

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 816

INTRODUCER: Transportation Committee and Senators Bennett and Margolis

SUBJECT: Uniform Traffic Control

DATE: March 25, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	Fav/CS
2.	Krol	Cannon	CJ	Favorable
3.			CA	
4.			TA	
5.				
6.				

I. Summary:

CS/SB 816 creates the “Mark Wandall Traffic Safety Act” and creates s. 316.0083, F.S., establishing requirements for the state, counties, and municipalities for the use of red light camera (RLC) systems in enforcement of the requirements of s. 316.074(1) and s. 316.075(1)(c)1., F.S., which require vehicles to stop before entering an intersection when so directed by a traffic signal. The bill:

- Preempts the regulation and use of enforcement cameras to the state.
- Provides for the authorization of traffic infraction enforcement officers to issue uniform traffic citations for violations detected by RLC systems.
- Establishes violator responsibility and notification requirements and admissibility of evidence.
- Directs the Florida Department of Transportation (FDOT) to develop minimum specifications for the implementation of RLC systems and requires conformity with the specifications.
- Establishes penalties for violations enforced through RLC systems.
 - A \$60 fine for the first 3 citations distributed under existing disposition of civil penalty statutes, s. 318.21, F.S.
 - After 3 violations, the fine is increased to \$125 with \$60 distributed under s. 318.21, F.S., and \$65 going to the Administrative Trust Fund for the Department of Health.
- Requires other engineering measures to be considered prior to the installation of detectors.
- Requires certification of RLC system vendors.

- Prohibits vendors from receiving a fee based on the number of citations issued.
- Directs the Department of Highway Safety and Motor Vehicles (DHSMV) and FDOT to jointly submit a report on the efficacy of detectors on or before January 1, 2013.

This bill substantially amends s. 316.003, 316.640, 318.18, and 322.27, and creates s. 316.0083 of the Florida Statutes.

II. Present Situation:

Intersection Safety

According to the Federal Highway Administration (FHWA) and National Highway Traffic Safety Administration (NHTSA), more than 45 percent of all traffic crashes occur at intersections or are intersection-related. In 2005, nearly 9,200 people died and approximately one million people were injured in intersection-related crashes. NHTSA's Fatality Analysis Reporting System showed crashes caused by red light running (RLR) resulted in an estimated 805 fatalities in 2005.¹ The DHSMV reported there were 106 fatalities and 10,720 injuries related to RLR events in Florida during 2007. Two sections of Florida Statutes address RLR:

- Section 316.074(1), F.S., requires drivers to obey the instructions of any applicable official traffic control device, when properly installed, unless otherwise directed by a police officer.
- Section 316.075(1)(c)1., F.S., requires vehicles facing a steady red signal to stop before entering the intersection and to remain standing until a green indication is shown. Exceptions are made to provide for a right turn on red after stopping and in certain one-way traffic intersections, a left turn on red after stopping.

Violation of either section for a driver failing to stop at a traffic signal when so required constitutes a noncriminal traffic infraction, punishable under ch. 318, F.S., as a moving violation and a one hundred twenty-five dollar fine, sixty dollars of which is distributed as provided in s. 318.21, F.S., and the remaining \$65 remitted to the Department of Revenue for deposit into the Administrative Trust Fund of the Department of Health under s. 318.18(15), F.S. A violation of either section also results in the assessment of 4 points against a driver's license under s. 322.27(3), F.S.

A number of factors contribute to RLR-related crashes. According to the Federal Highway Administration's (FHWA) Red Light Camera Systems Operational Guidelines (January 2005)², while deficiencies in the design and configuration of signalized intersections may contribute to red light violations, driver behavior is the most significant contributing factor to the occurrence of RLR. According to the FHWA guidelines, the solution to the RLR problem and resulting crashes may require one or a combination of the following:

- *Intersection Engineering Improvements* including modifying traffic signal timing, improving signing and marking, improving sight lines, modifying grades and/or grade separation, adjusting the prevailing speeds, changes in surface treatments, altering

¹ http://safety.fhwa.dot.gov/intersections/inter_facts.htm

² http://safety.fhwa.dot.gov/intersections/rlc_guide/rlcguide05jan.pdf

lane configuration, and replacing the traffic signal with some other form of traffic control device or intersection type.

- *Education* to assist motorists and the general public in understanding the safety issues inherent to red light running.
- *Traditional Enforcement By Law Enforcement Officers* specifically targeting red light running violators can be a cost effective deterrent in reducing red light violations at problem intersections.
- *Red Light Camera Systems* can be a cost effective tool to reduce red light violations and should be part of a comprehensive intersection safety program, which considers all countermeasures to reduce fatal and injury crashes at intersections.

Red Light Cameras

A Red Light Camera (RLC) System is a system for detecting and recording traffic violations occurring when a motor vehicle fails to obey a traffic control device. Most typically, RLCs are used to combat intersection traffic signal violations, i.e., RLR - when vehicles fail to stop at red lights. RLC systems use sensors connected to computers which measure a vehicle's speed. If the measured speed indicates the vehicle is unlikely to stop for a traffic signal's stop phase, high-speed cameras are engaged to record photographic evidence of a violation. Typically, two photos are taken: one of the front of the vehicle as it enters the intersection, and the second photo is taken of the rear of the vehicle when the vehicle is in the intersection during the stop phase. Most RLC systems also record digital video data of the event, bracketing the alleged violation with several seconds of video to show any extenuating circumstances, e.g., a police officer directing traffic or the presence of emergency vehicles. When used as photo enforcement of traffic laws, traffic infraction enforcement officials remotely review the evidence, and, when warranted, issue a citation which is mailed to the registered owner of the vehicle. Most applications include processes allowing owners to challenge the citation if he or she was not the driver at the time of the violation. The United States Supreme Court has held that driving in open view on a public highway does not afford Fourth Amendment protection of an individual's privacy.³

Numerous studies examining RLC systems' impact on safety have shown mixed results. A 2005 publication by FHWA exemplifies the findings. The comprehensive report, "Safety Evaluation of Red-Light Cameras" (FHWA-HRT-05-048)⁴, included data from seven jurisdictions (Baltimore, MD; Charlotte, NC; El Cajon, CA; Howard County and Montgomery County, MD; and San Diego and San Francisco, CA) and 132 intersections. The study showed RLCs led to a decrease in the types of crashes most likely to cause death and injury while property-damage-only crashes increased. Specifically, the report showed a:

- 25 percent decrease in total right-angle crashes.
- 16 percent reduction in injury right-angle crashes.
- 15 percent increase in total rear-end crashes.
- 24 percent increase in injury rear-end crashes.

³ *Photographic Traffic Law Enforcement* (National Cooperative Highway Research Program's Legal Research Digest Number 36, 1997)

⁴ <http://www.tfhrc.gov/safety/pubs/05048/>

An overall economic analysis from the study showed that RLC systems provide a modest aggregate crash-cost benefit. According to the study, the greatest economic benefits provided by RLCs would be at intersections with:

- relatively few rear end crashes and many right-angle ones,
- a higher traffic volume, especially when entering from the major road,
- shorter signal cycle lengths and intergreen periods (yellow clearance + all red), and
- one or more left turn protected phases.⁵

The study also found that high public awareness, such as the presence of warning signs at both RLC-enforced intersections and city limits of jurisdictions using RLC systems, will enhance the benefits of the detectors.

According to FHWA's Red Light Camera Systems Operational Guidelines, the following critical elements should be considered while installing RLC systems:

- Conduct an engineering study before considering camera installation.
- Evaluate effective engineering and education alternatives before considering photo enforcement.
- Make sure the RLC program is engineered and installed properly.
- Measure, document, and make safety results available.
- Ensure complete oversight and supervision by public agencies.
- Avoid compensating vendors based on the number of citations.
- Include an ongoing photo-enforcement public education program.

Photo Enforcement in Florida

Since RLCs first became feasible in the early 1990s, a number of Florida communities have employed RLCs in some form, most often as a research tool or for issuing warnings to RLR violators. Responding to a request relating to whether a county might enact an ordinance authorizing the use of unmanned cameras at traffic intersections for the purpose of issuing citations for RLR violations, a 1997 Attorney General Opinion⁶ concluded nothing in Florida Statutes precluded the recording of violations, but photographic evidence could not “be used as the sole basis for issuing citations” since statutes provide a citation may be issued only when an officer observes the infraction. A 2005 Attorney General Opinion⁷ on the same subject concluded a local government may “enact an ordinance authorizing the city:

- to monitor violations of traffic signals within the city and to use unmanned cameras to monitor intersections and record traffic violations;
- to monitor violations of traffic signals within the city and to use unmanned cameras to record the license tag numbers of cars involved in such violations; and
- to advise a car owner that his or her license tag number has been recorded in a violation of the traffic laws.”

⁵ The study suggested the presence of protected left turn phases may be a proxy for high numbers of left turning vehicles.

⁶ Attorney General Opinion 97-06.

⁷ Attorney General Opinion 05-41.

The 2005 opinion also stated “legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices” as collected from a photographic record from unmanned cameras monitoring intersections.

Statutory authority for photo enforcement of required highway toll payment was provided by the Legislature in 1993. Section 316.1001(2)(d), F.S., provides for the admissibility of photographic evidence in enforcing toll payment violations. Toll facility operators use camera systems to photograph the license plates of vehicles passing a tolling point without tendering payment. If no payment is received and the vehicle is not qualified for video billing, the registered owner of the vehicle is issued a Uniform Traffic Citation by first class or registered mail. If the vehicle was not in the care and control of the registered owner at the time of the violation, the owner is afforded the opportunity to establish this as fact and identify the driver via an affidavit.

RLC System Procurement

State and local governments have a number of choices in the development and operation of RLC systems. FHWA’s Red Light Camera Systems Operational Guidelines, offers the following guidance:

Where a private contractor is responsible for installation and operation of the red light camera equipment, the State or local agency should establish the necessary procedures so that the agency has complete oversight and day-to-day supervision of the program.

and:

Where a private contractor is responsible for the processing of citations, compensation to private vendors based on the number of citations issued should be avoided. In multiple jurisdictions, the courts have determined that it is inappropriate for the private contractor to be responsible for determining installation locations and operation of the system because of an appearance of a conflict of interest. This conflict of interest should be avoided in all phases of the system installation and operation: startup, design, installation, operation, and maintenance. At all times, the State or local agency should verify and exercise complete oversight of all actions of the private contractor.

Some agencies are compensating their camera system vendors based on a flat fee per location per time period. Others have installed and operated their own systems. It may also be appropriate to pay a vendor to operate and maintain an agency-designed and -implemented system. Compensation should be based solely on the value of the equipment or the services provided.

III. Effect of Proposed Changes:

The bill creates the “Mark Wandall Traffic Safety Act,” and provides a definition of the term “traffic infraction detector” which would encompass a typical RLC. The bill creates s. 316.0083, F.S., authorizing the use of cameras to enforce the requirements of s. 316.074(1) and s. 316.075(1)(c)1., F.S., for failing to stop at a traffic signal when so directed.

Authorization to Use RLCs

The bill preempts the regulation and use of all camera enforcement systems to the state and allows DHSMV, FDOT, counties, and municipalities to authorize traffic infraction enforcement officers to issue uniform traffic citations for violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when so directed and when identified by traffic infraction detectors. Traffic infraction enforcement officers must meet training and qualifications standards developed by FDOT. The report of an officer and images provided by an RLC are admissible in court and provide a rebuttable presumption the vehicle was used in a violation.

Notification Requirements

A citation is to be delivered to the registered owner of the vehicle by first-class or registered mail within seven days of the violation. The registered owner is liable for paying the citation unless he or she provides an affidavit showing the vehicle was in the control of another person or the driver had received a citation for the violation issued at the location by a law enforcement officer. Submission of a false affidavit is a second degree misdemeanor.

Specifications for Operation and Implementation

Before implementing an RLC system at an intersection, a traffic engineer must certify all other safety-enhancing engineering methods have been considered. All RLC systems must conform to specifications, to be developed by FDOT, guiding the operation and implementation of RLCs. The specifications must conform to the FDOT Traffic Engineering Manual and include as a minimum requirements for:

- signal cycle timing and phasing;
- intersection marking (stop bars);
- vehicle locational standards constituting a violation;
- photographic and video standards;
- signage and public awareness; and
- mandatory removal of the detector if vehicular crashes at the location increase by 10 percent within one year of installation.

Noncompliant systems must be removed at FDOT's direction and the public agency installing the noncompliant system is barred from additional installations for five years. Systems acquired by contract prior to March 1, 2008 are not required to meet the FDOT specifications until July 1, 2013.

Vendors

All vendors or manufacturers must be qualified by FDOT prior to bidding to provide RLC services. Vendors are prohibited from receiving a fee based on the number of citations issued.

Penalties

The bill provides a distinction between violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when so directed when enforced by a law enforcement officer and violations of those sections when enforced by a traffic infraction enforcement officer using evidence obtained from an RLC:

- No change is made to the fine, distribution of fines, or the assessment of points against a driver's license when a violation is enforced by a law enforcement officer.
- The bill provides different penalties for violations enforced by traffic infraction enforcement officers:
 - The bill requires a fine of \$60, for up to three violations, distributed under s. 318.21, F.S.
 - After three violations, the fines are raised to \$125 for each violation over three, with \$60 distributed under s. 318.21, F.S., and \$65 going to the Administrative Trust Fund for the Department of Health.
 - No points are assessed against a driver's license for violations enforced by traffic infraction enforcement officers.

Efficacy Report

DHSMV and FDOT are required to jointly report the efficacy of traffic infraction detectors in enhancing public safety to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before January 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Since the language is permissive, it is not possible to estimate the number of traffic infraction detector systems to be implemented. Traffic infraction detectors will increase government's ability to enforce RLR violations; therefore, increasing the possibility of a motor vehicle owner being fined for a red light violation. The fine for the violation, as determined by a traffic infraction detector, is either \$60 or \$125 depending on the number of violations. Individuals, perhaps significant numbers, will experience a negative fiscal impact.

C. Government Sector Impact:

DHSMV and FDOT staff have stated the requirement to report on the efficacy of traffic infraction detectors could be accomplished using existing resources.

Using the distribution of the statutory base fine under s. 318.21, F.S., approximately \$30 from each violator's fine would remain with municipalities or a county's clerk of court. The fiscal impact to a local government implementing traffic infraction detectors is dependent upon:

- the cost of equipment (typically, \$50,000 to \$100,000 per intersection),
- the negotiated agreement between the local government and any private vendor providing and potentially operating the equipment, and
- the number of violators.

In 2006, there were 391,204 citations issued statewide by law enforcement officers for violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when so directed. Due to the technological advantage of RLC systems in enforcing RLR violations, estimating the margin of additional violations with any degree of accuracy is difficult. Further complicating any estimation, it is not clear how effective RLC systems would be in modifying driver behavior, but some reduction in the initial number of violations should be expected subsequent to the implementation of an RLC system.

Local court systems may see a caseload increase, in the event that vehicle operators choose to contest citations as permitted under the bill. There may be an indeterminate cost to the local court system.

VI. Technical Deficiencies:

Staff recommends inserting the phrase "or that the driver was issued a citation for the same offense by a law enforcement officer at the location" after the word "person" on line 108.

Although the bill permits the court to impose a penalty of either \$60 or \$125, lines 291 – 293 preclude the charging of any other fee for violations enforced by a traffic infraction detector. Therefore, as currently drafted, the bill may not allow the imposition of court costs when an alleged violator contests his or her citation. The Florida Association of Court Clerks and Comptroller suggests deleting line 291 and adding the words "Other than the provision for applicable court costs and surcharges as set forth in ss. 318.121 and 318.1215, no other fee may be charged for a violation of s."

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on March 11, 2008:

The CS, resulting from a strike-all amendment, made a number of changes to the bill. The most significant changes are:

- Preemption of regulation and use of enforcement cameras to the state;
- Explicit prohibition on vendors receiving a fee based on the number of citations issued;
- Requirement for other engineering measures prior to the installation of detectors;
- Direction of FDOT to develop minimum specifications and required compliance with specifications;
- Removal of the system if a detector increases accidents by 10 percent within 1 year;
- Requirement of FDOT to certify vendors; and
- A graduated fine schedule including:
 - A \$60 fine for the first 3 citations distributed under existing civil penalty statutes; and
 - After 3 violations, the fine is increased to \$125, with \$65 deposited into the Department of Health Administrative Trust Fund and the remainder distributed under existing civil penalty statutes

- B. **Amendments:**

None.