

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/CS/SB 2004

INTRODUCER: Criminal Justice Committee, Transportation Committee, and Senator Altman

SUBJECT: Traffic Control/Mark Wandall Traffic Safety Act

DATE: April 15, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/CS
2.	Erickson	Cannon	CJ	Fav/CS
3.			CA	
4.			JU	
5.			TA	
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill creates the “Mark Wandall Traffic Safety Act.” The bill preempts the regulation and use of all traffic camera enforcement systems to the state and creates s. 316.0083, F.S., establishing requirements for the use of traffic infraction detectors by counties and municipalities in enforcement of the requirements of s. 316.075(1)(c), F.S., which requires vehicles to stop before entering an intersection when so directed by a traffic signal. The bill authorizes counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the required content of the ordinances. The penalty for failing to stop at a steady red light, as determined through the use of a traffic infraction detector, is a fine of \$150. The bill describes requirements that must be met when issuing a ticket through documentation by the traffic infraction detector and the procedure to be followed for contesting a ticket.

The bill grants counties and municipalities access to Department of Transportation right-of-way to install, maintain, and operate traffic infraction detectors. In addition, the bill provides a “grandfather clause” (until September 30, 2010) for those counties and municipalities currently engaged in the use of traffic detectors. A severability clause is also provided.

The bill provides a complaint process for complaints that a county or municipality is employing traffic infraction detectors for purposes other than the promotion of public health, welfare, and safety or in a manner inconsistent with the law. Each county or municipality that operates a traffic infraction detector must submit an annual report to the Department of Highway Safety and Motor Vehicles (the Department) which details the results of the detectors and the procedures for enforcement. The Department must submit a summary report to the Governor and Legislature on or before December 1, 2010, which includes a review of the information submitted by the counties and municipalities and any recommendations or necessary legislation.

To the extent local governments choose to enact ordinances to permit the use of traffic infraction detectors there will be a fiscal impact to the local governments for the cost of the installation and maintenance of the devices, the amount of which will vary depending on the negotiated agreement between the local government and any private vendor providing the equipment. There may be an increase in fine revenue for the local governments that choose to enact ordinances permitting the use of traffic infraction detectors, the amount of which is indeterminate and reliant on driver awareness and future behavior.

This bill substantially amends ss. 316.003, 316.0745, 316.1967, 395.4036; and reenacts s. 320.03 of the Florida Statutes.

This bill creates ss. 316.0076, 316.0083, and 316.0776, and a new unnumbered section of the Florida Statutes.

II. Present Situation:

Intersection Safety

According to the Federal Highway Administration (FHWA) and National Highway Traffic Safety Administration (NHTSA), more than 45 percent of all traffic crashes occur at intersections or are intersection-related. In 2005, nearly 9,200 people died and approximately one million people were injured in intersection-related crashes. NHTSA's Fatality Analysis Reporting System showed crashes caused by red light running resulted in an estimated 805 fatalities in 2005.¹ The Department reported there were 106 fatalities and 10,720 injuries related to red light running events in Florida during 2007. Two sections of Florida Statutes address red light running:

- Section 316.074(1), F.S., requires drivers to obey the instructions of any applicable official traffic control device, when properly installed, unless otherwise directed by a police officer.
- Section 316.075(1)(c)1., F.S., requires vehicles facing a steady red signal to stop before entering the intersection and to remain standing until a green indication is shown. Exceptions are made to provide for a right turn on red after stopping and in certain one-way traffic intersections, a left turn on red after stopping.

Violation of either section for a driver failing to stop at a traffic signal when so required constitutes a noncriminal traffic infraction, punishable under ch. 318, F.S., as a moving violation and a \$125 fine, \$60 of which is distributed as provided in s. 318.21, F.S., and the remaining \$65

¹ See http://safety.fhwa.dot.gov/intersections/inter_facts.htm

remitted to the Department of Revenue for deposit into the Administrative Trust Fund of the Department of Health under s. 318.18(15), F.S. A violation of either section also results in the assessment of 4 points against a driver's license under s. 322.27(3), F.S.

A number of factors contribute to red light running-related crashes. According to the FHWA's Red Light Camera Systems Operational Guidelines (January 2005),² while deficiencies in the design and configuration of signalized intersections may contribute to red light violations, driver behavior is the most significant contributing factor to the occurrence of red light running. According to the FHWA guidelines, the solution to the red light running problem and resulting crashes may require one or a combination of the following:

- *Intersection engineering improvements*, including modifying traffic signal timing, improving signing and marking, improving sight lines, modifying grades and/or grade separation, adjusting the prevailing speeds, changes in surface treatments, altering lane configuration, and replacing the traffic signal with some other form of traffic control device or intersection type.
- *Education* to assist motorists and the general public in understanding the safety issues inherent to red light running.
- *Traditional enforcement by law enforcement officers* that specifically target red light running violators can be a cost effective deterrent in reducing red light violations at problem intersections.
- *"Red light" camera systems* can be a cost effective tool to reduce red light violations and should be part of a comprehensive intersection safety program, which considers all countermeasures to reduce fatal and injury crashes at intersections.

Red Light Cameras

Traffic infraction detectors, or "red light cameras," are used to enforce traffic laws by automatically photographing vehicles whose drivers run red lights. A Red Light Camera System is a system for detecting and recording traffic violations occurring when a motor vehicle fails to obey a traffic control device. Red light camera systems use sensors connected to computers which measure a vehicle's speed. If the measured speed indicates the vehicle is unlikely to stop for a traffic signal's stop phase, high-speed cameras are engaged to record photographic evidence of a violation. Typically, two photos are taken: one photo of the front of the vehicle as it enters the intersection, and one photo of the rear of the vehicle when the vehicle is in the intersection during the stop phase. Most red light camera systems also record digital video data of the event, bracketing the alleged violation with several seconds of video to show any extenuating circumstances, e.g., a police officer directing traffic or the presence of emergency vehicles. When used as photo enforcement of traffic laws, traffic infraction enforcement officials remotely review the evidence, and, when warranted, issue a citation which is mailed to the registered owner of the vehicle. Most applications include processes allowing owners to challenge the citation if he or she was not the driver at the time of the violation. The United States Supreme Court has held that driving in open view on a public highway does not afford Fourth Amendment protection of an individual's privacy.³

² See http://safety.fhwa.dot.gov/intersections/rlc_guide/rlcguide05jan.pdf

³ *Photographic Traffic Law Enforcement*, Number 36, 1997, National Cooperative Highway Research Program's Legal Research Digest.

Numerous studies examining red light camera systems' impact on safety have shown mixed results. A 2005 publication by the FHWA exemplifies the findings. The comprehensive report, *Safety Evaluation of Red-Light Cameras* (FHWA-HRT-05-048),⁴ included data from seven jurisdictions (Baltimore, MD; Charlotte, NC; El Cajon, CA; Howard County and Montgomery County, MD; and San Diego and San Francisco, CA) and 132 intersections. The study showed red light cameras led to a decrease in the types of crashes most likely to cause death and injury while property-damage-only crashes increased. Specifically, the report showed:

- a 25 percent decrease in total right-angle crashes;
- a 16 percent reduction in injury right-angle crashes;
- a 15 percent increase in total rear-end crashes; and
- a 24 percent increase in injury rear-end crashes.

An overall economic analysis from the study showed that red light camera systems provide a modest aggregate crash-cost benefit. According to the study, the greatest economic benefits provided by red light cameras would be at intersections with:

- relatively few rear end crashes and many right-angle ones;
- a higher traffic volume, especially when entering from the major road;
- shorter signal cycle lengths and intergreen periods (yellow clearance + all red); and
- one or more left turn protected phases.⁵

The study also found that high public awareness, such as the presence of warning signs at both red light camera-enforced intersections and city limits of jurisdictions using red light camera systems, will enhance the benefits of the detectors.

According to FHWA's Red Light Camera Systems Operational Guidelines, the following critical elements should be considered regarding installation of red light camera systems:

- conduct an engineering study before considering camera installation;
- evaluate effective engineering and education alternatives before considering photo enforcement;
- make sure the red light camera program is engineered and installed properly;
- measure, document, and make safety results available;
- ensure complete oversight and supervision by public agencies;
- avoid compensating vendors based on the number of citations; and
- include an ongoing photo-enforcement public education program.

Photo Enforcement in Florida

Since red light cameras first became feasible in the early 1990s, a number of Florida communities have employed red light cameras in some form, most often as a research tool or for issuing warnings to red light running violators. Responding to a request relating to whether a

⁴ See <http://www.tfhrc.gov/safety/pubs/05048/>

⁵ The study suggested the presence of protected left turn phases may be a proxy for high numbers of left turning vehicles.

county might enact an ordinance authorizing the use of unmanned cameras at traffic intersections for the purpose of issuing citations for red light running violations, a 1997 Attorney General Opinion⁶ concluded nothing in Florida Statutes precluded the recording of violations, but photographic evidence could not “be used as the sole basis for issuing citations” since statutes provide that a citation may be issued only when an officer observes the infraction. A 2005 Attorney General Opinion⁷ on the same subject concluded a local government may “enact an ordinance authorizing the city:

- to monitor violations of traffic signals within the city and to use unmanned cameras to monitor intersections and record traffic violations;
- to monitor violations of traffic signals within the city and to use unmanned cameras to record the license tag numbers of cars involved in such violations; and
- to advise a car owner that his or her license tag number has been recorded in a violation of the traffic laws.”

The 2005 opinion also stated “legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices” as collected from a photographic record from unmanned cameras monitoring intersections.

Statutory authority for photo enforcement of required highway toll payment was provided by the Legislature in 1993. Section 316.1001(2)(d), F.S., provides for the admissibility of photographic evidence in enforcing toll payment violations. Toll facility operators use camera systems to photograph the license plates of vehicles passing a tolling point without tendering payment. If no payment is received and the vehicle is not qualified for video billing, the registered owner of the vehicle is issued a Uniform Traffic Citation by first class or registered mail. If the vehicle was not in the care and control of the registered owner at the time of the violation, the owner is afforded the opportunity to establish this as fact and identify the driver via an affidavit.

Red Light Camera System Procurement

State and local governments have a number of choices in the development and operation of red light camera systems. The FHWA’s Red Light Camera Systems Operational Guidelines, offers the following guidance:

Where a private contractor is responsible for installation and operation of the red light camera equipment, the State or local agency should establish the necessary procedures so that the agency has complete oversight and day-to-day supervision of the program.

and:

Where a private contractor is responsible for the processing of citations, compensation to private vendors based on the number of citations issued should be avoided. In multiple jurisdictions, the courts have determined that it is inappropriate for the private contractor to be responsible for determining installation locations and operation of the system because of

⁶ Attorney General Opinion 97-06, dated January 24, 1997.

⁷ Attorney General Opinion 05-41, dated July 12, 2005.

an appearance of a conflict of interest. This conflict of interest should be avoided in all phases of the system installation and operation: startup, design, installation, operation, and maintenance. At all times, the State or local agency should verify and exercise complete oversight of all actions of the private contractor.

Some agencies are compensating their camera system vendors based on a flat fee per location per time period. Others have installed and operated their own systems. It may also be appropriate to pay a vendor to operate and maintain an agency-designed and -implemented system. Compensation should be based solely on the value of the equipment or the services provided.

III. Effect of Proposed Changes:

Authorization

The bill creates the “Mark Wandall Traffic Safety Act.” The bill preempts the regulation and use of all traffic camera enforcement systems to the state. In addition, the bill creates s. 316.0083, F.S., authorizing counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the required content of the ordinance. Pursuant to the new statute, each local ordinance must:

- provide for the use of a traffic infraction detector to enforce s. 316.075(1)(c), F.S., which requires the driver of a motor vehicle to stop when facing a traffic signal steady red light on the streets and highways under the jurisdiction of the county or municipality;
- require that a traffic infraction detector conform to the contract specifications adopted by the Florida Department of Transportation (FDOT) under s. 316.0776, F.S.;
- authorize a traffic infraction enforcement officer to issue a ticket for violation of s. 316.075(1)(c), F.S., and to enforce the payment of tickets for such violation;
- require signs, which conform to FDOT specifications, to be posted at locations designated by the county or municipality providing notification that a traffic infraction detector may be in use;
- allow the county or municipality to install, maintain, and operate traffic infraction detectors on the right-of-way owned or maintained by the FDOT, county, or municipality in which the traffic infraction detector is to be installed;
- require the county or municipality to make a public announcement and conduct a public awareness campaign of the proposed use of traffic infraction detectors at least 30 days before commencing the enforcement program; and
- establish a fine of \$150 to be assessed against the registered owner of a motor vehicle whose vehicle fails to stop when facing a red light, as determined through use of a traffic infraction detector, but no additional surcharge, fee, or cost may be added to the civil penalty.

The bill provides an exception from any such ordinance for an emergency vehicle responding to an emergency call.

Fines

The fine imposed by the local ordinance is done so in the same manner and is subject to the same limitations as provided for parking violations under s. 316.1967, F.S. The Department’s authority to suspend or revoke a license (contained in ch. 318 and s. 322.27, F.S.) is not applicable to a violation of an ordinance enacted under s. 316.0083, F.S. A violation is not a conviction of the

operator, may not be made a part of the operator's driving record, may not be used for purposes of setting motor vehicle insurance rates, and may not result in points assessed against the operator's driver's license.

Fines assessed under the ordinance are disbursed as follows:

- Three-fifths to be retained by the county or municipality enforcing the ordinance;
- One-fifth to be remitted by the county or municipality to the county court for distribution as provided in s. 318.21, F.S.;⁸
- One-twentieth to be remitted to the Department of Revenue for deposit into the Educational Enhancement Trust Fund of the Department of Education; and
- Three-twentieths to be remitted to the Department of Revenue for deposit into the Department of Health (DOH) Administrative Trust Fund, with the following further direction as provided in s. 395.4036(1), F.S., as to its distribution:
 - Twenty percent distributed to verified trauma centers that have a local funding contribution as of December 31. Distribution of funds is based on trauma caseload volume for the most recent calendar year available.
 - Thirty-nine percent distributed to verified trauma centers based on trauma caseload volume for the most recent calendar year available. Determination of caseload volume for distribution of funds is based on the Department of Health's Trauma Registry date;
 - Thirty-nine percent distributed to verified trauma centers based on severity of trauma patients for the most recent calendar year available. Determination of funds is based on the Department of Health's International Classification Injury Severity Scores or as otherwise specified in s. 395.4036, F.S., as amended by the bill; and
 - Two-percent distributed to non-trauma center public hospitals⁹ based on their proportionate number of emergency-room visits on an annual basis.¹⁰

In addition, the bill redirects two-percent of funds collected under s. 318.15, F.S., and currently distributed to verified trauma centers that have a local funding contribution. The redirected funds are to be distributed to provide an enhanced Medicaid payment to nursing homes that serve residents with brain and spinal cord injuries who are Medicaid recipients.¹¹

⁸ Section 318.21, F.S. contains the general disposition of all civil penalties by county courts.

⁹ The DOH states: "Currently, there are approximately 184 licensed non-trauma center hospitals that are approved to operate emergency room services by AHCA." Analysis of CS/SB 2004 (undated), Florida Department of Health, received by legislative staff on April 1, 2009.

¹⁰ See the DOH's comments in the "Related Issues" section of this analysis. The DOH also states that it "does not currently distribute funding to non-trauma center public hospitals or have regulatory authority over non-trauma center public hospitals. Hospitals are licensed under Chapter 395, Part I, Hospitals and Other Licensed Facilities, by the Agency for Health Care Administration (AHCA)." DOH analysis (see footnote 9).

¹¹ DOH analysis (see footnote 9). The DOH also states that "the DOH Brain and Spinal Cord Injury Program does not, nor does the Office of Trauma, currently provide payments to nursing homes. AHCA provides Medicaid payments to nursing homes that serve residents with brain and spinal cord injuries who are Medicaid recipients. The DOH will be required to develop a Memorandum of Agreement with AHCA and revise internal accounting processes to ensure the transfer of these funds to ACHA to utilize for enhanced Medicaid payment to nursing homes that serve residents with brain and spinal cord injuries." *Id.*

Procedure for Issuance and Contestation of Tickets

The bill cites current statutory procedures addressing liability for payment of parking ticket violations and other parking violations¹² and applies those procedures to violations of ordinances created under s. 316.0083, F.S., with the following additional requirements regarding the information which must be included in the ticket:

- the name and address of the person alleged to be liable as the registered owner or operator of the vehicle involved in the violation;
- the license plate number of the vehicle;
- the violation charged;
- a copy of the recorded image;
- the location where the violation occurred;
- the date and time of the violation;
- information that identifies the device that recorded the violation;
- a signed statement by a specifically trained technician employed by the agency or its contractor that, based on inspection of recorded images, the motor vehicle was being operated in violation of s. 316.075(1)(c), F.S.;
- the amount of the fine;
- the date by which the fine must be paid;
- the procedure for contesting the violation alleged in the ticket; and
- a warning that failure to contest the violation in the manner and time provided is deemed an admission of the liability and that a default may be entered thereon.

The violation is processed by the county or municipality that has jurisdiction over the street or highway where the violation occurred or by any entity authorized by the county or municipality to prepare and mail the ticket. The ticket must be sent by first-class mail to the registered owner of the vehicle involved in the violation no later than 30 days after the date of the violation.

The owner is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer;
- Was, at the time of the violation, reported as stolen;
- Received a Uniform Traffic Citation (UTC) for the alleged violation; or
- Passed through the intersection due to a medical emergency.

The owner of the vehicle must, within 30 days of receipt of notification of the alleged violation, furnish an affidavit to the county or municipality that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the UTC, if issued.

A person may elect to contest the determination that they failed to stop at a red light as evidenced by the traffic infraction detector by electing to appear before any official authorized to adjudicate

¹² Section 316.1967(2)-(5), F.S.

traffic infractions. If the person elects to appear at such hearing, he or she is deemed to have waived the limitation of civil penalties imposed for the violation. The official, after hearing, must determine whether the violation was committed and may impose a civil penalty not to exceed \$150 and order the registered owner of the motor vehicle to attend a basic driver improvement course if the court finds a violation was committed. The official may take appropriate measures to enforce collection of any penalty not paid within the time permitted by the court.

A certificate sworn to or affirmed by a person authorized under s. 316.0083, F.S., who is employed by or under contract with the county or municipality where the infraction occurred, or a fax of such a certificate, that is based upon inspection of photographs or other recorded images produced by the traffic infraction detector, is considered prima facie evidence of the facts contained in the certificate. A photograph or other recorded image evidencing a violation of s. 316.075(1)(c), F.S., must be available for inspection in any proceeding to adjudicate liability for violation of an ordinance enacted under s. 316.0083, F.S.

The bill authorizes counties and municipalities to provide the names of those who have one or more outstanding violations, as recorded by traffic infraction detectors, to the Department of Highway Safety and Motor Vehicle's list of outstanding violations as authorized under s. 316.1967, F.S. Pursuant to s. 320.03(8), F.S., if a person's name appears on the Department's list, a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the clerk showing that the fines outstanding have been paid.

The bill provides that if the driver of the motor vehicle received a citation from a traffic enforcement officer at the time of the violation, a ticket may not be issued.

Oversight and Accountability

The bill authorizes the placement and installation of traffic infraction detectors on the State Highway System, county roads, and municipal streets under specifications developed by FDOT, so long as safety and operation of the road facility is not impaired. Any traffic infraction detector installed on the State Highway System must meet requirements established by the FDOT and must be tested at regular intervals according to procedures prescribed by FDOT. The bill provides a 'grandfather clause' for those counties and municipalities that have already instituted a traffic infraction detector program. These counties and municipalities are not required to meet the uniform system requirements provided by the bill until September 30, 2010.

The bill provides for a complaint process for complaints that a county or municipality is employing traffic infraction detectors for purposes other than the promotion of public health, welfare, and safety or in a manner inconsistent with the law. A complaint may be submitted to the governing board of the county or municipality.

Each county or municipality that operates a traffic infraction detector is required to submit an annual report to the Department, which must contain the following:

- the complaints received, along with any investigation and corrective action taken by the governing body;
- the results of using the traffic infraction detector; and

- the procedures for enforcement.

The Department must submit an annual summary report to the Governor and Legislature which must contain:

- a review of the information received from the counties and municipalities;
- a description of the enhancement of the traffic safety and enforcement programs; and
- recommendations, including any necessary legislation.

The first report must be submitted on or before December 1, 2010. After reviewing the report, the Legislature may exclude a county or municipality from further participation in the program.

The bill provides a severability clause and is effective upon becoming law.

Other Potential Implications:

Approximately 35 counties and municipalities currently operate red light camera systems in the state of Florida that will be affected by the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent local governments choose to enact ordinances to permit the use of traffic infraction detectors there may be a fiscal impact to the private sector. Traffic infraction detectors will increase the scope of a local government's enforcement of red light violations, therefore increasing the possibility of a motor vehicle owner receiving a ticket for a red light violation. The fine for the ordinance violation, as determined by a traffic infraction detector, is \$150. If a person chooses to contest the ticket, they may appear before an official authorized to adjudicate traffic infractions, but they are deemed to have

waived the limitation of civil penalties imposed for the violation and, if the ticket is upheld by the official, may be charged the \$150 fine and ordered to attend a basic driver improvement course.

The DOH states that “[c]itizens served by the DOH, Brain and Spinal Cord Injury Program, Bureau of EMS, EMS providers, trauma centers, non-trauma center public hospitals and nursing homes that serve brain and spinal cord injured patients will benefit from the increased funding, which is utilized to ensure the continued availability and accessibility of the services provided by the these entities.”¹³

C. Government Sector Impact:

To the extent local governments choose to enact ordinances to permit the use of traffic infraction detectors there may be a fiscal impact to the local governments for the cost of the acquisition, installation and maintenance of the devices, the amount of which will vary depending on the negotiated agreement between the local government and any private vendor providing the equipment and service. The price of a traffic infraction detector ranges from \$50,000 to \$100,000 each. There may also be installation, maintenance and monitoring fees, based on the negotiated agreement.

In 2007, there were 376,673 citations issued statewide by law enforcement officers for violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver’s failure to stop at a traffic signal when so directed. Due to the technological advantage of red light camera systems in enforcing red light running violations, estimating the margin of additional violations with any degree of accuracy is difficult. Further complicating any estimation, it is not clear how effective red light camera systems would be in modifying driver behavior, but some reduction in the initial number of violations should be expected subsequent to the implementation of a red light camera system.

The Department of Education Educational Enhancement Trust Fund will receive one-twentieth of all revenue generated by the bill.

The Department of Health Administrative Trust Fund will receive three-twentieths of all revenue generated by the bill. Specifically, the fines are to be distributed as follows:

- 20 percent to verified trauma centers that have a local funding contribution as of December 31. Distribution of funds is based on trauma caseload volume for the most recent calendar year available.
- 39 percent to verified trauma centers based on trauma caseload volume for the most recent calendar year available. Determination of caseload volume for distribution of funds is based on the Department of Health’s Trauma Registry date;
- 39 percent to verified trauma centers based on severity of trauma patients for the most recent calendar year available. Determination of funds is based on the Department of Health’s International Classification Injury Severity Scores or as otherwise specified in s. 395.4036, F.S., as amended by the bill; and

¹³ DOH analysis (see footnote 9).

- 2 percent to non-trauma center public hospitals based on their proportionate number of emergency-room visits on an annual basis.

The bill provides that three-fifths of the revenue generated by the tickets is retained by the local jurisdiction. As a result, there may be an increase in fine revenue for any local governments that choose to enact ordinances permitting the use of traffic infraction detectors. The amount of revenue is indeterminate, as the number of ordinance violations to be issued is unknown and depends on driver awareness and future behavior.

The remaining one-fifth of the revenue collected is distributed pursuant to s. 318.21, F.S., which contains the general disposition of all civil penalties by county courts. Revenue distributed under this section benefits counties and municipalities as well as numerous judicial and administrative services, law enforcement, health and emergency services, and educational and vocational services.

In addition, the bill redirects two-percent of funds collected under s. 318.15, F.S., and currently distributed to verified trauma centers that have a local funding contribution. The redirected funds are to be distributed to provide an enhanced Medicaid payment to nursing homes that serve residents with brain and spinal cord injuries who are Medicaid recipients.¹⁴

In its analysis of the bill, the Department of Health (DOH) states:

...[S]hould ... new revenues collected under ... [s. 316.083, F.S.], combined with the anticipated revenues of approximately \$5.5 million generated under ... [s. 318.18(15) F.S.], exceed the \$7.5 million in budget authority in the DOH Administrative Trust Fund, DOH will not have sufficient budget authority to pay out the increased revenues to the trauma centers and the non-trauma center public hospitals....

DOH will also need additional appropriation/budget authority for the new revenues deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund and EMS Trust Fund to ensure these funds collected from implementation of this act can be distributed and utilized for the purposes identified in ... [s. 318.21, F.S.]

With the proposed amendments to ... [s. 395.4036, F.S.] in this legislation, the amount of funding currently going to the verified trauma centers would be reduced by two percent. As mentioned above, the funding expected under ... [s. 318.18(15), F.S.] for FY 2008-09 is approximately \$5.2 to \$5.5 million. [Funding] ... for Florida's verified Trauma Centers will be reduced by \$110,000, which will be distributed to the nursing homes in accordance with this act.¹⁵

¹⁴ All DOH information in this section is from the DOH analysis (see footnote 9).

¹⁵ *Id.*

The DOH indicates further that the bill will have a fiscal impact on the department. The DOH estimates it will need a total of approximately 0.25 FTE in the Office of Trauma, Bureau of EMS and the Brain and Spinal Cord Injury Program, plus another 0.25 FTE in other areas within the DOH (Budget and Finance and Accounting), which represents a total of approximately 2080 hours DOH work time. Since the analysis is based on an earlier version of the bill it is uncertain if the projected need for FTE remains the same. The DOH states that these additional administrative costs are for staff work related to this legislation to promulgate rule, revise the internal process for the calculation and distribution of the payments to the verified trauma centers and non-trauma center public hospitals, and the accounting and transfer of the portion of these funds to the AHCA. The DOH further states that there is no funding stream in the distribution formula to offset these additional administrative costs.¹⁶

The bill requires the Department to collect reports from municipalities and to prepare an annual report for the Legislature. The bill also requires the FDOT to prepare standards for traffic infraction detectors.

The DOH states that the Department of Revenue (DOR) may incur a fiscal impact in the additional remittance of additional fines to be deposited in the Department of Health, Administrative Trust Fund, Brain and Spinal Cord Injury Rehabilitation Trust Fund and the Emergency Medical Services Trust Fund.¹⁷ However, it does not appear the DOR has provided an analysis of the bill.

Local court systems may see a caseload increase, in the event that vehicle operators choose to contest tickets as permitted under the bill. Although the bill permits the court to impose a penalty “not to exceed \$150” there may be an indeterminate cost to the local court system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOH states that “[t]he bill does not provide any requirement for the public hospitals that would receive funding to demonstrate any interest in becoming a trauma center, such as having submitted a letter of intent to become a verified trauma center in accordance with ... [s. 395.4025(2)(a), F.S.]” The DOH further states that the Legislature may want to consider “a distribution methodology that provides funding based on the eligible public hospitals’ proportionate number of *trauma related* emergency room visits on an annual basis, rather than all emergency room visits.”¹⁸

The DOH states that “[t]he funding distribution methodology for the portion of the funds designated for enhanced payments to nursing homes in Section 8 of the bill is placed in ...

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ All comments in this section are from the DOH analysis (see footnote 9).

[s. 395.4036, F.S., relating to trauma payments].” The DOH believes that “[t]he intent of this subsection is not clear as to whether this funding is to be distributed to all nursing homes who serve Medicaid eligible individuals who have sustained a brain and spinal cord injury or, consistent with the limited nature of this funding, only to nursing homes that meet the DOH’s eligibility criteria for designation as a rehabilitation program to serve ventilator-dependent individuals who have received a traumatic brain and spinal cord injury, as defined in ... [s. 381.745, F.S.]”

The DOH states:

Rehabilitation centers are reluctant to take ventilator-dependent patients from trauma centers because the current regulations require short term stays and do not have adequate reimbursement, which prevents weaning the person off the ventilator and providing the rehabilitation necessary to return them to the community, thus becoming discharge problems for the rehabilitation center. Nursing homes are also reluctant to take these patients because the Medicaid reimbursement is basically the same as for non-ventilator patients, although the cost of care is significantly higher and certainly does not cover a rehabilitation program. Therefore, there are currently a significant percentage of intensive care unit beds which have ventilator patients that could be discharged but often remain on these units unfunded for long periods of time. If and when these patients are finally discharged to nursing homes, they remain there for life developing significant and costly complications.

All of this results in reducing the effectiveness of the trauma system by tying up what would normally be available ICU beds in trauma centers to be utilized by individuals who sustain traumatic brain injuries in communities across the state daily. In addition, it is adding tremendous cost to the medical system by having non-critical patients in ICU beds and life term patients in nursing homes that could otherwise be discharged, many of whom are young adults who have suffered traumatic brain and spinal cord injuries. Most significantly, it deprives these ventilator-dependent individuals from being weaned off of their respirators and facilitating their community reintegration and eligibility for programs funded by the Brain and Spinal Cord Injury Trust Fund.

For the aforementioned reasons, it may be beneficial to require that to be eligible to receive the funding, nursing homes meet the eligibility criteria created by rule by DOH for a state-designated rehabilitation program to serve ventilator-dependent persons who have sustained traumatic brain and spinal cord injuries as defined in ... [s. 381.745, F.S.] The enhanced payments for nursing homes that meet DOH’s designated ventilator-dependent rehabilitation program standards of care to become specialized facilities would help ensure that they provide services to ventilator-dependent residents who are Medicaid eligible recipients, facilitate the discharge of these individuals from trauma centers ICUs, wean these individuals from ventilator-dependency, and facilitate eligibility for community reintegration and for programs funded by the DOH Brain and Spinal Cord Injury Trust Fund, including the Traumatic Brain and Spinal Cord Injury Home and Community-Based Medicaid Waiver Program.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on 4/15/09:**

- Clarifies that the civil penalty for a red-light ticket cannot exceed \$150 (deletes reference to “plus costs”).
- Provides that an ordinance may provide for a county or municipality to install, maintain, and operate a detector on a DOT right-of-way or right-of-way owned by the county or municipality (in the previous version of the bill this was required).
- Replaces registration number with license plate number in the information that must be included in the red-light ticket.
- Requires that detailed information supporting a medical emergency exemption from a red-light violation must be included in a required affidavit establishing the medical emergency (detailed information was not required regarding this exemption in the previous version of the bill).
- Provides that an official authorized by law to preside over a hearing that adjudicates traffic infractions can hear a contested red-light ticket (rather than the requirement in the previous version of the bill that the hearing be conducted by a judge).
- Provides that if the driver of the motor vehicle received a citation from a traffic enforcement officer at the time of the red light violation, a ticket may not be issued as provided in s. 316.0083, F.S., which creates the Mark Wandall Traffic Safety Program.
- Provides that the Department of Education Educational Enhancement Trust Fund will receive one-twentieth of all revenue generated by the bill, and the Department of Health Administrative Trust Fund will receive three-twentieths of all revenue generated by the bill (in the previous bill, there was no reference to the Educational Enhancement Trust Fund and the Department of Health Administrative Trust Fund received one-fifth of all revenue generated by the bill).
- Clarifies terminology relevant to use and distribution of funds deposited in the Department of Health Administrative Trust Fund.

CS by Transportation on 3/17/09:

- Preempts the regulation and use of traffic enforcement cameras to the state.
- Increases the fine for failing to stop at a steady red light, as determined through the use of a traffic infraction detector, (from \$125 to \$150).
- Requires the court to order to attend a basic driver improvement course if the person was determined by the court to have committed a violation the person contested.
- Changes the disbursement of the fines. Counties and municipalities will retain three-fifths of the fine (from 100 percent), one-fifth remitted to the county courts for distribution as provided in s. 318.21, F.S., and one-fifth to the Department of Health Administrative Trust Fund.
- Authorizes, per ordinance, the county or municipality to install, maintain, and operate traffic infraction detectors on the right-of-way owned or maintained by FDOT, county, or municipality in which the traffic infraction detector is to be installed.

- Specifies placement and installation of traffic infraction detectors is allowed on the State Highway System, county roads and municipal streets under FDOT specifications, so long as safety and operation of the road facility is not impaired.
- Provides a ‘grandfather clause’ for those Florida municipalities already engaged in the use of traffic infraction detectors.
- Lengthens the amount of time counties and cities have to notify offenders (from 14 days to 30 days).
- Adds another exemption to the permitted reasons a person might violate a red light (“medical emergency”).
- Lengthens the period an alleged violator has to prepare an affidavit identifying a valid reason for violating a red light (from 20 to 30 days).

B. Amendments:

None.