

By the Committees on Criminal Justice; and Transportation; and
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. 316.0076, F.S.; preempting to
6 the state the use of cameras to enforce traffic laws;
7 creating s. 316.0083, F.S.; creating the Mark Wandall
8 Traffic Safety Program to be administered by the
9 Department of Transportation; requiring a county or
10 municipality to enact an ordinance in order to use a
11 traffic infraction detector to identify a motor
12 vehicle that fails to stop at a traffic control signal
13 steady red light; requiring authorization of a traffic
14 infraction enforcement officer or a code enforcement
15 officer to issue and enforce a ticket for such
16 violation; requiring such detectors to meet department
17 contract specifications; requiring signage; requiring
18 certain public awareness procedures; requiring the
19 ordinance to establish a fine of a certain amount;
20 permitting the ordinance to provide for installing,
21 maintaining, and operating such detectors on rights-
22 of-way owned or maintained by the Department of
23 Transportation or the county; requiring the county or
24 Department of Transportation to issue permits for the
25 installation; prohibiting additional charges;
26 exempting emergency vehicles; providing that the
27 registered owner of the motor vehicle involved in the
28 violation is responsible and liable for payment of the
29 fine assessed; providing exceptions; providing

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30 procedures for disposition and enforcement of tickets;
31 providing for disposition of revenue collected;
32 providing complaint procedures; providing for the
33 Legislature to exclude a county or municipality from
34 the program; requiring reports from participating
35 municipalities and counties to the department;
36 requiring the department to make reports to the
37 Governor and the Legislature; amending s. 316.0745,
38 F.S.; providing that traffic infraction detectors must
39 meet certain specifications; providing for preexisting
40 equipment; creating s. 316.0776, F.S.; providing for
41 placement and installation of detectors on certain
42 roads; amending s. 316.1967, F.S.; providing for
43 inclusion of persons having outstanding violations in
44 a list sent to the department for enforcement
45 purposes; amending s. 395.4036, F.S.; providing for
46 distribution of funds to trauma centers, certain
47 hospitals, and certain nursing homes; reenacting s.
48 320.03(8), F.S., relating to the duties of tax
49 collectors relative to motor vehicle registration and
50 license plate distribution, to incorporate the
51 amendments made to s. 316.1967, F.S., in a reference
52 thereto; providing for severability; providing an
53 effective date.

54
55 Be It Enacted by the Legislature of the State of Florida:

56
57 Section 1. This act may be cited as the "Mark Wandall
58 Traffic Safety Act."

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

61 316.003 Definitions.—The following words and phrases, when
62 used in this chapter, shall have the meanings respectively
63 ascribed to them in this section, except where the context
64 otherwise requires:

65 (86) TRAFFIC INFRACTION DETECTOR.—A vehicle sensor
66 installed to work in conjunction with a traffic control signal
67 and a camera or cameras synchronized to automatically record two
68 or more sequenced photographic or electronic images or streaming
69 video of only the rear of a motor vehicle at the time the
70 vehicle fails to stop behind the stop bar or clearly marked stop
71 line when facing a traffic control signal steady red light. Any
72 ticket issued by the use of a traffic infraction detector must
73 include a photograph or other recorded image showing both the
74 license tag of the offending vehicle and the traffic control
75 device being violated.

76 Section 3. Section 316.0076, Florida Statutes, is created
77 to read:

78 316.0076 Regulation and use of cameras.—Regulation and use
79 of cameras for enforcing the provisions of this chapter are
80 expressly preempted to the state.

81 Section 4. Section 316.0083, Florida Statutes, is created
82 to read:

83 316.0083 Mark Wandall Traffic Safety Program;
84 administration; report.—

85 (1) There is created the Mark Wandall Traffic Safety
86 Program governing the operation of traffic infraction detectors.
87 The program shall be administered by the Department of

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88 Transportation, shall be adopted by local ordinances, as in
89 316.0776, and include the following provisions:

90 (a) In order to use a traffic infraction detector, a county
91 or municipality must enact an ordinance that provides for the
92 use of a traffic infraction detector to enforce s.
93 316.075(1)(c), which requires the driver of a vehicle to stop
94 the vehicle when facing a traffic control signal steady red
95 light on the streets and highways under the jurisdiction of the
96 county or municipality. The traffic infraction detector must
97 conform to any contract specifications adopted by the Department
98 of Transportation under s. 316.0776. A county or municipality
99 that operates a traffic infraction detector must authorize a
100 traffic infraction enforcement officer or a code enforcement
101 officer to issue a ticket for a violation of s. 316.075(1)(c)
102 and to enforce the payment of the ticket for such violation.
103 This paragraph does not authorize a traffic infraction
104 enforcement officer or a code enforcement officer to carry a
105 firearm or other weapon and does not authorize such an officer
106 to make arrests. The ordinance must require signs to be posted
107 at locations designated by the county or municipality providing
108 notification that a traffic infraction detector may be in use.
109 Such signage must conform to any specifications adopted by the
110 Department of Transportation under s. 316.0745. The ordinance
111 may provide for the county or municipality to install, maintain,
112 and operate traffic infraction detectors on right-of-way owned
113 or maintained by the Department of Transportation or on right-
114 of-way owned or maintained by the county or municipality in
115 which the traffic infraction detector is to be installed. The
116 ordinance must also require that the county or municipality make

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117 a public announcement and conduct a public awareness campaign of
118 the proposed use of traffic infraction detectors at least 30
119 days before commencing the enforcement program. In addition, the
120 ordinance must establish a fine of \$150 to be assessed against
121 the registered owner of a motor vehicle that fails to stop when
122 facing a traffic control signal steady red light as determined
123 through the use of a traffic infraction detector. Any other
124 provision of law to the contrary notwithstanding, an additional
125 surcharge, fee, or cost may not be added to the civil penalty
126 authorized by this paragraph.

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

129 (c) A county or municipality must adopt an ordinance under
130 this section which provides for the use of a traffic infraction
131 detector in order to impose a fine on the registered owner of a
132 motor vehicle for a violation of s. 316.075(1)(c). The fine
133 shall be imposed in the same manner and is subject to the same
134 limitations as provided for parking violations under s.
135 316.1967. Except as specifically provided in this section,
136 chapter 318 and s. 322.27 do not apply to a violation of s.
137 316.075(1)(c) for which a ticket has been issued under an
138 ordinance enacted pursuant to this section. Enforcement of a
139 ticket issued under the ordinance is not a conviction of the
140 operator of the motor vehicle, may not be made a part of the
141 driving record of the operator, and may not be used for purposes
142 of setting motor vehicle insurance rates. Points under s. 322.27
143 may not be assessed based upon such enforcement.

144 (d) The procedures set forth in s. 316.1967(2)-(5) apply to
145 an ordinance enacted pursuant to this section, except that the

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146 ticket must contain the name and address of the person alleged
147 to be liable as the registered owner of the motor vehicle
148 involved in the violation, the license plate number of the motor
149 vehicle, the violation charged, a copy of the photographic image
150 or images evidencing the violation, the location where the
151 violation occurred, the date and time of the violation,
152 information that identifies the device that recorded the
153 violation, and a signed statement by a specifically trained
154 technician employed by the agency or its contractor that, based
155 on inspection of photographs or other recorded images, the motor
156 vehicle was being operated in violation of s. 316.075(1)(c). The
157 ticket must advise the registered owner of the motor vehicle
158 involved in the violation of the amount of the fine, the date by
159 which the fine must be paid, and the procedure for contesting
160 the violation alleged in the ticket. The ticket must contain a
161 warning that failure to contest the violation in the manner and
162 time provided is deemed an admission of the liability and that a
163 default may be entered thereon. The violation shall be processed
164 by the county or municipality that has jurisdiction over the
165 street or highway where the violation occurred or by any entity
166 authorized by the county or municipality to prepare and mail the
167 ticket.

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

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

174 a. The motor vehicle passed through the intersection in

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175 order to yield right-of-way to an emergency vehicle or as part
176 of a funeral procession;

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

179 c. The motor vehicle was stolen at the time of the alleged
180 violation;

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

184 e. The motor vehicle passed through the intersection due to
185 a medical emergency.

186 2. In order to establish any such fact, the registered
187 owner of the vehicle must, within 30 days after receipt of
188 notification of the alleged violation, furnish to the county or
189 municipality, as appropriate, an affidavit that sets forth
190 detailed information supporting an exemption as provided in sub-
191 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,
192 sub-subparagraph 1.d., or sub-subparagraph 1.e. For an exemption
193 under sub-subparagraph 1.c., the affidavit must set forth that
194 the vehicle was stolen and be accompanied by a copy of the
195 police report indicating that the vehicle was stolen at the time
196 of the alleged violation. For an exemption under sub-
197 subparagraph 1.d., the affidavit must set forth that a citation
198 was issued and be accompanied by a copy of the citation
199 indicating the time of the alleged violation and the location of
200 the intersection where it occurred.

201 (g) A person may contest the determination that the person
202 failed to stop at a traffic control signal steady red light as
203 evidenced by a traffic infraction detector by electing to appear

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204 before any official authorized by law to preside over a hearing
205 that adjudicates traffic infractions. A person who elects to
206 appear at such hearing to present evidence is deemed to have
207 waived the limitation of civil penalties imposed for the
208 violation. The official, after hearing, shall determine whether
209 the violation was committed and may impose a civil penalty not
210 to exceed \$150, and shall order the registered owner of the
211 motor vehicle to attend a basic driver improvement course if the
212 official finds that a violation was committed. The official may
213 take measures to enforce the collection of any penalty not paid
214 within the time permitted.

215 (h) A certificate sworn to or affirmed by a person
216 authorized under this section who is employed by or under
217 contract with the county or municipality where the infraction
218 occurred, or a facsimile thereof, that is based upon inspection
219 of photographs or other recorded images produced by a traffic
220 infraction detector, is prima facie evidence of the facts
221 contained in the certificate. A photograph or other recorded
222 image evidencing a violation of s. 316.075(1)(c) must be
223 available for inspection in any proceeding to adjudicate
224 liability under an ordinance enacted pursuant to this section.

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

229 (2) Of the fine imposed pursuant to paragraph (1)(a) or
230 paragraph (1)(g), one-fifth shall be remitted by the county or
231 municipality to the county court for distribution as provided in
232 s. 318.21, one-twentieth shall be remitted to the Department of

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233 Revenue for deposit into the Educational Enhancement Trust Fund
234 for the Department of Education, three-twentieths shall be
235 remitted to the Department of Revenue for deposit into the
236 Department of Health Administrative Trust Fund, and three-fifths
237 shall be retained by the county or municipality enforcing the
238 ordinance enacted pursuant to this section. Funds deposited into
239 the Department of Health Administrative Trust Fund under this
240 subsection shall be distributed as provided in s. 395.4036(1).

241 (3) A complaint that a county or municipality is employing
242 traffic infraction detectors for purposes other than the
243 promotion of public health, welfare, and safety or in a manner
244 inconsistent with this section may be submitted to the governing
245 body of such county or municipality. Such complaints, along with
246 any investigation and corrective action taken by the county or
247 municipal governing body, shall be included in the annual report
248 to the department and in the department's annual summary report
249 to the Governor, the President of the Senate, and the Speaker of
250 the House Representatives, as required by this section. Based on
251 its review of the report, the Legislature may exclude a county
252 or municipality from further participation in the program.

253 (4) (a) Each county or municipality that operates a traffic
254 infraction detector shall submit an annual report to the
255 department which details the results of using the traffic
256 infraction detector and the procedures for enforcement.

257 (b) The department shall provide an annual summary report
258 to the Governor, the President of the Senate, and the Speaker of
259 the House of Representatives regarding the use and operation of
260 traffic infraction detectors under this section. The summary
261 report must include a review of the information submitted to the

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262 department by the counties and municipalities and must describe
263 the enhancement of the traffic safety and enforcement programs.
264 The department shall report its recommendations, including any
265 necessary legislation, on or before December 1, 2010, to the
266 Governor, the President of the Senate, and the Speaker of the
267 House of Representatives.

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

270 316.0745 Uniform signals and devices.—

271 (6)(a) Any system of traffic control devices controlled and
272 operated from a remote location by electronic computers or
273 similar devices must ~~shall~~ meet all requirements established for
274 the uniform system, and, if where such a system affects ~~systems~~
275 ~~affect~~ the movement of traffic on state roads, the design of the
276 system must ~~shall~~ be reviewed and approved by the Department of
277 Transportation; however, any such equipment acquired by
278 purchase, lease, or other arrangement under an agreement entered
279 into by a county or municipality before the effective date of
280 this act or equipment used to enforce an ordinance enacted by a
281 county or municipality before the effective date of this act is
282 not required to meet the specifications established for the
283 uniform system until September 30, 2010.

284 (b) Any traffic infraction detector deployed on the streets
285 and highways of the state must meet specifications established
286 by the Department of Transportation and must be tested at
287 regular intervals according to procedures prescribed by that
288 department.

289 Section 6. Section 316.0776, Florida Statutes, is created
290 to read:

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291 316.0776 Traffic infraction detectors; placement and
292 installation.—Placement and installation of traffic infraction
293 detectors is allowed on the State Highway System, county roads,
294 and municipal streets under specifications developed by the
295 Department of Transportation, so long as safety and operation of
296 the road facility is not impaired.

297 Section 7. Section 316.1967, Florida Statutes, is amended
298 to read:

299 316.1967 Liability for payment of parking ticket violations
300 and other ~~parking~~ violations.—

301 (1) The owner of a vehicle is responsible and liable for
302 payment of any parking ticket violation unless the owner can
303 furnish evidence, when required by this subsection, that the
304 vehicle was, at the time of the parking violation, in the care,
305 custody, or control of another person. In such instances, the
306 owner of the vehicle is required, within a reasonable time after
307 notification of the parking violation, to furnish to the
308 appropriate law enforcement authorities an affidavit setting
309 forth the name, address, and driver's license number of the
310 person who leased, rented, or otherwise had the care, custody,
311 or control of the vehicle. The affidavit submitted under this
312 subsection is admissible in a proceeding charging a parking
313 ticket violation and raises the rebuttable presumption that the
314 person identified in the affidavit is responsible for payment of
315 the parking ticket violation. The owner of a vehicle is not
316 responsible for a parking ticket violation if the vehicle
317 involved was, at the time, stolen or in the care, custody, or
318 control of some person who did not have permission of the owner
319 to use the vehicle. The owner of a leased vehicle is not

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320 responsible for a parking ticket violation and is not required
321 to submit an affidavit or the other evidence specified in this
322 section, if the vehicle is registered in the name of the person
323 who leased the vehicle.

324 (2) Any person who is issued a county or municipal parking
325 ticket by a parking enforcement specialist or officer is deemed
326 to be charged with a noncriminal violation and shall comply with
327 the directions on the ticket. If payment is not received or a
328 response to the ticket is not made within the time period
329 specified thereon, the county court or its traffic violations
330 bureau shall notify the registered owner of the vehicle that was
331 cited, or the registered lessee when the cited vehicle is
332 registered in the name of the person who leased the vehicle, by
333 mail to the address given on the motor vehicle registration, of
334 the ticket. Mailing the notice to this address constitutes
335 notification. Upon notification, the registered owner or
336 registered lessee shall comply with the court's directive.

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

339 (4) Any person who elects to appear before a designated
340 official to present evidence waives his or her right to pay the
341 civil penalty provisions of the ticket. The official, after a
342 hearing, shall make a determination as to whether a parking
343 violation has been committed and may impose a civil penalty not
344 to exceed \$100 or the fine amount designated by county
345 ordinance, plus court costs. Any person who fails to pay the
346 civil penalty within the time allowed by the court is deemed to
347 have been convicted of a parking ticket violation, and the court
348 shall take appropriate measures to enforce collection of the

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349 fine.

350 (5) Any provision of subsections (2), (3), and (4) to the
351 contrary notwithstanding, chapter 318 does not apply to
352 violations of county parking ordinances and municipal parking
353 ordinances.

354 (6) Any county or municipality may provide by ordinance
355 that the clerk of the court or the traffic violations bureau
356 shall supply the department with a magnetically encoded computer
357 tape reel or cartridge or send by other electronic means data
358 which is machine readable by the installed computer system at
359 the department, listing persons who have three or more
360 outstanding parking violations, including violations of s.
361 316.1955, or who have one or more outstanding tickets for a
362 violation of a traffic control signal steady red light
363 indication issued pursuant to an ordinance adopted under s.
364 316.0083. Each county shall provide by ordinance that the clerk
365 of the court or the traffic violations bureau shall supply the
366 department with a magnetically encoded computer tape reel or
367 cartridge or send by other electronic means data that is machine
368 readable by the installed computer system at the department,
369 listing persons who have any outstanding violations of s.
370 316.1955 or any similar local ordinance that regulates parking
371 in spaces designated for use by persons who have disabilities.
372 The department shall mark the appropriate registration records
373 of persons who are so reported. Section 320.03(8) applies to
374 each person whose name appears on the list.

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

377 395.4036 Trauma payments.—

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378 (1) Recognizing the Legislature's stated intent to provide
379 financial support to the current verified trauma centers and to
380 provide incentives for the establishment of additional trauma
381 centers as part of a system of state-sponsored trauma centers,
382 the department shall use ~~utilize~~ funds collected under ss.
383 316.0083 and ~~s.~~ 318.18(15) and deposited into the Administrative
384 Trust Fund of the department to ensure the availability and
385 accessibility of trauma and emergency services throughout the
386 state as provided in this subsection.

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

389 1. ~~(a)~~ Twenty percent of the total funds collected under s.
390 316.0083 and 18 percent of the total funds collected under s.
391 318.18(15) ~~this subsection~~ during the state fiscal year shall be
392 distributed to verified trauma centers that have a local funding
393 contribution as of December 31. Distribution of funds under this
394 paragraph shall be based on trauma caseload volume for the most
395 recent calendar year available.

396 2. ~~(b)~~ Thirty-nine percent of the total funds collected
397 under s. 316.0083 and 40 ~~Forty~~ percent of the total funds
398 collected under s. 318.18(15) ~~this subsection~~ shall be
399 distributed to verified trauma centers based on trauma caseload
400 volume for the most recent calendar year available. The
401 determination of caseload volume for distribution of funds under
402 this paragraph shall be based on the department's Trauma
403 Registry data.

404 3. ~~(c)~~ Thirty-nine percent of the total funds collected
405 under s. 316.0083 and 40 ~~Forty~~ percent of the total funds
406 collected under s. 318.18(15) ~~this subsection~~ shall be

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407 distributed to verified trauma centers based on severity of
408 trauma patients for the most recent calendar year available. The
409 determination of severity for distribution of funds under this
410 paragraph shall be based on the department's International
411 Classification Injury Severity Scores or another statistically
412 valid and scientifically accepted method of stratifying a trauma
413 patient's severity of injury, risk of mortality, and resource
414 consumption as adopted by the department by rule, weighted based
415 on the costs associated with and incurred by the trauma center
416 in treating trauma patients. The weighting of scores shall be
417 established by the department by rule.

418 4. Two percent of the total funds collected under s.
419 316.0083 shall be distributed to public hospitals that qualify
420 for distributions under s. 409.911(4), that are not verified
421 trauma centers but are located in trauma services areas defined
422 under s. 395.402, and that do not have a verified trauma center
423 based on their proportionate number of emergency room visits on
424 an annual basis. The Agency for Health Care Administration shall
425 provide the department with a list of public hospitals and
426 emergency room visits.

427 5. Two percent of the total funds collected under s.
428 318.18(15) shall be distributed to provide an enhanced Medicaid
429 payment to nursing homes that serve residents who have brain and
430 spinal cord injuries and are Medicaid recipients.

431 (b) Funds deposited in the department's Administrative
432 Trust Fund for verified trauma centers may be used to maximize
433 the receipt of federal funds that may be available for such
434 trauma centers and public hospitals eligible for nontrauma funds
435 under (a)4. Notwithstanding this section and s. 318.14,

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436 distributions to trauma centers may be adjusted in a manner to
437 ensure that total payments to trauma centers represent the same
438 proportional allocation as set forth in this section and s.
439 318.14. For purposes of this section and s. 318.14, total funds
440 distributed to trauma centers may include revenue from the
441 Administrative Trust Fund and federal funds for which revenue
442 from the Administrative Trust Fund is used to meet state or
443 local matching requirements. Funds collected under ss. 318.14,
444 316.0083, and 318.18(15) and deposited in the Administrative
445 Trust Fund of the department shall be distributed to trauma
446 centers and public hospitals eligible for nontrauma funds under
447 (a)4. on a quarterly basis using the most recent calendar year
448 data available. Such data shall not be used for more than four
449 quarterly distributions unless there are extenuating
450 circumstances as determined by the department, in which case the
451 most recent calendar year data available shall continue to be
452 used and appropriate adjustments shall be made as soon as the
453 more recent data becomes available.

454 Section 9. For the purpose of incorporating the amendment
455 made by this act to section 316.1967, Florida Statutes, in a
456 reference thereto, subsection (8) of section 320.03, Florida
457 Statutes, is reenacted to read:

458 320.03 Registration; duties of tax collectors;
459 International Registration Plan.—

460 (8) If the applicant's name appears on the list referred to
461 in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license
462 plate or revalidation sticker may not be issued until that
463 person's name no longer appears on the list or until the person
464 presents a receipt from the clerk showing that the fines

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465 outstanding have been paid. This subsection does not apply to
466 the owner of a leased vehicle if the vehicle is registered in
467 the name of the lessee of the vehicle. The tax collector and the
468 clerk of the court are each entitled to receive monthly, as
469 costs for implementing and administering this subsection, 10
470 percent of the civil penalties and fines recovered from such
471 persons. As used in this subsection, the term "civil penalties
472 and fines" does not include a wrecker operator's lien as
473 described in s. 713.78(13). If the tax collector has private tag
474 agents, such tag agents are entitled to receive a pro rata share
475 of the amount paid to the tax collector, based upon the
476 percentage of license plates and revalidation stickers issued by
477 the tag agent compared to the total issued within the county.
478 The authority of any private agent to issue license plates shall
479 be revoked, after notice and a hearing as provided in chapter
480 120, if he or she issues any license plate or revalidation
481 sticker contrary to the provisions of this subsection. This
482 section applies only to the annual renewal in the owner's birth
483 month of a motor vehicle registration and does not apply to the
484 transfer of a registration of a motor vehicle sold by a motor
485 vehicle dealer licensed under this chapter, except for the
486 transfer of registrations which is inclusive of the annual
487 renewals. This section does not affect the issuance of the title
488 to a motor vehicle, notwithstanding s. 319.23(7)(b).

489 Section 10. If any provision of this act or its application
490 to any person or circumstance is held invalid, the invalidity
491 does not affect other provisions or applications of this act
492 which can be given effect without the invalid provision or
493 application, and to this end the provisions of this act are

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494 severable.

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