

By Senator Altman

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1 A bill to be entitled
2 An act relating to uniform traffic control; creating
3 the "Mark Wandall Traffic Safety Act"; amending s.
4 316.003, F.S.; defining the term "traffic infraction
5 detector"; creating s. 316.0083, F.S.; creating the
6 Mark Wandall Traffic Safety Program to be administered
7 by the Department of Highway Safety and Motor
8 Vehicles; requiring a county or municipality to enact
9 an ordinance in order to use a traffic infraction
10 detector to identify a motor vehicle that fails to
11 stop at a traffic control signal steady red light;
12 requiring authorization of a traffic infraction
13 enforcement officer to issue and enforce a ticket for
14 such violation; requiring signage; requiring certain
15 public awareness procedures; requiring the ordinance
16 to establish a fine of a certain amount; prohibiting
17 additional charges; exempting emergency vehicles;
18 providing that the registered owner of the motor
19 vehicle involved in the violation is responsible and
20 liable for payment of the fine assessed; providing
21 exceptions; providing procedures for disposition and
22 enforcement of tickets; providing for disposition of
23 revenue; providing complaint procedures; providing for
24 the Legislature to exclude a county or municipality
25 from the program; requiring reports from participating
26 municipalities and counties to the department;
27 requiring the department to make reports to the
28 Governor and the Legislature; amending s. 316.0745,
29 F.S.; providing that traffic infraction detectors must

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30 meet certain requirements; amending s. 316.1967, F.S.;

31 providing for inclusion of persons with outstanding

32 violations in a list sent to the department for

33 enforcement purposes; amending s. 322.264, F.S.;

34 revising the definition of the term "habitual traffic

35 offender" to include a certain number of violations of

36 a traffic control signal steady red light indication

37 within a certain timeframe; reenacting ss. 322.27(5)

38 and 322.34(1), (2), (5), and (8)(a), F.S., relating to

39 the authority of the Department of Highway Safety and

40 Motor Vehicles to suspend or revoke a driver license

41 and driving while a driver license is suspended,

42 revoked, canceled, or disqualified, for the purpose of

43 incorporating the amendment to s. 322.264, F.S., in

44 references thereto; providing for severability;

45 providing an effective date.

46

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

48

49 Section 1. This act may be cited as the "Mark Wandall

50 Traffic Safety Act."

51 Section 2. Subsection (86) is added to section 316.003,

52 Florida Statutes, to read:

53 316.003 Definitions.—The following words and phrases, when

54 used in this chapter, shall have the meanings respectively

55 ascribed to them in this section, except where the context

56 otherwise requires:

57 (86) TRAFFIC INFRACTION DETECTOR.—A device that uses a

58 vehicle sensor installed to work in conjunction with a traffic

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59 control signal and a camera synchronized to automatically record
60 two or more sequenced photographic or electronic images or
61 streaming video of only the rear of a motor vehicle at the time
62 the vehicle fails to stop behind the stop bar or clearly marked
63 stop line when facing a traffic control signal steady red light.
64 Any citation issued by the use of a traffic infraction detector
65 must include a photograph or other recorded image showing both
66 the license tag of the offending vehicle and the traffic control
67 device being violated.

68 Section 3. Section 316.0083, Florida Statutes, is created
69 to read:

70 316.0083 Mark Wandall Traffic Safety Program;
71 administration; report.-

72 (1) There is created the Mark Wandall Traffic Safety
73 Program governing the operation of traffic infraction detectors.
74 The program shall be administered by the Department of Highway
75 Safety and Motor Vehicles and shall include the following
76 provisions:

77 (a) In order to use a traffic infraction detector, a county
78 or municipality must enact an ordinance that provides for the
79 use of a traffic infraction detector to enforce s.
80 316.075(1)(c), which requires the driver of a vehicle to stop
81 the vehicle when facing a traffic control signal steady red
82 light on the streets and highways under the jurisdiction of the
83 county or municipality. A county or municipality that operates a
84 traffic infraction detector must authorize a traffic infraction
85 enforcement officer to issue a ticket for a violation of s.
86 316.075(1)(c) and to enforce the payment of the ticket for such
87 violation. This paragraph does not authorize a traffic

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88 infraction enforcement officer to carry a firearm or other
89 weapon and does not authorize such an officer to make arrests.
90 The ordinance must require signs to be posted at locations
91 designated by the county or municipality providing notification
92 that a traffic infraction detector may be in use. Such signage
93 must conform to the standards and requirements adopted by the
94 Department of Transportation under s. 316.0745. The ordinance
95 must also require that the county or municipality make a public
96 announcement and conduct a public awareness campaign of the
97 proposed use of traffic infraction detectors at least 30 days
98 before commencing the enforcement program. In addition, the
99 ordinance must establish a fine of \$125 to be assessed against
100 the registered owner of a motor vehicle that fails to stop when
101 facing a traffic control signal steady red light as determined
102 through the use of a traffic infraction detector. Any other
103 provision of law to the contrary notwithstanding, an additional
104 surcharge, fee, or cost may not be added to the civil penalty
105 authorized by this paragraph.

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

108 (c) A county or municipality must adopt an ordinance under
109 this section that provides for the use of a traffic infraction
110 detector in order to impose a fine on the registered owner of a
111 motor vehicle for a violation of s. 316.075(1)(c). The fine
112 shall be imposed in the same manner and is subject to the same
113 limitations as provided for parking violations under s.
114 316.1967. Except as specifically provided in this section,
115 chapter 318 and s. 322.27 do not apply to a violation of s.
116 316.075(1)(c) for which a ticket has been issued under an

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117 ordinance enacted pursuant to this section. Enforcement of a
118 ticket issued under the ordinance is not a conviction of the
119 operator of the motor vehicle, may not be made a part of the
120 driving record of the operator, and may not be used for purposes
121 of setting motor vehicle insurance rates. Points under s. 322.27
122 may not be assessed based upon such enforcement.

123 (d) The procedures set forth in s. 316.1967(2)-(5) apply to
124 an ordinance enacted pursuant to this section, except that the
125 ticket must contain the name and address of the person alleged
126 to be liable as the registered owner of the motor vehicle
127 involved in the violation, the registration number of the motor
128 vehicle, the violation charged, a copy of the photographs or
129 other recorded images, the location where the violation
130 occurred, the date and time of the violation, information that
131 identifies the device that recorded the violation, and a signed
132 statement by a specifically trained technician employed by the
133 agency or its contractor that, based on inspection of
134 photographs or other recorded images, the motor vehicle was
135 being operated in violation of s. 316.075(1)(c). The ticket must
136 advise the registered owner of the motor vehicle involved in the
137 violation of the amount of the fine, the date by which the fine
138 must be paid, and the procedure for contesting the violation
139 alleged in the ticket. The ticket must contain a warning that
140 failure to contest the violation in the manner and time provided
141 is deemed an admission of the liability and that a default may
142 be entered thereon. The violation shall be processed by the
143 county or municipality that has jurisdiction over the street or
144 highway where the violation occurred or by any entity authorized
145 by the county or municipality to prepare and mail the ticket.

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146 (e) The ticket shall be sent by first-class mail addressed
147 to the registered owner of the motor vehicle and postmarked no
148 later than 14 days after the date of the violation.

149 (f)1. The registered owner of the motor vehicle involved in
150 a violation is responsible and liable for payment of the fine
151 assessed pursuant to this section unless the owner can establish
152 that:

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

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

158 c. The motor vehicle was stolen at the time of the alleged
159 violation; or

160 d. A uniform traffic citation was issued to the driver of
161 the motor vehicle for the alleged violation of s. 316.075(1)(c).

162 2. In order to establish any such fact, the registered
163 owner of the vehicle must, within 20 days after receipt of
164 notification of the alleged violation, furnish to the county or
165 municipality, as appropriate, an affidavit that sets forth
166 detailed information supporting an exemption as provided in sub-
167 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,
168 or sub-subparagraph 1.d. For an exemption under sub-subparagraph
169 1.c., the affidavit must set forth that the vehicle was stolen
170 and be accompanied by a copy of the police report indicating
171 that the vehicle was stolen at the time of the alleged
172 violation. For an exemption under sub-subparagraph 1.d., the
173 affidavit must set forth that a citation was issued and be
174 accompanied by a copy of the citation indicating the time of the

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175 alleged violation and the location of the intersection where it
176 occurred.

177 (g) A person may contest the determination that such person
178 failed to stop at a traffic control signal steady red light as
179 evidenced by a traffic infraction detector by electing to appear
180 before any judge authorized by law to preside over a court
181 hearing that adjudicates traffic infractions. A person who
182 elects to appear before the court to present evidence is deemed
183 to have waived the limitation of civil penalties imposed for the
184 violation. The court, after hearing, shall determine whether the
185 violation was committed and may impose a civil penalty not to
186 exceed \$125 plus costs. The court may take appropriate measures
187 to enforce collection of any penalty not paid within the time
188 permitted by the court.

189 (h) A certificate sworn to or affirmed by a person
190 authorized under this section who is employed by or under
191 contract with the county or municipality where the infraction
192 occurred, or a facsimile thereof that is based upon inspection
193 of photographs or other recorded images produced by a traffic
194 infraction detector, is prima facie evidence of the facts
195 contained in the certificate. A photograph or other recorded
196 image evidencing a violation of s. 316.075(1)(c) must be
197 available for inspection in any proceeding to adjudicate
198 liability under an ordinance enacted pursuant to this section.

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

203 (j) If the driver of the motor vehicle received a citation

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204 from a traffic enforcement officer at the time of the violation,
205 a ticket may not be issued pursuant to this section.

206 (2) The fine imposed pursuant to paragraph (1)(a) or
207 paragraph (1)(g) shall be retained by the county or municipality
208 enforcing the ordinance enacted pursuant to this section.

209 (3) A complaint that a county or municipality is employing
210 traffic infraction detectors for purposes other than the
211 promotion of public health, welfare, and safety or in a manner
212 inconsistent with this section may be submitted to the governing
213 body of such county or municipality. Such complaints, along with
214 any investigation and corrective action taken by the county or
215 municipal governing body, shall be included in the annual report
216 to the department and in the department's annual summary report
217 to the Governor, the President of the Senate, and the Speaker of
218 the House of Representatives, as required by this section. Based
219 on its review of the report, the Legislature may exclude a
220 county or municipality from further participation in the
221 program.

222 (4) (a) Each county or municipality that operates a traffic
223 infraction detector shall submit an annual report to the
224 department that details the results of using the traffic
225 infraction detector and the procedures for enforcement.

226 (b) The department shall provide an annual summary report
227 to the Governor, the President of the Senate, and the Speaker of
228 the House of Representatives regarding the use and operation of
229 traffic infraction detectors under this section. The summary
230 report must include a review of the information submitted to the
231 department by the counties and municipalities and must describe
232 the enhancement of the traffic safety and enforcement programs.

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233 The department shall report its recommendations, including any
234 necessary legislation, on or before December 1, 2010, to the
235 Governor, the President of the Senate, and the Speaker of the
236 House of Representatives.

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

239 316.0745 Uniform signals and devices.—

240 (6) (a) Any system of traffic control devices controlled and
241 operated from a remote location by electronic computers or
242 similar devices must ~~shall~~ meet all requirements established for
243 the uniform system, and, if where such a system affects ~~systems~~
244 ~~affect~~ the movement of traffic on state roads, the design of the
245 system must ~~shall~~ be reviewed and approved by the Department of
246 Transportation.

247 (b) Any traffic infraction detector deployed on the streets
248 and highways of the state must meet requirements established by
249 the Department of Transportation and must be tested at regular
250 intervals according to procedures prescribed by that department.

251 Section 5. Subsection (6) of section 316.1967, Florida
252 Statutes, is amended to read:

253 316.1967 Liability for payment of parking ticket violations
254 and other ~~parking~~ violations.—

255 (6) Any county or municipality may provide by ordinance
256 that the clerk of the court or the traffic violations bureau
257 shall supply the department with a magnetically encoded computer
258 tape reel or cartridge or send by other electronic means data
259 which is machine readable by the installed computer system at
260 the department, listing persons who have three or more
261 outstanding parking violations, including violations of s.

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262 316.1955, or who have one or more outstanding tickets for a
263 violation of a traffic control signal steady red light
264 indication issued pursuant to an ordinance adopted under s.
265 316.0083. Each county shall provide by ordinance that the clerk
266 of the court or the traffic violations bureau shall supply the
267 department with a magnetically encoded computer tape reel or
268 cartridge or send by other electronic means data that is machine
269 readable by the installed computer system at the department,
270 listing persons who have any outstanding violations of s.
271 316.1955 or any similar local ordinance that regulates parking
272 in spaces designated for use by persons who have disabilities.
273 The department shall mark the appropriate registration records
274 of persons who are so reported. Section 320.03(8) applies to
275 each person whose name appears on the list.

276 Section 6. Subsection (8) of section 320.03, Florida
277 Statutes, reads:

278 320.03 Registration; duties of tax collectors;
279 International Registration Plan.—

280 (8) If the applicant's name appears on the list referred to
281 in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license
282 plate or revalidation sticker may not be issued until that
283 person's name no longer appears on the list or until the person
284 presents a receipt from the clerk showing that the fines
285 outstanding have been paid. This subsection does not apply to
286 the owner of a leased vehicle if the vehicle is registered in
287 the name of the lessee of the vehicle. The tax collector and the
288 clerk of the court are each entitled to receive monthly, as
289 costs for implementing and administering this subsection, 10
290 percent of the civil penalties and fines recovered from such

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291 persons. As used in this subsection, the term "civil penalties
292 and fines" does not include a wrecker operator's lien as
293 described in s. 713.78(13). If the tax collector has private tag
294 agents, such tag agents are entitled to receive a pro rata share
295 of the amount paid to the tax collector, based upon the
296 percentage of license plates and revalidation stickers issued by
297 the tag agent compared to the total issued within the county.
298 The authority of any private agent to issue license plates shall
299 be revoked, after notice and a hearing as provided in chapter
300 120, if he or she issues any license plate or revalidation
301 sticker contrary to the provisions of this subsection. This
302 section applies only to the annual renewal in the owner's birth
303 month of a motor vehicle registration and does not apply to the
304 transfer of a registration of a motor vehicle sold by a motor
305 vehicle dealer licensed under this chapter, except for the
306 transfer of registrations which is inclusive of the annual
307 renewals. This section does not affect the issuance of the title
308 to a motor vehicle, notwithstanding s. 319.23(7)(b).

309 Section 7. Section 322.264, Florida Statutes, is amended to
310 read:

311 322.264 "Habitual traffic offender" defined.—A "habitual
312 traffic offender" is any person whose record, as maintained by
313 the Department of Highway Safety and Motor Vehicles, shows that
314 such person has accumulated the specified number of convictions
315 for offenses described in subsection (1) or subsection (2)
316 within a 5-year period or the specified number of convictions
317 for offenses described in subsection (3) within a 3-year period:

318 (1) Three or more convictions of any one or more of the
319 following offenses arising out of separate acts:

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320 (a) Voluntary or involuntary manslaughter resulting from
 321 the operation of a motor vehicle;

322 (b) Any violation of s. 316.193, former s. 316.1931, or
 323 former s. 860.01;

324 (c) Any felony in the commission of which a motor vehicle
 325 is used;

326 (d) Driving a motor vehicle while his or her license is
 327 suspended or revoked;

328 (e) Failing to stop and render aid as required under the
 329 laws of this state in the event of a motor vehicle crash
 330 resulting in the death or personal injury of another; or

331 (f) Driving a commercial motor vehicle while his or her
 332 privilege is disqualified.

333 (2) Fifteen convictions for moving traffic offenses for
 334 which points may be assessed as set forth in s. 322.27,
 335 including those offenses in subsection (1).

336 (3) Three convictions under s. 316.075 for a violation of a
 337 traffic control signal steady red light indication.

338
 339 Any violation of any federal law, any law of another state or
 340 country, or any valid ordinance of a municipality or county of
 341 another state similar to a statutory prohibition specified in
 342 subsection (1), ~~or~~ subsection (2), or subsection (3) shall be
 343 counted as a violation of such prohibition. In computing the
 344 number of convictions, all convictions during the 5 years
 345 previous to July 1, 1972, will be used, provided at least one
 346 conviction occurs after that date. In computing the number of
 347 convictions for offenses listed in subsection (3), all
 348 convictions during the 3 years preceding July 1, 2009, will be

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349 used, provided at least one conviction occurs after that date.

350 The fact that previous convictions may have resulted in
351 suspension, revocation, or disqualification under another
352 section does not exempt them from being used for suspension or
353 revocation under this section as a habitual offender.

354 Section 8. For the purpose of incorporating the amendment
355 made by this act to section 322.264, Florida Statutes, in a
356 reference thereto, subsection (5) of section 322.27, Florida
357 Statutes, is reenacted to read:

358 322.27 Authority of department to suspend or revoke
359 license.—

360 (5) The department shall revoke the license of any person
361 designated a habitual offender, as set forth in s. 322.264, and
362 such person shall not be eligible to be relicensed for a minimum
363 of 5 years from the date of revocation, except as provided for
364 in s. 322.271. Any person whose license is revoked may, by
365 petition to the department, show cause why his or her license
366 should not be revoked.

367 Section 9. For the purpose of incorporating the amendment
368 made by this act to section 322.264, Florida Statutes, in
369 references thereto, subsections (1), (2), and (5) and paragraph
370 (a) of subsection (8) of section 322.34, Florida Statutes, are
371 reenacted to read:

372 322.34 Driving while license suspended, revoked, canceled,
373 or disqualified.—

374 (1) Except as provided in subsection (2), any person whose
375 driver's license or driving privilege has been canceled,
376 suspended, or revoked, except a "habitual traffic offender" as
377 defined in s. 322.264, who drives a vehicle upon the highways of

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378 this state while such license or privilege is canceled,
379 suspended, or revoked is guilty of a moving violation,
380 punishable as provided in chapter 318.

381 (2) Any person whose driver's license or driving privilege
382 has been canceled, suspended, or revoked as provided by law,
383 except persons defined in s. 322.264, who, knowing of such
384 cancellation, suspension, or revocation, drives any motor
385 vehicle upon the highways of this state while such license or
386 privilege is canceled, suspended, or revoked, upon:

387 (a) A first conviction is guilty of a misdemeanor of the
388 second degree, punishable as provided in s. 775.082 or s.
389 775.083.

390 (b) A second conviction is guilty of a misdemeanor of the
391 first degree, punishable as provided in s. 775.082 or s.
392 775.083.

393 (c) A third or subsequent conviction is guilty of a felony
394 of the third degree, punishable as provided in s. 775.082, s.
395 775.083, or s. 775.084.

396
397 The element of knowledge is satisfied if the person has been
398 previously cited as provided in subsection (1); or the person
399 admits to knowledge of the cancellation, suspension, or
400 revocation; or the person received notice as provided in
401 subsection (4). There shall be a rebuttable presumption that the
402 knowledge requirement is satisfied if a judgment or order as
403 provided in subsection (4) appears in the department's records
404 for any case except for one involving a suspension by the
405 department for failure to pay a traffic fine or for a financial
406 responsibility violation.

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407 (5) Any person whose driver's license has been revoked
408 pursuant to s. 322.264 (habitual offender) and who drives any
409 motor vehicle upon the highways of this state while such license
410 is revoked is guilty of a felony of the third degree, punishable
411 as provided in s. 775.082, s. 775.083, or s. 775.084.

412 (8) (a) Upon the arrest of a person for the offense of
413 driving while the person's driver's license or driving privilege
414 is suspended or revoked, the arresting officer shall determine:

415 1. Whether the person's driver's license is suspended or
416 revoked.

417 2. Whether the person's driver's license has remained
418 suspended or revoked since a conviction for the offense of
419 driving with a suspended or revoked license.

420 3. Whether the suspension or revocation was made under s.
421 316.646 or s. 627.733, relating to failure to maintain required
422 security, or under s. 322.264, relating to habitual traffic
423 offenders.

424 4. Whether the driver is the registered owner or coowner of
425 the vehicle.

426 Section 10. If any provision of this act or its application
427 to any person or circumstance is held invalid, the invalidity
428 shall not affect other provisions or applications of this act
429 which can be given effect without the invalid provision or
430 application, and to this end the provisions of this act are
431 declared severable.

432 Section 11. This act shall take effect upon becoming a law.