

By the Committee on Transportation; and Senators Bennett and Margolis

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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.; preempting to the state the
6 use of cameras to enforce traffic laws; authorizing the
7 use of traffic infraction detectors and traffic
8 enforcement officers by the Department of Highway Safety
9 and Motor Vehicles, the Department of Transportation,
10 counties, and municipalities; providing requirements for
11 notifying a driver of the issuance of a citation;
12 providing that the owner of the motor vehicle involved in
13 a violation is responsible and liable for payment of the
14 fine assessed; providing exceptions; establishing
15 admissibility of evidence as a rebuttable presumption of a
16 violation; providing that submission of a false affidavit
17 constitutes a second-degree misdemeanor; requiring the
18 Department of Transportation to adopt and publish
19 specifications relating to the operation and
20 implementation of traffic infraction detectors; requiring
21 that the specifications conform to certain minimum
22 requirements; requiring the certification of a location by
23 a traffic engineer before a detector is installed;
24 authorizing the Department of Transportation to direct the
25 removal of a detector that fails to meet the required
26 specifications; authorizing the department to allow the
27 installation of a detector that does not conform to the
28 required specification upon a showing of good cause;
29 exempting certain existing traffic infraction detectors

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30 from the requirements for meeting the department's
31 specifications for a specified period; requiring the
32 qualification of vendors by the Department of
33 Transportation; amending s. 316.640, F.S.; directing the
34 Department of Transportation to develop training and
35 qualifications for traffic infraction enforcement
36 officers; amending s. 318.18, F.S.; providing for
37 penalties and distribution of fines for failing to stop at
38 a traffic signal when such violation is enforced by a
39 traffic infraction enforcement officer; amending s.
40 322.27, F.S.; prohibiting the imposition of points against
41 a violator's driver's license for infractions enforced by
42 a traffic infraction enforcement officer; directing the
43 Department of Highway Safety and Motor Vehicles and the
44 Department of Transportation to jointly report the
45 efficacy of traffic infraction detectors on or before a
46 specified date; providing an effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. This act may be cited as the "Mark Wandall
51 Traffic Safety Act."

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

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

58 (86) TRAFFIC INFRACTION DETECTOR.--A device using a vehicle

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59 sensor installed to work in conjunction with a traffic control
60 signal and a camera that are synchronized to automatically record
61 two or more sequenced photographic or electronic images or
62 streaming video of only the rear of a motor vehicle at the time
63 the vehicle fails to stop behind the stop bar or clearly marked
64 stop line when facing a traffic control signal steady red light.

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

67 316.0083 Regulation and use of cameras for enforcement of
68 provisions of this chapter.--

69 (1) The regulation and use of cameras for enforcing the
70 provisions of this chapter are expressly preempted to the state.

71 (2) The department, the Department of Transportation,
72 counties, and municipalities may use traffic infraction detectors
73 to enforce s. 316.074(1) or s. 316.075(1)(c)1. when a driver
74 fails to stop at a traffic signal.

75 (3)(a) For purposes of administering this section, the
76 department, the Department of Transportation, counties, and
77 municipalities may by rule or ordinance authorize a traffic
78 infraction enforcement officer to issue a uniform traffic
79 citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1.
80 The term "traffic infraction enforcement officer" means the
81 designee of the department, the Department of Transportation, a
82 county, or a municipality who is authorized to enforce s.
83 316.074(1) or s. 316.075(1)(c)1. when a driver fails to stop at a
84 traffic signal. The department, the Department of Transportation,
85 counties, and municipalities may designate traffic infraction
86 enforcement officers pursuant to s. 316.640(1).

87 (b) A citation issued under this section shall be issued by

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88 mailing the citation by first-class mail or certified mail,
89 return receipt requested, to the address of the registered owner
90 of the motor vehicle involved in the violation. Mailing the
91 citation to this address constitutes notification. In the case of
92 joint ownership of a motor vehicle, the traffic citation shall be
93 mailed to the first name appearing on the registration, unless
94 the first name appearing on the registration is a business
95 organization, in which case the second name appearing on the
96 registration may be used. The citation must be mailed to the
97 registered owner of the motor vehicle involved in the violation
98 within 7 days after the date of the violation. Notice of and
99 instructions for accessing a secure website displaying a 10-
100 second video of the violation shall be provided with the
101 citation.

102 (c) The owner of the motor vehicle involved in the
103 violation is responsible and liable for paying the citation
104 issued for a violation of s. 316.074(1) or s. 316.075(1)(c)1.
105 when the driver failed to stop at a traffic signal, unless the
106 owner can establish that the motor vehicle was, at the time of
107 the violation, in the care, custody, or control of another
108 person. In order to establish such facts, the owner of the motor
109 vehicle shall, within 14 days after the date of issuance of the
110 citation, furnish to the appropriate governmental entity an
111 affidavit setting forth:

112 1. The name, address, date of birth, and, if known, the
113 driver's license number of the person who leased, rented, or
114 otherwise had care, custody, or control of the motor vehicle at
115 the time of the alleged violation;

116 2. If the vehicle was stolen at the time of the alleged

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117 offense, the police report indicating that the vehicle was
118 stolen; or

119 3. If a citation for a violation of s. 316.074(1) or s.
120 316.075(1)(c)1. was issued at the location of the violation by a
121 law enforcement officer, the serial number of the uniform traffic
122 citation.

123
124 Upon receipt of an affidavit, the person designated as having
125 care, custody, and control of the motor vehicle at the time of
126 the violation may be issued a citation for a violation of s.
127 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
128 at a traffic signal. The affidavit is admissible in a proceeding
129 pursuant to this section for the purpose of providing proof that
130 the person identified in the affidavit was in actual care,
131 custody, or control of the motor vehicle. The owner of a leased
132 vehicle for which a citation is issued for a violation of s.
133 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
134 at a traffic signal is not responsible for paying the citation
135 and is not required to submit an affidavit as specified in this
136 subsection if the motor vehicle involved in the violation is
137 registered in the name of the lessee of such motor vehicle.

138 (d) A written report of a traffic infraction enforcement
139 officer, along with photographic or electronic images or
140 streaming video evidence that a violation of s. 316.074(1) or s.
141 316.075(1)(c)1. when the driver failed to stop at a traffic
142 signal has occurred, is admissible in any proceeding to enforce
143 this section and raises a rebuttable presumption that the motor
144 vehicle named in the report or shown in the photographic or
145 electronic images or streaming video evidence was used in

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146 violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver
147 failed to stop at a traffic signal.

148 (4) The submission of a false affidavit is a misdemeanor of
149 the second degree, punishable as provided in s. 775.082 or s.
150 775.083.

151 (5) This section supplements the enforcement of s.
152 316.074(1) or s. 316.075(1)(c)1. by law enforcement officers when
153 a driver fails to stop at a traffic signal, and this section does
154 not prohibit a law enforcement officer from issuing a citation
155 for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a
156 driver fails to stop at a traffic signal in accordance with
157 normal traffic-enforcement techniques.

158 (6) (a) The Department of Transportation shall adopt and
159 publish minimum specifications for the operation and
160 implementation of traffic infraction detectors on the streets and
161 highways of the state. The minimum specifications shall, insofar
162 as is practicable, conform to the Traffic Engineering Manual of
163 the Department of Transportation and shall be revised from time
164 to time to include changes necessary to conform to any uniform
165 national system or to meet local or state needs. The
166 specifications shall include, but need not be limited to, the
167 size and purpose of stop bars, the duration time of signal
168 phases, signage and other public awareness requirements, the
169 amount of before and after photographic or electronic imaging or
170 streaming video needed, yellow light duration time, location of
171 the rear tires in relation to the stop bar, and mandatory removal
172 of the traffic infraction detector if it increases accidents at
173 the intersection by 10 percent within 1 year after installation.
174 The Department of Transportation may call upon representatives of

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175 local authorities to assist in preparing or revising the uniform
176 specifications of traffic infraction detectors.

177 (b) All traffic infraction detectors operated or
178 implemented in this state by any public body or official must
179 conform with the specifications for operation and implementation
180 of traffic infraction detectors published by the Department of
181 Transportation pursuant to this subsection.

182 (c) A public body or official may not operate or implement
183 a traffic infraction detector in this state unless it conforms to
184 the specifications published by the Department of Transportation.
185 A public body may not sell a traffic infraction detector to any
186 nongovernmental entity or person.

187 (d) Before installing a traffic infraction detector at an
188 intersection, a traffic engineer must review and certify that all
189 other applicable safety-related engineering measures have been
190 considered. Any manufacturer or vendor that operates or
191 implements a traffic infraction detector without such
192 certification is ineligible to bid or furnish traffic infraction
193 detectors to any public body or official for such period of time
194 as may be established by the Department of Transportation;
195 however, such period of time may not be less than 1 year
196 following the date of notification of ineligibility.

197 (e) The Department of Transportation may, after a hearing
198 pursuant to 14 days' notice, direct the removal of any traffic
199 infraction detector wherever located which purportedly fails to
200 meet the specifications of this subsection. The public agency
201 operating or implementing a traffic infraction detector shall
202 immediately remove the traffic infraction detector upon the
203 direction of the Department of Transportation and may not, for a

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204 period of 5 years, install any replacement traffic infraction
205 detector unless written prior approval is received from the
206 Department of Transportation. Any additional violation by a
207 public body or official is cause for withholding state funds for
208 traffic control purposes until such public body or official
209 demonstrates to the Department of Transportation that it is
210 complying with this subsection.

211 (f) The Department of Transportation may authorize the
212 installation of traffic infraction detectors that are not in
213 conformity with the published specifications upon a showing of
214 good cause.

215 (g) Any traffic infraction detector acquired under a
216 contract entered into by a county or municipality before March 1,
217 2008, is not required to meet the specifications for operation
218 and implementation of traffic infraction detectors published by
219 the Department of Transportation pursuant to this subsection
220 until July 1, 2013.

221 (7) Any manufacturer or vendor desiring to bid for the
222 performance of operating or implementing a traffic infraction
223 detector must first be qualified by the Department of
224 Transportation and without such qualification is ineligible to
225 bid or furnish traffic infraction detectors to any public body or
226 official in this state. A manufacturer or vendor may not receive
227 a fee based upon the number of citations issued.

228 Section 4. Paragraph (b) of subsection (1) of section
229 316.650, Florida Statutes, is amended to read:

230 316.640 Enforcement.--The enforcement of the traffic laws
231 of this state is vested as follows:

232 (1) STATE.--

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233 (b)1. The Department of Transportation has authority to
234 enforce on all the streets and highways of this state all laws
235 applicable within its authority.

236 2.a. The Department of Transportation shall develop
237 training and qualifications standards for toll enforcement
238 officers whose sole authority is to enforce the payment of tolls
239 pursuant to s. 316.1001. Nothing in this subparagraph shall be
240 construed to permit the carrying of firearms or other weapons,
241 nor shall a toll enforcement officer have arrest authority.

242 b. For the purpose of enforcing s. 316.1001, governmental
243 entities, as defined in s. 334.03, which own or operate a toll
244 facility may employ independent contractors or designate
245 employees as toll enforcement officers; however, any such toll
246 enforcement officer must successfully meet the training and
247 qualifications standards for toll enforcement officers
248 established by the Department of Transportation.

249 3.a The Department of Transportation shall develop training
250 and qualifications standards for traffic infraction enforcement
251 officers whose sole authority is to enforce s. 316.074(1) or s.
252 316.075(1)(c)1. when a driver fails to stop at a traffic signal
253 pursuant to s. 316.0083. This subparagraph does not authorize the
254 carrying of firearms or other weapons by a traffic infraction
255 enforcement officer and does not authorize a traffic infraction
256 enforcement officer to make arrests.

257 b. For the purpose of enforcing s. 316.0083, the
258 department, the Department of Transportation, counties, and
259 municipalities may designate employees as traffic infraction
260 enforcement officers; however, any such traffic infraction
261 enforcement officer must successfully meet the training and

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262 qualifications standards for traffic infraction enforcement
263 officers established by the Department of Transportation.

264 Section 5. Subsection (15) of section 318.18, Florida
265 Statutes, is amended to read:

266 318.18 Amount of penalties.--The penalties required for a
267 noncriminal disposition pursuant to s. 318.14 or a criminal
268 offense listed in s. 318.17 are as follows:

269 (15) (a) One hundred twenty-five dollars for a violation of
270 s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
271 stop at a traffic signal and when enforced by a law enforcement
272 officer. Sixty dollars shall be distributed as provided in s.
273 318.21, and the remaining \$65 shall be remitted to the Department
274 of Revenue for deposit into the Administrative Trust Fund of the
275 Department of Health.

276 (b) Sixty dollars for each violation up to three violations
277 of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed
278 to stop at a traffic signal and when enforced by a traffic
279 infraction enforcement officer shall be distributed as provided
280 in s. 318.21.

281 (c) One hundred twenty-five dollars for each violation
282 subsequent to the third violation of s. 316.074(1) or s.
283 316.075(1)(c)1. when a driver has failed to stop at a traffic
284 signal and when enforced by a traffic infraction enforcement
285 officer shall be distributed as provided in s. 318.21. Sixty
286 dollars shall be distributed as provided in s. 318.21 and the
287 remaining \$65 shall be remitted to the Department of Revenue for
288 deposit into the Administrative Trust Fund of the Department of
289 Health.

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291 No other fees may be charged by any entity for a violation of s.
292 316.074(1) or s. 316.075(1)(c)1. when enforced by a traffic
293 infraction enforcement officer.

294 Section 6. Paragraph (d) of subsection (3) of section
295 322.27, Florida Statutes, is amended to read:

296 322.27 Authority of department to suspend or revoke
297 license.--

298 (3) There is established a point system for evaluation of
299 convictions of violations of motor vehicle laws or ordinances,
300 and violations of applicable provisions of s. 403.413(6)(b) when
301 such violations involve the use of motor vehicles, for the
302 determination of the continuing qualification of any person to
303 operate a motor vehicle. The department is authorized to suspend
304 the license of any person upon showing of its records or other
305 good and sufficient evidence that the licensee has been convicted
306 of violation of motor vehicle laws or ordinances, or applicable
307 provisions of s. 403.413(6)(b), amounting to 12 or more points as
308 determined by the point system. The suspension shall be for a
309 period of not more than 1 year.

310 (d) The point system shall have as its basic element a
311 graduated scale of points assigning relative values to
312 convictions of the following violations:

- 313 1. Reckless driving, willful and wanton--4 points.
- 314 2. Leaving the scene of a crash resulting in property
315 damage of more than \$50--6 points.
- 316 3. Unlawful speed resulting in a crash--6 points.
- 317 4. Passing a stopped school bus--4 points.
- 318 5. Unlawful speed:
 - 319 a. Not in excess of 15 miles per hour of lawful or posted

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320 speed--3 points.

321 b. In excess of 15 miles per hour of lawful or posted
322 speed--4 points.

323 6. A violation of a traffic control signal device as
324 provided in s. 316.074(1) or s. 316.075(1)(c)1.--4 points.
325 However, no points shall be imposed for a violation of s.
326 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop
327 at a traffic signal and when enforced by a traffic infraction
328 enforcement officer.

329 7. All other moving violations (including parking on a
330 highway outside the limits of a municipality)--3 points. However,
331 no points shall be imposed for a violation of s. 316.0741 or s.
332 316.2065(12).

333 8. Any moving violation covered above, excluding unlawful
334 speed, resulting in a crash--4 points.

335 9. Any conviction under s. 403.413(6)(b)--3 points.

336 10. Any conviction under s. 316.0775(2)--4 points.

337 Section 7. The Department of Highway Safety and Motor
338 Vehicles and the Department of Transportation shall jointly
339 submit a report on the efficacy of traffic infraction detectors
340 in enhancing public safety to the Governor, the President of the
341 Senate, and the Speaker of the House of Representatives on or
342 before January 1, 2013.

343 Section 8. This act shall take effect July 1, 2008.