

By Senator Bennett

21-02622-08

2008816__

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

21-02622-08

2008816__

30 inclusion of persons having outstanding violations in a
31 list sent to the department for enforcement purposes;
32 amending s. 322.264, F.S.; revising the definition of the
33 term "habitual traffic offender" to include a certain
34 number of violations of a traffic control signal steady
35 red light indication within a certain timeframe;
36 reenacting ss. 322.27(5) and 322.34(1), (2), (5), and
37 (8) (a), F.S., relating to the authority of the Department
38 of Highway Safety and Motor Vehicles to suspend or revoke
39 a driver license and driving while a driver license is
40 suspended, revoked, canceled, or disqualified, for the
41 purpose of incorporating the amendment to s. 322.264,
42 F.S., in references thereto; providing for severability;
43 providing 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, when
52 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

21-02622-08

2008816__

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 county
75 or municipality must enact an ordinance that provides for the use
76 of a traffic infraction detector to enforce s. 316.075(1)(c),
77 which requires the driver of a vehicle to stop the vehicle when
78 facing a traffic control signal steady red light on the streets
79 and highways under the jurisdiction of the county or
80 municipality. A county or municipality that operates a traffic
81 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 infraction
85 enforcement officer to carry a firearm or other weapon and does
86 not authorize such an officer to make arrests. The ordinance must
87 require signs to be posted at locations designated by the county

21-02622-08

2008816__

88 or municipality providing notification that a traffic infraction
89 detector may be in use. Such signage must conform to the
90 standards and requirements adopted by the Department of
91 Transportation under s. 316.0745. The ordinance must also require
92 that the county or municipality make a public announcement and
93 conduct a public awareness campaign of the proposed use of
94 traffic infraction detectors at least 30 days before commencing
95 the enforcement program. In addition, the ordinance must
96 establish a fine of \$125 to be assessed against the registered
97 owner of a motor vehicle that fails to stop when facing a traffic
98 control signal steady red light as determined through the use of
99 a traffic infraction detector. Any other provision of law to the
100 contrary notwithstanding, an additional surcharge, fee, or cost
101 may not be added to the civil penalty authorized by this
102 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 s. 316.008 which 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 shall
109 be imposed in the same manner and is subject to the same
110 limitations as provided for parking violations under s. 316.1967.
111 Except as specifically provided in this section, chapter 318 and
112 s. 322.27 do not apply to a violation of s. 316.075(1)(c) for
113 which a ticket has been issued under an ordinance enacted
114 pursuant to this section. Enforcement of a ticket issued under
115 the ordinance is not a conviction of the operator of the motor
116 vehicle, may not be made a part of the driving record of the

21-02622-08

2008816__

117 operator, and may not be used for purposes of setting motor
118 vehicle insurance rates. Points under s. 322.27 may not be
119 assessed based upon such enforcement.

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

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

145 (f)1. The registered owner of the motor vehicle involved in

21-02622-08

2008816__

146 a violation is responsible and liable for payment of the fine
147 assessed pursuant to this section unless the owner can establish
148 that:

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

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

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

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

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

172 (g) A person may contest the determination that such person
173 failed to stop at a traffic control signal steady red light as
174 evidenced by a traffic infraction detector by electing to appear

21-02622-08

2008816__

175 before any judge authorized by law to preside over a court
176 hearing that adjudicates traffic infractions. A person who elects
177 to appear before the court to present evidence is deemed to have
178 waived the limitation of civil penalties imposed for the
179 violation. The court, after hearing, shall determine whether the
180 violation was committed and may impose a civil penalty not to
181 exceed \$125 plus costs. The court may take appropriate measures
182 to enforce collection of any penalty not paid within the time
183 permitted by the court.

184 (h) A certificate sworn to or affirmed by a person
185 authorized under s. 316.008 who is employed by or under contract
186 with the county or municipality where the infraction occurred, or
187 a facsimile thereof that is based upon inspection of photographs
188 or other recorded images produced by a traffic infraction
189 detector, is prima facie evidence of the facts contained in the
190 certificate. A photograph or other recorded image evidencing a
191 violation of s. 316.075(1)(c) must be available for inspection in
192 any proceeding to adjudicate liability under an ordinance enacted
193 pursuant to this section.

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

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

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

21-02622-08

2008816__

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

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

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

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

21-02622-08

2008816__

233 House of Representatives.

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

236 316.0745 Uniform signals and devices.--

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

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

248 Section 5. Section 316.1967, Florida Statutes, is amended
249 to read:

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

252 (1) The owner of a vehicle is responsible and liable for
253 payment of any parking ticket violation unless the owner can
254 furnish evidence, when required by this subsection, that the
255 vehicle was, at the time of the parking violation, in the care,
256 custody, or control of another person. In such instances, the
257 owner of the vehicle is required, within a reasonable time after
258 notification of the parking violation, to furnish to the
259 appropriate law enforcement authorities an affidavit setting
260 forth the name, address, and driver's license number of the
261 person who leased, rented, or otherwise had the care, custody, or

21-02622-08

2008816__

262 control of the vehicle. The affidavit submitted under this
263 subsection is admissible in a proceeding charging a parking
264 ticket violation and raises the rebuttable presumption that the
265 person identified in the affidavit is responsible for payment of
266 the parking ticket violation. The owner of a vehicle is not
267 responsible for a parking ticket violation if the vehicle
268 involved was, at the time, stolen or in the care, custody, or
269 control of some person who did not have permission of the owner
270 to use the vehicle. The owner of a leased vehicle is not
271 responsible for a parking ticket violation and is not required to
272 submit an affidavit or the other evidence specified in this
273 section, if the vehicle is registered in the name of the person
274 who leased the vehicle.

275 (2) Any person who is issued a county or municipal parking
276 ticket by a parking enforcement specialist or officer is deemed
277 to be charged with a noncriminal violation and shall comply with
278 the directions on the ticket. If payment is not received or a
279 response to the ticket is not made within the time period
280 specified thereon, the county court or its traffic violations
281 bureau shall notify the registered owner of the vehicle that was
282 cited, or the registered lessee when the cited vehicle is
283 registered in the name of the person who leased the vehicle, by
284 mail to the address given on the motor vehicle registration, of
285 the ticket. Mailing the notice to this address constitutes
286 notification. Upon notification, the registered owner or
287 registered lessee shall comply with the court's directive.

288 (3) Any person who fails to satisfy the court's directive
289 waives his or her right to pay the applicable civil penalty.

290 (4) Any person who elects to appear before a designated

21-02622-08

2008816__

291 | official to present evidence waives his or her right to pay the
292 | civil penalty provisions of the ticket. The official, after a
293 | hearing, shall make a determination as to whether a parking
294 | violation has been committed and may impose a civil penalty not
295 | to exceed \$100 or the fine amount designated by county ordinance,
296 | plus court costs. Any person who fails to pay the civil penalty
297 | within the time allowed by the court is deemed to have been
298 | convicted of a parking ticket violation, and the court shall take
299 | appropriate measures to enforce collection of the fine.

300 | (5) Any provision of subsections (2), (3), and (4) to the
301 | contrary notwithstanding, chapter 318 does not apply to
302 | violations of county parking ordinances and municipal parking
303 | ordinances.

304 | (6) Any county or municipality may provide by ordinance
305 | that the clerk of the court or the traffic violations bureau
306 | shall supply the department with a magnetically encoded computer
307 | tape reel or cartridge or send by other electronic means data
308 | which is machine readable by the installed computer system at the
309 | department, listing persons who have three or more outstanding
310 | parking violations, including violations of s. 316.1955, or who
311 | have one or more outstanding tickets for a violation of a traffic
312 | control signal steady red light indication issued pursuant to an
313 | ordinance adopted under s. 316.0083. Each county shall provide by
314 | ordinance that the clerk of the court or the traffic violations
315 | bureau shall supply the department with a magnetically encoded
316 | computer tape reel or cartridge or send by other electronic means
317 | data that is machine readable by the installed computer system at
318 | the department, listing persons who have any outstanding
319 | violations of s. 316.1955 or any similar local ordinance that

21-02622-08

2008816__

320 regulates parking in spaces designated for use by persons who
321 have disabilities. The department shall mark the appropriate
322 registration records of persons who are so reported. Section
323 320.03(8) applies to each person whose name appears on the list.

324 Section 6. Subsection (8) of section 320.03, Florida
325 Statutes, reads:

326 320.03 Registration; duties of tax collectors;
327 International Registration Plan.--

328 (8) If the applicant's name appears on the list referred to
329 in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license
330 plate or revalidation sticker may not be issued until that
331 person's name no longer appears on the list or until the person
332 presents a receipt from the clerk showing that the fines
333 outstanding have been paid. This subsection does not apply to the
334 owner of a leased vehicle if the vehicle is registered in the
335 name of the lessee of the vehicle. The tax collector and the
336 clerk of the court are each entitled to receive monthly, as costs
337 for implementing and administering this subsection, 10 percent of
338 the civil penalties and fines recovered from such persons. As
339 used in this subsection, the term "civil penalties and fines"
340 does not include a wrecker operator's lien as described in s.
341 713.78(13). If the tax collector has private tag agents, such tag
342 agents are entitled to receive a pro rata share of the amount
343 paid to the tax collector, based upon the percentage of license
344 plates and revalidation stickers issued by the tag agent compared
345 to the total issued within the county. The authority of any
346 private agent to issue license plates shall be revoked, after
347 notice and a hearing as provided in chapter 120, if he or she
348 issues any license plate or revalidation sticker contrary to the

21-02622-08

2008816__

349 provisions of this subsection. This section applies only to the
350 annual renewal in the owner's birth month of a motor vehicle
351 registration and does not apply to the transfer of a registration
352 of a motor vehicle sold by a motor vehicle dealer licensed under
353 this chapter, except for the transfer of registrations which is
354 inclusive of the annual renewals. This section does not affect
355 the issuance of the title to a motor vehicle, notwithstanding s.
356 319.23(7) (b) .

357 Section 7. Section 322.264, Florida Statutes, is amended to
358 read:

359 322.264 "Habitual traffic offender" defined.--A "habitual
360 traffic offender" is any person whose record, as maintained by
361 the Department of Highway Safety and Motor Vehicles, shows that
362 such person has accumulated the specified number of convictions
363 for offenses described in subsection (1) or subsection (2) within
364 a 5-year period or the specified number of convictions for
365 offenses described in subsection (3) within a 3-year period:

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

368 (a) Voluntary or involuntary manslaughter resulting from
369 the operation of a motor vehicle;

370 (b) Any violation of s. 316.193, former s. 316.1931, or
371 former s. 860.01;

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

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

21-02622-08

2008816__

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

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

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

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

386

387 Any violation of any federal law, any law of another state or
388 country, or any valid ordinance of a municipality or county of
389 another state similar to a statutory prohibition specified in
390 subsection (1), ~~or~~ subsection (2), or subsection (3) shall be

391 counted as a violation of such prohibition. In computing the

392 number of convictions, all convictions during the 5 years

393 previous to July 1, 1972, will be used, provided at least one

394 conviction occurs after that date. In computing the number of

395 convictions for offenses listed in subsection (3), all

396 convictions during the 3 years preceding July 1, 2008, will be

397 used, provided at least one conviction occurs after that date.

398 The fact that previous convictions may have resulted in

399 suspension, revocation, or disqualification under another section

400 does not exempt them from being used for suspension or revocation

401 under this section as a habitual offender.

402 Section 8. For the purpose of incorporating the amendment

403 made by this act to section 322.264, Florida Statutes, in a

21-02622-08

2008816__

404 reference thereto, subsection (5) of section 322.27, Florida
405 Statutes, is reenacted to read:

406 322.27 Authority of department to suspend or revoke
407 license.--

408 (5) The department shall revoke the license of any person
409 designated a habitual offender, as set forth in s. 322.264, and
410 such person shall not be eligible to be relicensed for a minimum
411 of 5 years from the date of revocation, except as provided for in
412 s. 322.271. Any person whose license is revoked may, by petition
413 to the department, show cause why his or her license should not
414 be revoked.

415 Section 9. For the purpose of incorporating the amendment
416 made by this act to section 322.264, Florida Statutes, in
417 references thereto, subsections (1), (2), and (5) and paragraph
418 (a) of subsection (8) of section 322.34, Florida Statutes, are
419 reenacted to read:

420 322.34 Driving while license suspended, revoked, canceled,
421 or disqualified.--

422 (1) Except as provided in subsection (2), any person whose
423 driver's license or driving privilege has been canceled,
424 suspended, or revoked, except a "habitual traffic offender" as
425 defined in s. 322.264, who drives a vehicle upon the highways of
426 this state while such license or privilege is canceled,
427 suspended, or revoked is guilty of a moving violation, punishable
428 as provided in chapter 318.

429 (2) Any person whose driver's license or driving privilege
430 has been canceled, suspended, or revoked as provided by law,
431 except persons defined in s. 322.264, who, knowing of such
432 cancellation, suspension, or revocation, drives any motor vehicle

21-02622-08

2008816__

433 upon the highways of this state while such license or privilege
434 is canceled, suspended, or revoked, upon:

435 (a) A first conviction is guilty of a misdemeanor of the
436 second degree, punishable as provided in s. 775.082 or s.
437 775.083.

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

440 (c) A third or subsequent conviction is guilty of a felony
441 of the third degree, punishable as provided in s. 775.082, s.
442 775.083, or s. 775.084.

443

444 The element of knowledge is satisfied if the person has been
445 previously cited as provided in subsection (1); or the person
446 admits to knowledge of the cancellation, suspension, or
447 revocation; or the person received notice as provided in
448 subsection (4). There shall be a rebuttable presumption that the
449 knowledge requirement is satisfied if a judgment or order as
450 provided in subsection (4) appears in the department's records
451 for any case except for one involving a suspension by the
452 department for failure to pay a traffic fine or for a financial
453 responsibility violation.

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

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

21-02622-08

2008816__

462 1. Whether the person's driver's license is suspended or
463 revoked.

464 2. Whether the person's driver's license has remained
465 suspended or revoked since a conviction for the offense of
466 driving with a suspended or revoked license.

467 3. Whether the suspension or revocation was made under s.
468 316.646 or s. 627.733, relating to failure to maintain required
469 security, or under s. 322.264, relating to habitual traffic
470 offenders.

471 4. Whether the driver is the registered owner or coowner of
472 the vehicle.

473 Section 10. If any provision of this act or its application
474 to any person or circumstance is held invalid, the invalidity
475 does not affect other provisions or applications of this act
476 which can be given effect without the invalid provision or
477 application, and to this end the provisions of this act are
478 severable.

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