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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2009	.	
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	.	

The Committee on Transportation (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively



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12 ascribed to them in this section, except where the context
13 otherwise requires:

14 (86) TRAFFIC INFRACTION DETECTOR.—A vehicle sensor
15 installed to work in conjunction with a traffic control signal
16 and a camera or cameras synchronized to automatically record two
17 or more sequenced photographic or electronic images or streaming
18 video of only the rear of a motor vehicle at the time the
19 vehicle fails to stop behind the stop bar or clearly marked stop
20 line when facing a traffic control signal steady red light. Any
21 ticket issued by the use of a traffic infraction detector must
22 include a photograph or other recorded image showing both the
23 license tag of the offending vehicle and the traffic control
24 device being violated.

25 Section 3. Section 316.0083, Florida Statutes, is created
26 to read:

27 316.0083 Mark Wandall Traffic Safety Program;
28 administration; report.—

29 (1) There is created the Mark Wandall Traffic Safety
30 Program governing the operation of traffic infraction detectors.
31 The program shall be administered by the Department of
32 Transportation, shall be adopted by local ordinances, as in
33 316.0776, and include the following provisions:

34 (a) In order to use a traffic infraction detector, a county
35 or municipality must enact an ordinance that provides for the
36 use of a traffic infraction detector to enforce s.
37 316.075(1)(c), which requires the driver of a vehicle to stop
38 the vehicle when facing a traffic control signal steady red
39 light on the streets and highways under the jurisdiction of the
40 county or municipality. The traffic infraction detector must



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41 conform to the contract specifications adopted by the Department
42 of Transportation under s. 316.0776. A county or municipality
43 that operates a traffic infraction detector must authorize a
44 traffic infraction enforcement officer or a code enforcement
45 officer to issue a ticket for a violation of s. 316.075(1)(c)
46 and to enforce the payment of the ticket for such violation.
47 This paragraph does not authorize a traffic infraction
48 enforcement officer or a code enforcement officer to carry a
49 firearm or other weapon and does not authorize such an officer
50 to make arrests. The ordinance must require signs to be posted
51 at locations designated by the county or municipality providing
52 notification that a traffic infraction detector may be in use.
53 Such signage must conform to the specifications adopted by the
54 Department of Transportation under s. 316.0745. The ordinance
55 must provide for the county or municipality to install,
56 maintain, and operate traffic infraction detectors on right-of-
57 way owned or maintained by the Department of Transportation or
58 on right-of-way owned or maintained by the county or
59 municipality in which the traffic infraction detector is to be
60 installed. The ordinance must also require that the county or
61 municipality make a public announcement and conduct a public
62 awareness campaign of the proposed use of traffic infraction
63 detectors at least 30 days before commencing the enforcement
64 program. In addition, the ordinance must establish a fine of
65 \$150 to be assessed against the registered owner of a motor
66 vehicle that fails to stop when facing a traffic control signal
67 steady red light as determined through the use of a traffic
68 infraction detector. Any other provision of law to the contrary
69 notwithstanding, an additional surcharge, fee, or cost may not



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70 be added to the civil penalty authorized by this paragraph.

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

73 (c) A county or municipality must adopt an ordinance under
74 this section that provides for the use of a traffic infraction
75 detector in order to impose a fine on the registered owner of a
76 motor vehicle for a violation of s. 316.075(1)(c). The fine
77 shall be imposed in the same manner and is subject to the same
78 limitations as provided for parking violations under s.
79 316.1967. Except as specifically provided in this section,
80 chapter 318 and s. 322.27 do not apply to a violation of s.
81 316.075(1)(c) for which a ticket has been issued under an
82 ordinance enacted pursuant to this section. Enforcement of a
83 ticket issued under the ordinance is not a conviction of the
84 operator of the motor vehicle, may not be made a part of the
85 driving record of the operator, and may not be used for purposes
86 of setting motor vehicle insurance rates. Points under s. 322.27
87 may not be assessed based upon such enforcement.

88 (d) The procedures set forth in s. 316.1967(2)-(5) apply to
89 an ordinance enacted pursuant to this section, except that the
90 ticket must contain the name and address of the person alleged
91 to be liable as the registered owner of the motor vehicle
92 involved in the violation, the registration number of the motor
93 vehicle, the violation charged, a copy of the photographic image
94 or images evidencing the violation, the location where the
95 violation occurred, the date and time of the violation,
96 information that identifies the device that recorded the
97 violation, and a signed statement by a specifically trained
98 technician employed by the agency or its contractor that, based



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99 on inspection of photographs or other recorded images, the motor
100 vehicle was being operated in violation of s. 316.075(1)(c). The
101 ticket must advise the registered owner of the motor vehicle
102 involved in the violation of the amount of the fine, the date by
103 which the fine must be paid, and the procedure for contesting
104 the violation alleged in the ticket. The ticket must contain a
105 warning that failure to contest the violation in the manner and
106 time provided is deemed an admission of the liability and that a
107 default may be entered thereon. The violation shall be processed
108 by the county or municipality that has jurisdiction over the
109 street or highway where the violation occurred or by any entity
110 authorized by the county or municipality to prepare and mail the
111 ticket.

112 (e) The ticket shall be sent by first-class mail addressed
113 to the registered owner of the motor vehicle and postmarked no
114 later than 30 days after the date of the violation.

115 (f)1. The registered owner of the motor vehicle involved in
116 a violation is responsible and liable for payment of the fine
117 assessed under this section unless the owner can establish that:

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

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

123 c. The motor vehicle was stolen at the time of the alleged
124 violation;

125 d. A uniform traffic citation was issued to the driver of
126 the motor vehicle for the alleged violation of s. 316.075(1)(c);
127 or



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128 e. A medical emergency.

129 2. In order to establish any such fact, the registered
130 owner of the vehicle must, within 30 days after receipt of
131 notification of the alleged violation, furnish to the county or
132 municipality, as appropriate, an affidavit that sets forth
133 detailed information supporting an exemption as provided in sub-
134 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,
135 or sub-subparagraph 1.d. For an exemption under sub-subparagraph
136 1.c., the affidavit must set forth that the vehicle was stolen
137 and be accompanied by a copy of the police report indicating
138 that the vehicle was stolen at the time of the alleged
139 violation. For an exemption under sub-subparagraph 1.d., the
140 affidavit must set forth that a citation was issued and be
141 accompanied by a copy of the citation indicating the time of the
142 alleged violation and the location of the intersection where it
143 occurred.

144 (g) A person may contest the determination that the person
145 failed to stop at a traffic control signal steady red light as
146 evidenced by a traffic infraction detector by electing to appear
147 before any judge authorized by law to preside over a court
148 hearing that adjudicates traffic infractions. A person who
149 elects to appear before the court to present evidence is deemed
150 to have waived the limitation of civil penalties imposed for the
151 violation. The court, after hearing, shall determine whether the
152 violation was committed and may impose a civil penalty not to
153 exceed \$150 plus costs, and shall order the registered owner of
154 the motor vehicle to attend a basic driver improvement course if
155 the court finds that a violation was committed. The court may
156 take appropriate measures to enforce the collection of any



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157 penalty not paid within the time permitted by the court.

158 (h) A certificate sworn to or affirmed by a person
159 authorized under this section who is employed by or under
160 contract with the county or municipality where the infraction
161 occurred, or a facsimile thereof that is based upon inspection
162 of photographs or other recorded images produced by a traffic
163 infraction detector, is prima facie evidence of the facts
164 contained in the certificate. A photograph or other recorded
165 image evidencing a violation of s. 316.075(1)(c) must be
166 available for inspection in any proceeding to adjudicate
167 liability under an ordinance enacted pursuant to this section.

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

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

175 (2) Of the fine imposed pursuant to paragraph (1)(a) or
176 paragraph (1)(g), one-fifth shall be remitted by the county or
177 municipality to the county court for distribution as provided in
178 s. 318.21, one-fifth shall be remitted to the Department of
179 Revenue for deposit into the Department of Health Administrative
180 Trust Fund, and three-fifths shall be retained by the county or
181 municipality enforcing the ordinance enacted pursuant to this
182 section. Funds deposited into the Department of Health
183 Administrative Trust Fund under this subsection shall be
184 distributed as provided in s. 395.4036(1):

185 (3) A complaint that a county or municipality is employing



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186 traffic infraction detectors for purposes other than the
187 promotion of public health, welfare, and safety or in a manner
188 inconsistent with this section may be submitted to the governing
189 body of such county or municipality. Such complaints, along with
190 any investigation and corrective action taken by the county or
191 municipal governing body, shall be included in the annual report
192 to the department and in the department's annual summary report
193 to the Governor, the President of the Senate, and the Speaker of
194 the House Representatives, as required by this section. Based on
195 its review of the report, the Legislature may exclude a county
196 or municipality from further participation in the program.

197 (4) (a) Each county or municipality that operates a traffic
198 infraction detector shall submit an annual report to the
199 department that details the results of using the traffic
200 infraction detector and the procedures for enforcement.

201 (b) The department shall provide an annual summary report
202 to the Governor, the President of the Senate, and the Speaker of
203 the House of Representatives regarding the use and operation of
204 traffic infraction detectors under this section. The summary
205 report must include a review of the information submitted to the
206 department by the counties and municipalities and must describe
207 the enhancement of the traffic safety and enforcement programs.
208 The department shall report its recommendations, including any
209 necessary legislation, on or before December 1, 2010, to the
210 Governor, the President of the Senate, and the Speaker of the
211 House of Representatives.

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

214 316.0745 Uniform signals and devices.-



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215 (6) (a) Any system of traffic control devices controlled and
216 operated from a remote location by electronic computers or
217 similar devices must ~~shall~~ meet all requirements established for
218 the uniform system, and, if where such a system affects ~~systems~~
219 ~~affect~~ the movement of traffic on state roads, the design of the
220 system must ~~shall~~ be reviewed and approved by the Department of
221 Transportation; however, any such equipment acquired by
222 purchase, lease, or other arrangement under an agreement entered
223 into by a county or municipality before the effective date of
224 this act or equipment used to enforce an ordinance enacted by a
225 county or municipality before the effective date of this act is
226 not required to meet the specifications established for the
227 uniform system until September 30, 2010.

228 (b) Any traffic infraction detector deployed on the streets
229 and highways of the state must meet specifications established
230 by the Department of Transportation and must be tested at
231 regular intervals according to procedures prescribed by that
232 department.

233 Section 5. Section 316.0776, Florida Statutes, is created
234 to read:

235 316.0776 Traffic infraction detectors; placement and
236 installation.-Placement and installation of traffic infraction
237 detectors is allowed on the State Highway System, county roads,
238 and city streets under specifications developed by the
239 Department of Transportation, so long as safety and operation of
240 the road facility is not impaired.

241 Section 6. Section 316.1967, Florida Statutes, is amended
242 to read:

243 316.1967 Liability for payment of parking ticket violations



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244 and other ~~parking~~ violations.-

245 (1) The owner of a vehicle is responsible and liable for
246 payment of any parking ticket violation unless the owner can
247 furnish evidence, when required by this subsection, that the
248 vehicle was, at the time of the parking violation, in the care,
249 custody, or control of another person. In such instances, the
250 owner of the vehicle is required, within a reasonable time after
251 notification of the parking violation, to furnish to the
252 appropriate law enforcement authorities an affidavit setting
253 forth the name, address, and driver's license number of the
254 person who leased, rented, or otherwise had the care, custody,
255 or control of the vehicle. The affidavit submitted under this
256 subsection is admissible in a proceeding charging a parking
257 ticket violation and raises the rebuttable presumption that the
258 person identified in the affidavit is responsible for payment of
259 the parking ticket violation. The owner of a vehicle is not
260 responsible for a parking ticket violation if the vehicle
261 involved was, at the time, stolen or in the care, custody, or
262 control of some person who did not have permission of the owner
263 to use the vehicle. The owner of a leased vehicle is not
264 responsible for a parking ticket violation and is not required
265 to submit an affidavit or the other evidence specified in this
266 section, if the vehicle is registered in the name of the person
267 who leased the vehicle.

268 (2) Any person who is issued a county or municipal parking
269 ticket by a parking enforcement specialist or officer is deemed
270 to be charged with a noncriminal violation and shall comply with
271 the directions on the ticket. If payment is not received or a
272 response to the ticket is not made within the time period



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273 specified thereon, the county court or its traffic violations
274 bureau shall notify the registered owner of the vehicle that was
275 cited, or the registered lessee when the cited vehicle is
276 registered in the name of the person who leased the vehicle, by
277 mail to the address given on the motor vehicle registration, of
278 the ticket. Mailing the notice to this address constitutes
279 notification. Upon notification, the registered owner or
280 registered lessee shall comply with the court's directive.

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

283 (4) Any person who elects to appear before a designated
284 official to present evidence waives his or her right to pay the
285 civil penalty provisions of the ticket. The official, after a
286 hearing, shall make a determination as to whether a parking
287 violation has been committed and may impose a civil penalty not
288 to exceed \$100 or the fine amount designated by county
289 ordinance, plus court costs. Any person who fails to pay the
290 civil penalty within the time allowed by the court is deemed to
291 have been convicted of a parking ticket violation, and the court
292 shall take appropriate measures to enforce collection of the
293 fine.

294 (5) Any provision of subsections (2), (3), and (4) to the
295 contrary notwithstanding, chapter 318 does not apply to
296 violations of county parking ordinances and municipal parking
297 ordinances.

298 (6) Any county or municipality may provide by ordinance
299 that the clerk of the court or the traffic violations bureau
300 shall supply the department with a magnetically encoded computer
301 tape reel or cartridge or send by other electronic means data



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302 which is machine readable by the installed computer system at
303 the department, listing persons who have three or more
304 outstanding parking violations, including violations of s.
305 316.1955, or who have one or more outstanding tickets for a
306 violation of a traffic control signal steady red light
307 indication issued pursuant to an ordinance adopted under s.
308 316.0083. Each county shall provide by ordinance that the clerk
309 of the court or the traffic violations bureau shall supply the
310 department with a magnetically encoded computer tape reel or
311 cartridge or send by other electronic means data that is machine
312 readable by the installed computer system at the department,
313 listing persons who have any outstanding violations of s.
314 316.1955 or any similar local ordinance that regulates parking
315 in spaces designated for use by persons who have disabilities.
316 The department shall mark the appropriate registration records
317 of persons who are so reported. Section 320.03(8) applies to
318 each person whose name appears on the list.

319 Section 7. Subsection (1) of section 395.4036, Florida
320 Statutes, is amended to read:

321 395.4036 Trauma payments.—

322 (1) Recognizing the Legislature's stated intent to provide
323 financial support to the current verified trauma centers and to
324 provide incentives for the establishment of additional trauma
325 centers as part of a system of state-sponsored trauma centers,
326 the department shall use ~~utilize~~ funds collected under ss.
327 316.0083 and ~~s.~~ 318.18(15) and deposited into the Administrative
328 Trust Fund of the department to ensure the availability and
329 accessibility of trauma and emergency services throughout the
330 state as provided in this subsection.



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331 (a) Funds collected under ss. 316.0083 and 318.18(15) shall
332 be distributed as follows:

333 1.(a) Twenty percent of the total funds collected under s.
334 316.0083 and 18 percent of the total funds collected under s.
335 318.18(15) ~~this subsection~~ during the state fiscal year shall be
336 distributed to verified trauma centers that have a local funding
337 contribution as of December 31. Distribution of funds under this
338 paragraph shall be based on trauma caseload volume for the most
339 recent calendar year available.

340 2.(b) Thirty-nine percent of the total funds collected
341 under s. 316.0083 and 40 ~~forty~~ percent of the total funds
342 collected under s. 318.18(15) ~~this subsection~~ shall be
343 distributed to verified trauma centers based on trauma caseload
344 volume for the most recent calendar year available. The
345 determination of caseload volume for distribution of funds under
346 this paragraph shall be based on the department's Trauma
347 Registry data.

348 3.(c) Thirty-nine percent of the total funds collected
349 under s. 316.0083 and 40 ~~forty~~ percent of the total funds
350 collected under s. 318.18(15) ~~this subsection~~ shall be
351 distributed to verified trauma centers based on severity of
352 trauma patients for the most recent calendar year available. The
353 determination of severity for distribution of funds under this
354 paragraph shall be based on the department's International
355 Classification Injury Severity Scores or another statistically
356 valid and scientifically accepted method of stratifying a trauma
357 patient's severity of injury, risk of mortality, and resource
358 consumption as adopted by the department by rule, weighted based
359 on the costs associated with and incurred by the trauma center



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360 in treating trauma patients. The weighting of scores shall be
361 established by the department by rule.

362 4. Two percent of the total funds collected under s.
363 316.0083 shall be distributed to public hospitals that qualify
364 for distributions under s. 409.911(4), that are not verified
365 trauma centers but are located in trauma services areas defined
366 under s. 395.402, and that do not have a verified trauma center
367 based on their proportionate number of emergency room visits on
368 an annual basis. The Agency for Health Care Administration shall
369 provide the department with a list of public hospitals and
370 emergency room visits.

371 5. Two-percent of the total funds collected under s.
372 318.18(15), shall be distributed to provide an enhanced Medicaid
373 payment to nursing homes that serve residents with brain and
374 spinal cord injuries who are Medicaid recipients.

375 (b) Funds deposited in the department's Administrative
376 Trust Fund for verified trauma centers may be used to maximize
377 the receipt of federal funds that may be available for such
378 trauma centers and nontrauma center public hospitals.
379 Notwithstanding this section and s. 318.14, distributions to
380 trauma centers may be adjusted in a manner to ensure that total
381 payments to trauma centers represent the same proportional
382 allocation as set forth in this section and s. 318.14. For
383 purposes of this section and s. 318.14, total funds distributed
384 to trauma centers may include revenue from the Administrative
385 Trust Fund and federal funds for which revenue from the
386 Administrative Trust Fund is used to meet state or local
387 matching requirements. Funds collected under ss. 318.14,
388 316.0083, and 318.18(15) and deposited in the Administrative



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389 Trust Fund of the department shall be distributed to trauma
390 centers and nontrauma center public hospitals on a quarterly
391 basis using the most recent calendar year data available. Such
392 data shall not be used for more than four quarterly
393 distributions unless there are extenuating circumstances as
394 determined by the department, in which case the most recent
395 calendar year data available shall continue to be used and
396 appropriate adjustments shall be made as soon as the more recent
397 data becomes available.

398 Section 8. For the purpose of incorporating the amendment
399 made by this act to section 316.1967, Florida Statutes, in a
400 reference thereto, subsection (8) of section 320.03, Florida
401 Statutes, is reenacted to read:

402 320.03 Registration; duties of tax collectors;
403 International Registration Plan.—

404 (8) If the applicant's name appears on the list referred to
405 in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license
406 plate or revalidation sticker may not be issued until that
407 person's name no longer appears on the list or until the person
408 presents a receipt from the clerk showing that the fines
409 outstanding have been paid. This subsection does not apply to
410 the owner of a leased vehicle if the vehicle is registered in
411 the name of the lessee of the vehicle. The tax collector and the
412 clerk of the court are each entitled to receive monthly, as
413 costs for implementing and administering this subsection, 10
414 percent of the civil penalties and fines recovered from such
415 persons. As used in this subsection, the term "civil penalties
416 and fines" does not include a wrecker operator's lien as
417 described in s. 713.78(13). If the tax collector has private tag



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418 agents, such tag agents are entitled to receive a pro rata share
419 of the amount paid to the tax collector, based upon the
420 percentage of license plates and revalidation stickers issued by
421 the tag agent compared to the total issued within the county.
422 The authority of any private agent to issue license plates shall
423 be revoked, after notice and a hearing as provided in chapter
424 120, if he or she issues any license plate or revalidation
425 sticker contrary to the provisions of this subsection. This
426 section applies only to the annual renewal in the owner's birth
427 month of a motor vehicle registration and does not apply to the
428 transfer of a registration of a motor vehicle sold by a motor
429 vehicle dealer licensed under this chapter, except for the
430 transfer of registrations which is inclusive of the annual
431 renewals. This section does not affect the issuance of the title
432 to a motor vehicle, notwithstanding s. 319.23(7)(b).

433 Section 9. If any provision of this act or its application
434 to any person or circumstance is held invalid, the invalidity
435 does not affect other provisions or applications of this act
436 which can be given effect without the invalid provision or
437 application, and to this end the provisions of this act are
438 declared severable.

439 Section 10. This act shall take effect upon becoming a law.
440
441

442 ===== T I T L E A M E N D M E N T =====

443 And the title is amended as follows:

444 Delete everything before the enacting clause
445 and insert:

446 A bill to be entitled



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447 An act relating to uniform traffic control; creating
448 the "Mark Wandall Traffic Safety Act"; amending s.
449 316.003, F.S.; defining the term "traffic infraction
450 detector"; creating s. 316.0083, F.S.; creating the
451 Mark Wandall Traffic Safety Program to be administered
452 by the Department of Transportation; requiring a
453 county or municipality to enact an ordinance in order
454 to use a traffic infraction detector to identify a
455 motor vehicle that fails to stop at a traffic control
456 signal steady red light; requiring authorization of a
457 traffic infraction enforcement officer or a code
458 enforcement officer to issue and enforce a ticket for
459 such violation; requiring such detectors to meet
460 department contract specifications; requiring signage;
461 requiring certain public awareness procedures;
462 requiring the ordinance to establish a fine of a
463 certain amount; requiring the ordinance to provide for
464 installing, maintaining, and operating such detectors
465 on rights-of-way owned or maintained by the Department
466 of Transportation or the county; requiring the county
467 or Department of Transportation to issue permits for
468 the installation; prohibiting additional charges;
469 exempting emergency vehicles; providing that the
470 registered owner of the motor vehicle involved in the
471 violation is responsible and liable for payment of the
472 fine assessed; providing exceptions; providing
473 procedures for disposition and enforcement of tickets;
474 providing for disposition of revenue collected;
475 providing complaint procedures; providing for the



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476 Legislature to exclude a county or municipality from
477 the program; requiring reports from participating
478 municipalities and counties to the department;
479 requiring the department to make reports to the
480 Governor and the Legislature; amending s. 316.0745,
481 F.S.; providing that traffic infraction detectors must
482 meet certain specifications; providing for preexisting
483 equipment; creating s. 316.0776, F.S.; providing for
484 placement and installation of detectors on certain
485 roads; amending s. 316.1967, F.S.; providing for
486 inclusion of persons with outstanding violations in a
487 list sent to the department for enforcement purposes;
488 amending s. 395.4036, F.S.; providing for distribution
489 of funds to trauma centers, certain hospitals, and
490 certain nursing homes; reenacting s. 320.03(8), F.S.,
491 relating to the duties of tax collectors relative to
492 motor vehicle registration and license plate
493 distribution, to incorporate the amendments made to s.
494 316.1967, F.S., in a reference thereto; providing for
495 severability; providing an effective date.