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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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	.	

The Committee on Criminal Justice (Deutch) recommended the following:

Senate Amendment (with title amendment)

Delete lines 97 - 447
and insert:
conform to any contract specifications adopted by the Department of Transportation under s. 316.0776. A county or municipality that operates a traffic infraction detector must authorize a traffic infraction enforcement officer or a code enforcement officer to issue a ticket for a violation of s. 316.075(1)(c) and to enforce the payment of the ticket for such violation. This paragraph does not authorize a traffic



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12 infraction enforcement officer or a code enforcement officer to
13 carry a firearm or other weapon and does not authorize such an
14 officer to make arrests. The ordinance must require signs to be
15 posted at locations designated by the county or municipality
16 providing notification that a traffic infraction detector may be
17 in use. Such signage must conform to any specifications adopted
18 by the Department of Transportation under s. 316.0745. The
19 ordinance may provide for the county or municipality to install,
20 maintain, and operate traffic infraction detectors on right-of-
21 way owned or maintained by the Department of Transportation or
22 on right-of-way owned or maintained by the county or
23 municipality in which the traffic infraction detector is to be
24 installed. The ordinance must also require that the county or
25 municipality make a public announcement and conduct a public
26 awareness campaign of the proposed use of traffic infraction
27 detectors at least 30 days before commencing the enforcement
28 program. In addition, the ordinance must establish a fine of
29 \$150 to be assessed against the registered owner of a motor
30 vehicle that fails to stop when facing a traffic control signal
31 steady red light as determined through the use of a traffic
32 infraction detector. Any other provision of law to the contrary
33 notwithstanding, an additional surcharge, fee, or cost may not
34 be added to the civil penalty authorized by this paragraph.

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

37 (c) A county or municipality must adopt an ordinance under
38 this section which provides for the use of a traffic infraction
39 detector in order to impose a fine on the registered owner of a
40 motor vehicle for a violation of s. 316.075(1)(c). The fine



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41 shall be imposed in the same manner and is subject to the same
42 limitations as provided for parking violations under s.
43 316.1967. Except as specifically provided in this section,
44 chapter 318 and s. 322.27 do not apply to a violation of s.
45 316.075(1)(c) for which a ticket has been issued under an
46 ordinance enacted pursuant to this section. Enforcement of a
47 ticket issued under the ordinance is not a conviction of the
48 operator of the motor vehicle, may not be made a part of the
49 driving record of the operator, and may not be used for purposes
50 of setting motor vehicle insurance rates. Points under s. 322.27
51 may not be assessed based upon such enforcement.

52 (d) The procedures set forth in s. 316.1967(2)-(5) apply to
53 an ordinance enacted pursuant to this section, except that the
54 ticket must contain the name and address of the person alleged
55 to be liable as the registered owner of the motor vehicle
56 involved in the violation, the license plate number of the motor
57 vehicle, the violation charged, a copy of the photographic image
58 or images evidencing the violation, the location where the
59 violation occurred, the date and time of the violation,
60 information that identifies the device that recorded the
61 violation, and a signed statement by a specifically trained
62 technician employed by the agency or its contractor that, based
63 on inspection of photographs or other recorded images, the motor
64 vehicle was being operated in violation of s. 316.075(1)(c). The
65 ticket must advise the registered owner of the motor vehicle
66 involved in the violation of the amount of the fine, the date by
67 which the fine must be paid, and the procedure for contesting
68 the violation alleged in the ticket. The ticket must contain a
69 warning that failure to contest the violation in the manner and



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70 time provided is deemed an admission of the liability and that a
71 default may be entered thereon. The violation shall be processed
72 by the county or municipality that has jurisdiction over the
73 street or highway where the violation occurred or by any entity
74 authorized by the county or municipality to prepare and mail the
75 ticket.

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

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

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

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

87 c. The motor vehicle was stolen at the time of the alleged
88 violation;

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

92 e. The motor vehicle passed through the intersection due to
93 a medical emergency.

94 2. In order to establish any such fact, the registered
95 owner of the vehicle must, within 30 days after receipt of
96 notification of the alleged violation, furnish to the county or
97 municipality, as appropriate, an affidavit that sets forth
98 detailed information supporting an exemption as provided in sub-



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99 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,
100 sub-subparagraph 1.d., or sub-subparagraph 1.e. For an exemption
101 under subparagraph 1.c., the affidavit must set forth that
102 the vehicle was stolen and be accompanied by a copy of the
103 police report indicating that the vehicle was stolen at the time
104 of the alleged violation. For an exemption under sub-
105 subparagraph 1.d., the affidavit must set forth that a citation
106 was issued and be accompanied by a copy of the citation
107 indicating the time of the alleged violation and the location of
108 the intersection where it occurred.

109 (g) A person may contest the determination that the person
110 failed to stop at a traffic control signal steady red light as
111 evidenced by a traffic infraction detector by electing to appear
112 before any official authorized by law to preside over a hearing
113 that adjudicates traffic infractions. A person who elects to
114 appear at such hearing to present evidence is deemed to have
115 waived the limitation of civil penalties imposed for the
116 violation. The official, after hearing, shall determine whether
117 the violation was committed and may impose a civil penalty not
118 to exceed \$150, and shall order the registered owner of the
119 motor vehicle to attend a basic driver improvement course if the
120 official finds that a violation was committed. The official may
121 take measures to enforce the collection of any penalty not paid
122 within the time permitted.

123 (h) A certificate sworn to or affirmed by a person
124 authorized under this section who is employed by or under
125 contract with the county or municipality where the infraction
126 occurred, or a facsimile thereof, that is based upon inspection
127 of photographs or other recorded images produced by a traffic



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128 infraction detector, is prima facie evidence of the facts
129 contained in the certificate. A photograph or other recorded
130 image evidencing a violation of s. 316.075(1)(c) must be
131 available for inspection in any proceeding to adjudicate
132 liability under an ordinance enacted pursuant to this section.

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

137 (2) Of the fine imposed pursuant to paragraph (1)(a) or
138 paragraph (1)(g), one-fifth shall be remitted by the county or
139 municipality to the clerk of the county court for distribution
140 as provided in s. 318.21, one-fifth shall be remitted to the
141 Department of Revenue for deposit into the Department of Health
142 Administrative Trust Fund, and three-fifths shall be retained by
143 the county or municipality enforcing the ordinance enacted
144 pursuant to this section. Funds deposited into the Department of
145 Health Administrative Trust Fund under this subsection shall be
146 distributed as provided in s. 395.4036(1).

147 (3) A complaint that a county or municipality is employing
148 traffic infraction detectors for purposes other than the
149 promotion of public health, welfare, and safety or in a manner
150 inconsistent with this section may be submitted to the governing
151 body of such county or municipality. Such complaints, along with
152 any investigation and corrective action taken by the county or
153 municipal governing body, shall be included in the annual report
154 to the department and in the department's annual summary report
155 to the Governor, the President of the Senate, and the Speaker of
156 the House Representatives, as required by this section. Based on



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157 its review of the report, the Legislature may exclude a county
158 or municipality from further participation in the program.

159 (4) (a) Each county or municipality that operates a traffic
160 infraction detector shall submit an annual report to the
161 department which details the results of using the traffic
162 infraction detector and the procedures for enforcement.

163 (b) The department shall provide an annual summary report
164 to the Governor, the President of the Senate, and the Speaker of
165 the House of Representatives regarding the use and operation of
166 traffic infraction detectors under this section. The summary
167 report must include a review of the information submitted to the
168 department by the counties and municipalities and must describe
169 the enhancement of the traffic safety and enforcement programs.
170 The department shall report its recommendations, including any
171 necessary legislation, on or before December 1, 2010, to the
172 Governor, the President of the Senate, and the Speaker of the
173 House of Representatives.

174 Section 5. Subsection (6) of section 316.0745, Florida
175 Statutes, is amended to read:

176 316.0745 Uniform signals and devices.—

177 (6) (a) Any system of traffic control devices controlled and
178 operated from a remote location by electronic computers or
179 similar devices must ~~shall~~ meet all requirements established for
180 the uniform system, and, if where such a system affects systems
181 ~~affect~~ the movement of traffic on state roads, the design of the
182 system must ~~shall~~ be reviewed and approved by the Department of
183 Transportation; however, any such equipment acquired by
184 purchase, lease, or other arrangement under an agreement entered
185 into by a county or municipality before the effective date of



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186 this act or equipment used to enforce an ordinance enacted by a
187 county or municipality before the effective date of this act is
188 not required to meet the specifications established for the
189 uniform system until September 30, 2010.

190 (b) Any traffic infraction detector deployed on the streets
191 and highways of the state must meet specifications established
192 by the Department of Transportation and must be tested at
193 regular intervals according to procedures prescribed by that
194 department.

195 Section 6. Section 316.0776, Florida Statutes, is created
196 to read:

197 316.0776 Traffic infraction detectors; placement and
198 installation.—Placement and installation of traffic infraction
199 detectors is allowed on the State Highway System, county roads,
200 and municipal streets under specifications developed by the
201 Department of Transportation, so long as safety and operation of
202 the road facility is not impaired.

203 Section 7. Section 316.1967, Florida Statutes, is amended
204 to read:

205 316.1967 Liability for payment of parking ticket violations
206 and other ~~parking~~ violations.—

207 (1) The owner of a vehicle is responsible and liable for
208 payment of any parking ticket violation unless the owner can
209 furnish evidence, when required by this subsection, that the
210 vehicle was, at the time of the parking violation, in the care,
211 custody, or control of another person. In such instances, the
212 owner of the vehicle is required, within a reasonable time after
213 notification of the parking violation, to furnish to the
214 appropriate law enforcement authorities an affidavit setting



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215 forth the name, address, and driver's license number of the
216 person who leased, rented, or otherwise had the care, custody,
217 or control of the vehicle. The affidavit submitted under this
218 subsection is admissible in a proceeding charging a parking
219 ticket violation and raises the rebuttable presumption that the
220 person identified in the affidavit is responsible for payment of
221 the parking ticket violation. The owner of a vehicle is not
222 responsible for a parking ticket violation if the vehicle
223 involved was, at the time, stolen or in the care, custody, or
224 control of some person who did not have permission of the owner
225 to use the vehicle. The owner of a leased vehicle is not
226 responsible for a parking ticket violation and is not required
227 to submit an affidavit or the other evidence specified in this
228 section, if the vehicle is registered in the name of the person
229 who leased the vehicle.

230 (2) Any person who is issued a county or municipal parking
231 ticket by a parking enforcement specialist or officer is deemed
232 to be charged with a noncriminal violation and shall comply with
233 the directions on the ticket. If payment is not received or a
234 response to the ticket is not made within the time period
235 specified thereon, the county court or its traffic violations
236 bureau shall notify the registered owner of the vehicle that was
237 cited, or the registered lessee when the cited vehicle is
238 registered in the name of the person who leased the vehicle, by
239 mail to the address given on the motor vehicle registration, of
240 the ticket. Mailing the notice to this address constitutes
241 notification. Upon notification, the registered owner or
242 registered lessee shall comply with the court's directive.

243 (3) Any person who fails to satisfy the court's directive



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244 waives his or her right to pay the applicable civil penalty.

245 (4) Any person who elects to appear before a designated
246 official to present evidence waives his or her right to pay the
247 civil penalty provisions of the ticket. The official, after a
248 hearing, shall make a determination as to whether a parking
249 violation has been committed and may impose a civil penalty not
250 to exceed \$100 or the fine amount designated by county
251 ordinance, plus court costs. Any person who fails to pay the
252 civil penalty within the time allowed by the court is deemed to
253 have been convicted of a parking ticket violation, and the court
254 shall take appropriate measures to enforce collection of the
255 fine.

256 (5) Any provision of subsections (2), (3), and (4) to the
257 contrary notwithstanding, chapter 318 does not apply to
258 violations of county parking ordinances and municipal parking
259 ordinances.

260 (6) Any county or municipality may provide by ordinance
261 that the clerk of the court or the traffic violations bureau
262 shall supply the department with a magnetically encoded computer
263 tape reel or cartridge or send by other electronic means data
264 which is machine readable by the installed computer system at
265 the department, listing persons who have three or more
266 outstanding parking violations, including violations of s.
267 316.1955, or who have one or more outstanding tickets for a
268 violation of a traffic control signal steady red light
269 indication issued pursuant to an ordinance adopted under s.
270 316.0083. Each county shall provide by ordinance that the clerk
271 of the court or the traffic violations bureau shall supply the
272 department with a magnetically encoded computer tape reel or



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273 cartridge or send by other electronic means data that is machine
274 readable by the installed computer system at the department,
275 listing persons who have any outstanding violations of s.
276 316.1955 or any similar local ordinance that regulates parking
277 in spaces designated for use by persons who have disabilities.
278 The department shall mark the appropriate registration records
279 of persons who are so reported. Section 320.03(8) applies to
280 each person whose name appears on the list.

281 Section 8. Subsection (1) of section 395.4036, Florida
282 Statutes, is amended to read:

283 395.4036 Trauma payments.—

284 (1) Recognizing the Legislature's stated intent to provide
285 financial support to the current verified trauma centers and to
286 provide incentives for the establishment of additional trauma
287 centers as part of a system of state-sponsored trauma centers,
288 the department shall use ~~utilize~~ funds collected under ss.
289 316.0083 and s. ~~318.18(15)~~ and deposited into the Administrative
290 Trust Fund of the department to ensure the availability and
291 accessibility of trauma and emergency services throughout the
292 state as provided in this subsection.

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

295 1.-(a) Twenty percent of the total funds collected under s.
296 316.0083 and 18 percent of the total funds collected under s.
297 318.18(15) ~~this subsection~~ during the state fiscal year shall be
298 distributed to verified trauma centers that have a local funding
299 contribution as of December 31. Distribution of funds under this
300 paragraph shall be based on trauma caseload volume for the most
301 recent calendar year available.



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302 2. ~~(b)~~ Thirty-nine percent of the total funds collected
303 under s. 316.0083 and 40 ~~Forty~~ percent of the total funds
304 collected under s. 318.18(15) ~~this subsection~~ shall be
305 distributed to verified trauma centers based on trauma caseload
306 volume for the most recent calendar year available. The
307 determination of caseload volume for distribution of funds under
308 this paragraph shall be based on the department's Trauma
309 Registry data.

310 3. ~~(c)~~ Thirty-nine percent of the total funds collected
311 under s. 316.0083 and 40 ~~Forty~~ percent of the total funds
312 collected under s. 318.18(15) ~~this subsection~~ shall be
313 distributed to verified trauma centers based on severity of
314 trauma patients for the most recent calendar year available. The
315 determination of severity for distribution of funds under this
316 paragraph shall be based on the department's International
317 Classification Injury Severity Scores or another statistically
318 valid and scientifically accepted method of stratifying a trauma
319 patient's severity of injury, risk of mortality, and resource
320 consumption as adopted by the department by rule, weighted based
321 on the costs associated with and incurred by the trauma center
322 in treating trauma patients. The weighting of scores shall be
323 established by the department by rule.

324 4. Two percent of the total funds collected under s.
325 316.0083 shall be distributed to public hospitals that qualify
326 for distributions under s. 409.911(4), that are not verified
327 trauma centers but are located in trauma services areas defined
328 under s. 395.402, and that do not have a verified trauma center
329 based on their proportionate number of emergency room visits on
330 an annual basis. The Agency for Health Care Administration shall



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331 provide the department with a list of public hospitals and
332 emergency room visits.

333 5. Two percent of the total funds collected under s.
334 318.18(15) shall be distributed to provide an enhanced Medicaid
335 payment to nursing homes that serve residents who have brain and
336 spinal cord injuries and are Medicaid recipients.

337 (b) Funds deposited in the department's Administrative Trust
338 Fund for verified trauma centers may be used to maximize the
339 receipt of federal funds that may be available for such trauma
340 centers and public hospitals eligible for non-trauma funds under
341 (a)4.. Notwithstanding this section and s. 318.14, distributions
342 to trauma centers may be adjusted in a manner to ensure that
343 total payments to trauma centers represent the same proportional
344 allocation as set forth in this section and s. 318.14. For
345 purposes of this section and s. 318.14, total funds distributed
346 to trauma centers may include revenue from the Administrative
347 Trust Fund and federal funds for which revenue from the
348 Administrative Trust Fund is used to meet state or local
349 matching requirements. Funds collected under ss. 318.14,
350 316.0083, and 318.18(15) and deposited in the Administrative
351 Trust Fund of the department shall be distributed to trauma
352 centers and public hospitals eligible for non-trauma funds under
353 (a)4. on a quarterly

354
355 ===== T I T L E A M E N D M E N T =====

356 And the title is amended as follows:

357 Delete line 20

358 and insert:

359 permitting the ordinance to provide for installing,