional
101 surchARGE, fee, or cost may not be added to the civil penalty
102 authorized by this paragraph.

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

105 (c) A county or municipality must adopt an ordinance under
106 this section that provides for the use of a traffic infraction
107 detector in order to impose a fine on the registered owner of a
108 motor vehicle for a violation of s. 316.075(1)(c). The fine
109 shall be imposed in the same manner and is subject to the same
110 limitations as provided for parking violations under s.
111 316.1967. Except as specifically provided in this section,
112 chapter 318 and s. 322.27 do not apply to a violation of s.

113 316.075(1)(c) for which a ticket has been issued under an
114 ordinance enacted pursuant to this section. Enforcement of a
115 ticket issued under the ordinance is not a conviction of the
116 operator of the motor vehicle, may not be made a part of the
117 driving record of the operator, and may not be used for purposes
118 of setting motor vehicle insurance rates. Points under s. 322.27
119 may not be assessed based upon such enforcement.

120 (d) The procedures set forth in s. 316.1967(2)-(5) apply
121 to an ordinance enacted pursuant to this section, except that
122 the ticket must contain the name and address of the person
123 alleged to be liable as the registered owner of the motor
124 vehicle involved in the violation, the registration number of
125 the motor vehicle, the violation charged, a copy of the recorded
126 images, the location where the violation occurred, the date and
127 time of the violation, information that identifies the device
128 that recorded the violation, and a signed statement by a
129 specifically trained technician employed by the agency or its
130 contractor that, based on inspection of recorded images, the
131 motor vehicle was being operated in violation of s.
132 316.075(1)(c). The ticket must advise the registered owner of
133 the motor vehicle involved in the violation of the amount of the
134 fine, the date by which the fine must be paid, and the procedure
135 for contesting the violation alleged in the ticket. The ticket
136 must contain a warning that failure to contest the violation in
137 the manner and time provided is deemed an admission of the
138 liability and that a default may be entered thereon. The
139 violation shall be processed by the county or municipality that
140 has jurisdiction over the street or highway where the violation

141 occurred or by any entity authorized by the county or
142 municipality to prepare and mail the ticket.

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

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

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

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

155 c. The motor vehicle was stolen at the time of the alleged
156 violation; or

157 d. A uniform traffic citation was issued to the driver of
158 the motor vehicle for the alleged violation of s. 316.075(1)(c).

159 2. In order to establish any such fact, the registered
160 owner of the vehicle must, within 20 days after receipt of
161 notification of the alleged violation, furnish to the county or
162 municipality, as appropriate, an affidavit that sets forth
163 detailed information supporting an exemption as provided in sub-
164 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,
165 or sub-subparagraph 1.d. For an exemption under sub-subparagraph
166 1.c., the affidavit must set forth that the vehicle was stolen
167 and be accompanied by a copy of the police report indicating
168 that the vehicle was stolen at the time of the alleged

169 violation. For an exemption under sub-subparagraph 1.d., the
170 affidavit must set forth that a citation was issued and be
171 accompanied by a copy of the citation indicating the time of the
172 alleged violation and the location of the intersection where it
173 occurred.

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

186 (h) A certificate sworn to or affirmed by a person
187 authorized under this section who is employed by or under
188 contract with the county or municipality where the infraction
189 occurred, or a facsimile thereof that is based upon inspection
190 of photographs or other recorded images produced by a traffic
191 infraction detector, is prima facie evidence of the facts
192 contained in the certificate. A photograph or other recorded
193 image evidencing a violation of s. 316.075(1)(c) must be
194 available for inspection in any proceeding to adjudicate
195 liability under an ordinance enacted pursuant to this section.

196 (i) In any county or municipality in which tickets are

197 issued as provided in this section, the names of persons who
 198 have one or more outstanding violations may be included on the
 199 list authorized under s. 316.1967(6).

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

203 (2) The fine imposed pursuant to paragraph (1)(a) or
 204 paragraph (1)(g) shall be retained by the county or municipality
 205 enforcing the ordinance enacted pursuant to this section.

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

218 (4)(a) Each county or municipality that operates a traffic
 219 infraction detector shall submit an annual report to the
 220 department that details the results of using the traffic
 221 infraction detector and the procedures for enforcement.

222 (b) The department shall provide an annual summary report
 223 to the Governor, the President of the Senate, and the Speaker of
 224 the House of Representatives regarding the use and operation of

225 traffic infraction detectors under this section. The summary
 226 report must include a review of the information submitted to the
 227 department by the counties and municipalities and must describe
 228 the enhancement of the traffic safety and enforcement programs.
 229 The department shall report its recommendations, including any
 230 necessary legislation, on or before December 1, 2009, to the
 231 Governor, the President of the Senate, and the Speaker of the
 232 House of Representatives.

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

235 316.0745 Uniform signals and devices.--

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

243 (b) Any traffic infraction detector deployed on the
 244 streets and highways of the state must meet requirements
 245 established by the Department of Transportation and must be
 246 tested at regular intervals according to procedures prescribed
 247 by that department.

248 Section 5. Subsection (6) of section 316.1967, Florida
 249 Statutes, is amended to read:

250 316.1967 Liability for payment of parking ticket
 251 violations and other ~~parking~~ violations.--

252 (6) Any county or municipality may provide by ordinance

253 that the clerk of the court or the traffic violations bureau
 254 shall supply the department with a magnetically encoded computer
 255 tape reel or cartridge or send by other electronic means data
 256 which is machine readable by the installed computer system at
 257 the department, listing persons who have three or more
 258 outstanding parking violations, including violations of s.
 259 316.1955, or who have one or more outstanding tickets for a
 260 violation of a traffic control signal steady red light
 261 indication issued pursuant an ordinance adopted under s.
 262 316.0083. Each county shall provide by ordinance that the clerk
 263 of the court or the traffic violations bureau shall supply the
 264 department with a magnetically encoded computer tape reel or
 265 cartridge or send by other electronic means data that is machine
 266 readable by the installed computer system at the department,
 267 listing persons who have any outstanding violations of s.
 268 316.1955 or any similar local ordinance that regulates parking
 269 in spaces designated for use by persons who have disabilities.
 270 The department shall mark the appropriate registration records
 271 of persons who are so reported. Section 320.03(8) applies to
 272 each person whose name appears on the list.

273 Section 6. Subsection (8) of section 320.03, Florida
 274 Statutes, reads:

275 320.03 Registration; duties of tax collectors;
 276 International Registration Plan.--

277 (8) If the applicant's name appears on the list referred
 278 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a
 279 license plate or revalidation sticker may not be issued until
 280 that person's name no longer appears on the list or until the

281 person presents a receipt from the clerk showing that the fines
282 outstanding have been paid. This subsection does not apply to
283 the owner of a leased vehicle if the vehicle is registered in
284 the name of the lessee of the vehicle. The tax collector and the
285 clerk of the court are each entitled to receive monthly, as
286 costs for implementing and administering this subsection, 10
287 percent of the civil penalties and fines recovered from such
288 persons. As used in this subsection, the term "civil penalties
289 and fines" does not include a wrecker operator's lien as
290 described in s. 713.78(13). If the tax collector has private tag
291 agents, such tag agents are entitled to receive a pro rata share
292 of the amount paid to the tax collector, based upon the
293 percentage of license plates and revalidation stickers issued by
294 the tag agent compared to the total issued within the county.
295 The authority of any private agent to issue license plates shall
296 be revoked, after notice and a hearing as provided in chapter
297 120, if he or she issues any license plate or revalidation
298 sticker contrary to the provisions of this subsection. This
299 section applies only to the annual renewal in the owner's birth
300 month of a motor vehicle registration and does not apply to the
301 transfer of a registration of a motor vehicle sold by a motor
302 vehicle dealer licensed under this chapter, except for the
303 transfer of registrations which is inclusive of the annual
304 renewals. This section does not affect the issuance of the title
305 to a motor vehicle, notwithstanding s. 319.23(7)(b).

306 Section 7. Section 322.264, Florida Statutes, is amended
307 to read:

308 322.264 "Habitual traffic offender" defined.--A "habitual
 309 traffic offender" is any person whose record, as maintained by
 310 the Department of Highway Safety and Motor Vehicles, shows that
 311 such person has accumulated the specified number of convictions
 312 for offenses described in subsection (1) or subsection (2)
 313 within a 5-year period or the specified number of convictions
 314 for offenses described in subsection (3) within a 3-year period:

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

317 (a) Voluntary or involuntary manslaughter resulting from
 318 the operation of a motor vehicle;

319 (b) Any violation of s. 316.193, former s. 316.1931, or
 320 former s. 860.01;

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

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

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

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

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

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

335

336 Any violation of any federal law, any law of another state or
 337 country, or any valid ordinance of a municipality or county of
 338 another state similar to a statutory prohibition specified in
 339 subsection (1), ~~or~~ subsection (2), or subsection (3) shall be
 340 counted as a violation of such prohibition. In computing the
 341 number of convictions, all convictions during the 5 years
 342 previous to July 1, 1972, will be used, provided at least one
 343 conviction occurs after that date. In computing the number of
 344 convictions for offenses listed in subsection (3), all
 345 convictions during the 3 years preceding July 1, 2008, will be
 346 used, provided at least one conviction occurs after that date.

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

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

355 322.27 Authority of department to suspend or revoke
 356 license.--

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

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

369 322.34 Driving while license suspended, revoked, canceled,
 370 or disqualified.--

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

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

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

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

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

393
394 The element of knowledge is satisfied if the person has been
395 previously cited as provided in subsection (1); or the person
396 admits to knowledge of the cancellation, suspension, or
397 revocation; or the person received notice as provided in
398 subsection (4). There shall be a rebuttable presumption that the
399 knowledge requirement is satisfied if a judgment or order as
400 provided in subsection (4) appears in the department's records
401 for any case except for one involving a suspension by the
402 department for failure to pay a traffic fine or for a financial
403 responsibility violation.

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

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

412 1. Whether the person's driver's license is suspended or
413 revoked.

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

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417 3. Whether the suspension or revocation was made under s.
418 316.646 or s. 627.733, relating to failure to maintain required
419 security, or under s. 322.264, relating to habitual traffic
420 offenders.

421 4. Whether the driver is the registered owner or coowner
422 of the vehicle.

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

429 Section 11. This act shall take effect upon becoming a
430 law.