



422156

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/21/2009	.	
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The Policy and Steering Committee on Ways and Means (Peaden) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 316.901, Florida Statutes, is created to read:

316.901 Short title.—Sections 316.901 through 316.907 may be known and cited as “The Mark Wandall Traffic Safety Act.”

Section 2. Section 316.902, Florida Statutes, is created to read:

316.902 Intent and purpose.—It is the intent of the



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12 Legislature in adopting ss. 316.901-316.907 to provide the
13 counties and municipalities the right to enact laws and for the
14 Department of Transportation to enact rules and regulations with
15 such laws, rules, and regulations permitting the automated
16 enforcement of violations of red light traffic signals within
17 their jurisdictions with citations issued under the review and
18 jurisdiction of the Department of Highway Safety and Motor
19 Vehicles.

20 Section 3. Section 316.903, Florida Statutes, is created to
21 read:

22 316.903 Definitions.—As used in ss. 316.901-316.907, the
23 term:

24 (1) "Citation" means the printed notice of a violation and
25 civil fee arising out of a motor vehicle entering an
26 intersection in violation of a red light traffic signal, which
27 driving action is not specifically authorized by the laws of
28 this state and which violation is recorded by a traffic control
29 photographic system.

30 (2) "Motor vehicle" means any self-propelled vehicle not
31 operated upon rails.

32 (3) "Motor vehicle driver" means the person who was
33 operating a motor vehicle, which motor vehicle was recorded by a
34 traffic control photographic system as violating a red light
35 traffic signal.

36 (4) "Motor vehicle owner" means the person or persons
37 identified by the state of registration as the titled owner or
38 owners of a motor vehicle which was recorded by a traffic
39 control photographic system as violating a red light traffic
40 signal.



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41 (5) "Traffic control photographic program" means the
42 selection, placement, utilization, and maintenance of a traffic
43 control photographic system at an intersection utilizing a red
44 light traffic control signal.

45 (6) "Traffic control photographic system" means a device
46 capable of recording a motor vehicle traveling through an
47 intersection in violation of a red light traffic signal
48 indication.

49 Section 4. Section 316.904, Florida Statutes, is created to
50 read:

51 316.904 Jurisdiction.-

52 (1) The Department of Transportation, municipalities, and
53 counties have the right to establish a traffic control
54 photographic program within their respective jurisdiction if the
55 traffic control photographic program complies with the
56 provisions of ss. 316.901-316.907. The Department of
57 Transportation has jurisdiction over all state-maintained
58 roadways. Counties have jurisdiction over all county-maintained
59 roadways, and municipalities have jurisdiction over all
60 municipality-maintained roadways. If the Department of
61 Transportation chooses to install a traffic control photographic
62 system at an intersection within its jurisdiction, the
63 installation preempts any county or municipality from also
64 installing a traffic control photographic system to monitor the
65 intersection.

66 (2) The traffic control photographic system must be capable
67 of recording at least two color digital still images, such that
68 the image records the rear of a motor vehicle, with at least one
69 of the images clearly recording the motor vehicle behind the



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70 stop bar on a red light traffic signal during the time the light
71 is red, and at least one image recording the motor vehicle
72 entering the intersection in violation of the red light traffic
73 signal. Additionally, at least one of the images must clearly
74 identify the registration plate of the motor vehicle.

75 (3) The traffic control photographic system must be
76 designed and implemented so that it does not record a motor
77 vehicle as violating a red light traffic signal unless the red
78 light traffic signal was preceded by a yellow light traffic
79 signal, which yellow light signal is displayed for a minimum of
80 3 seconds before the time as the signal became a red light
81 signal.

82 (4) The traffic control photographic system must be
83 implemented to record images of the rear of a motor vehicle
84 violating the red light traffic signal. A traffic control
85 photographic system may not be implemented in a manner to record
86 general images of traffic conditions or activities occurring
87 within the intersection or surrounding areas and it may not be
88 implemented to record the front of a motor vehicle violating the
89 red light traffic signal.

90 Section 5. Section 316.905, Florida Statutes, is created to
91 read:

92 316.905 Offense.-

93 (1) Any motor vehicle that enters an intersection in
94 violation of a red light traffic signal, which violation is
95 recorded by a traffic control photographic system, is a
96 violation of ss. 316.901-316.907.

97 (2) The motor vehicle owner of a motor vehicle in violation
98 of ss. 316.901-316.907 shall pay a civil fee for the violation,



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99 except under the following circumstances:

100 (a) The motor vehicle owner of a motor vehicle that was
101 being operated without the permission of the motor vehicle owner
102 is not responsible to pay the fee for the violation. However,
103 this exception applies only if the motor vehicle owner signs and
104 submits an affidavit to the enforcing agency within 21 days
105 after receipt of the citation which specifically states that the
106 operator of the motor vehicle was operating the motor vehicle
107 without the permission of the motor vehicle owner. The affidavit
108 must state the full legal name and address of the operator of
109 the motor vehicle and how the operator came into possession of
110 the motor vehicle, or the stolen vehicle report that has been
111 filed with a law enforcement agency must be attached to the
112 affidavit.

113 (b) If the motor vehicle driver of a motor vehicle is
114 issued a citation by a law enforcement officer for violating a
115 red light traffic signal, the motor vehicle owner may not be
116 issued a separate citation pursuant to ss. 316.901-316.907 as a
117 result of the traffic control photographic system recording the
118 same violation.

119 Section 6. Section 316.906, Florida Statutes, is created to
120 read:

121 316.906 Citation.-

122 (1) A violation of ss. 316.901-316.907 is a noncriminal,
123 nonmoving violation for which a \$150 civil fee shall be assessed
124 against the motor vehicle owner. The Department of Highway
125 Safety and Motor Vehicles shall enforce violations of ss.
126 316.901-316.907, except that a county or municipality may, as an
127 alternative, provide its own enforcement process for a violation



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128 of a county or municipal ordinance under ss. 316.901-316.907. If
129 the Department of Highway Safety and Motor Vehicles enforces a
130 citation under ss. 316.901-316.907, the fee shall be divided 20
131 percent to the Department of Highway Safety and Motor Vehicles
132 and 80 percent to the governmental entity having jurisdiction
133 over the intersection, as defined in s. 316.904(1). Points may
134 not be assigned on the motor vehicle owner's driver motor
135 vehicle record. The violation may not be reported on the motor
136 vehicle owner's driver motor vehicle record, and the violation
137 may not be reported to the motor vehicle owner's insurance
138 carrier.

139 (2) The citation must be printed on a uniform citation form
140 approved by the Department of Highway Safety and Motor Vehicles
141 which must clearly provide:

- 142 (a) The name and address of the motor vehicle owner;
- 143 (b) The registration number of the motor vehicle involved
144 in the violation;
- 145 (c) The section and the local law violated;
- 146 (d) The location of the intersection where the violation
147 occurred;
- 148 (e) The date and time of the violation;
- 149 (f) A copy of the recorded image of the violation;
- 150 (g) The amount of the fee and charges imposed and the date
151 by which the fee and charges shall be paid or appealed;
- 152 (h) That the recorded images that are the subject of a
153 citation enforced by the Department of Highway Safety and Motor
154 Vehicles were reviewed by a Florida Highway Patrolman, or the
155 recorded images that are the subject of a citation enforced by a
156 county or municipality were reviewed and observed by a traffic



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157 infraction enforcement officer as described in s. 316.640, and
158 that in either case the recorded images were found to be
159 reasonable and probable grounds to believe that the offense had
160 been committed and that the images identify the license tag
161 number of the violating vehicle;

162 (i) A clear statement describing the procedure for
163 appealing the citation and the time limit to file an appeal; and

164 (j) A clear statement describing the penalty for failing to
165 pay the citation or appealing the citation.

166 (3) The citation may be sent by regular first-class mail
167 within 14 days after the violation date to the address of the
168 motor vehicle owner which is listed with the state of
169 registration as the titled owner of the motor vehicle. However,
170 the payment of the citation when served in this manner is
171 voluntary. In order for the citation to be enforced, the
172 citation must be served on the motor vehicle owner in such a
173 manner that the motor vehicle owner must sign and accept the
174 citation.

175 (4) A county or municipality may refer the enforcement
176 process of its violations to the Department of Safety and Motor
177 Vehicles. The referral shall result in the Department of Highway
178 Safety and Motor Vehicles receiving 20 percent of the fee
179 imposed and the issuing agency receiving 20 percent.

180 (5) If the motor vehicle owner does not voluntarily pay the
181 citation and the enforcing agency is required to personally
182 serve the citation for signature and acceptance, the motor
183 vehicle owner is responsible for paying an additional \$50 for
184 the violation in addition to the \$150 fee.

185 (6) If there is more than one motor vehicle owner, the



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186 citation must be sent to the first named motor vehicle owner, as
187 listed with the state of registration, as the titled owner of
188 the motor vehicle.

189 (7) Failure to pay the fee or file an appeal within 21 days
190 after the motor vehicle owner signs and accepts the citation
191 shall result in the motor vehicle owner paying the costs and
192 attorney's fees required to collect the fee in addition to the
193 citation fee and charges, which collection process shall be the
194 same as used by the enforcing agency to collect a toll fee or a
195 parking fine. If the motor vehicle owner files an appeal and is
196 unsuccessful, the motor vehicle owner shall pay the costs and
197 attorney's fees required to collect the fee, including the
198 appellate costs and expenses, in addition to the citation fee
199 and charges.

200 (8) Failure to pay the fee after the time for an appeal has
201 expired shall result in the Department of Highway Safety and
202 Motor Vehicles denying the motor vehicle owner the issuance or
203 renewal of a license tag until such time as all citation fees
204 and costs have been paid.

205 Section 7. Section 316.907, Florida Statutes, is created to
206 read:

207 316.907 Appeal.—

208 (1) A notice of appeal must be filed within 21 days after
209 the motor vehicle owner signs and accepts the citation, which
210 day begins to run on the date of signature and acceptance. The
211 failure to give notice of appeal within the prescribed time
212 constitutes a waiver of the right to contest the citation.

213 (2) The motor vehicle owner receiving a citation may
214 contest the citation on the following grounds:



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215 (a) At the time of the violation, the motor vehicle was
216 being operated without the permission of the motor vehicle
217 owner. However, this exception applies only if the motor vehicle
218 owner signs and submits an affidavit to the enforcing
219 municipality or county within 21 days after signing and
220 accepting of the citation, and in which the affidavit
221 specifically provides that the operator of the motor vehicle was
222 operating the motor vehicle without the permission of the motor
223 vehicle owner, and the affidavit specifically lists the full
224 legal name and address of the operator of the motor vehicle and
225 how the operator came into possession of the motor vehicle.

226 (b) The motor vehicle driver was issued a citation by a law
227 enforcement officer, which citation was separate and distinct
228 from the citation issued pursuant to ss. 316.901-316.907, for
229 violating the red light traffic signal.

230 (c) The motor vehicle driver was required to violate the
231 red light traffic signal in order to comply with other governing
232 laws.

233 (d) The motor vehicle driver was required to violate the
234 red light traffic signal in order to reasonably protect the
235 property or person of another.

236 (e) The red light traffic signal was inoperable or
237 malfunctioning.

238 (f) Any other reason that the trier of fact deems
239 appropriate.

240 (3) Appeals must be considered using the same procedures
241 established by the enforcing municipality or county for
242 appealing parking citations.

243 (4) The recorded images of the violation shall be



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244 admissible as evidence of the violation.

245 Section 8. If any provision of this act or its application
246 to any person or circumstance is held invalid, the invalidity
247 does not affect other provisions or applications of the act
248 which can be given effect without the invalid provision or
249 application, and to this end the provisions of this act are
250 severable.

251 Section 9. This act shall take effect July 1, 2009.

252
253 ===== T I T L E A M E N D M E N T =====

254 And the title is amended as follows:

255
256 Delete everything before the enacting clause
257 and insert:

258 A bill to be entitled
259 An act relating to uniform traffic control; creating
260 s. 316.901, F.S.; creating the "Mark Wandall Traffic
261 Safety Act"; creating s. 316.902, F.S.; providing
262 legislative intent and purpose; creating s. 316.903,
263 F.S.; defining terms; creating s. 316.904, F.S.;
264 delineating jurisdiction over highway intersections
265 between the state, counties, and municipalities for
266 the purpose of installing a traffic control
267 photographic system at the intersection; providing
268 that the state's installation of a traffic control
269 photographic system at an intersection preempts any
270 county or municipality from also installing a traffic
271 control photographic system at that intersection;
272 providing technical requirements for the traffic



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273 control photographic system; creating s. 316.905,
274 F.S.; providing that a motor vehicle that enters an
275 intersection in violation of a red light traffic
276 signal and which violation is recorded by a traffic
277 control photographic system, violates the act;
278 providing exceptions; creating s. 316.906, F.S.;
279 providing that a violation of the act is a
280 noncriminal, nonmoving violation for which a \$150
281 civil fee will be assessed against the motor vehicle
282 owner; requiring the Department of Highway Safety and
283 Motor Vehicles to enforce violations of the act;
284 providing for a distribution of the collected fees;
285 providing that the citation be printed on a uniform
286 form; describing the contents of the citation form;
287 requiring that the citation may be sent by regular
288 first class mail within 14 days after the date of
289 violation to the address of the motor vehicle owner;
290 permitting municipalities and counties to delegate
291 enforcement powers to the Department of Highway Safety
292 and Motor Vehicles; requiring the vehicle owner to pay
293 an additional fine if the vehicle owner does not
294 voluntarily pay the fine within a specified time;
295 providing that the failure to pay the fee or file an
296 appeal within 21 days after the motor vehicle owner
297 signs and accepts the citation results in the motor
298 vehicle owner paying the costs and attorney's fees
299 required to collect the fee in addition to the
300 citation fee and charges; authorizing the Department
301 of Highway Safety and Motor Vehicles to deny the motor



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302 vehicle owner the issuance or renewal of a license tag
303 until such time as all citation fees and costs have
304 been paid; creating s. 316.907, F.S.; providing for an
305 appeal process to contest the issuance of a citation;
306 providing the grounds for appealing a citation;
307 providing for severability; providing an effective
308 date.