

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 439

Uniform Traffic Control

SPONSOR(S): Reagan

TIED BILLS:

IDEN./SIM. BILLS: SB 2004

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee	17 Y, 2 N, As CS	Brown	Miller
2)	Military & Local Affairs Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)	Finance & Tax Council			
5)				

SUMMARY ANALYSIS

CS/HB 439 creates the "Mark Wandall Traffic Safety Act." The bill authorizes counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the required content of the ordinance. 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 and attendance at a basic driving school. The bill describes requirements that must be met when issuing a ticket through documentation by the traffic infraction detector and the challenge procedure to be followed if someone other than the vehicle owner was driving the vehicle at the time of the alleged violation.

The bill grants counties and municipalities (and their agents) access to Department of Transportation right-of-way to install and operate traffic infraction detectors. It also provides a "grandfather clause" of one year for those counties and municipalities that are currently engaged in the use of traffic infraction detectors.

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.

The bill is effective upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

According to the Department, in 2007 there were 106 fatalities and 10,720 injuries related to motor vehicle drivers who disregarded a traffic signal in Florida.¹

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 is connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously monitors the traffic signal, and the camera is triggered by any vehicle entering the intersection above a pre-set minimum speed and following a specified time after the signal has turned red. A second photograph typically shows the red light violator in the intersection. In some cases video cameras are used. Cameras record the license plate number, the date and time of day, the time elapsed since the beginning of the red signal, and the vehicle speed. Over 110 cities and towns in 20 states across the country currently participate in a red light camera program.² Red light cameras have been used in at least 33 foreign countries since the 1970s.³

An Insurance Institute for Highway Safety (IIHS) review of international red light camera studies concluded that cameras reduce red light violations by 40-50 percent and reduce injury crashes by 25-30 percent.⁴ A 2005 study of red light camera programs in seven metropolitan communities by the Federal Highway Administration concluded that there was a 25 percent reduction in right-angle collisions, but a 15 percent increase in rear-end collisions.⁵ It is possible that the volume of rear-end collisions will decline as drivers get used to the idea that the vehicle in front of them will stop at a red light.⁶

¹ Email from Office of Legislative Affairs, Department of Highway Safety and Motor Vehicles, February 12, 2008. As of January 27, 2009, this is the most recent information available.

² National Campaign to Stop Red Light Running, www.stopredlightrunning.com/html/rlc_cities.htm

³ Insurance Institute for Highway Safety website (www.iihs.org/research/qanda/rlr.html) citing Blackburn, R.R. and Glibert, D.T., *Photographic enforcement of traffic laws*. Washington, DC, National Academy Press, 1995.

⁴ *Id.*, citing Retting, R.A. et al., *Effects of red light cameras on violations and crashes: a review of the international literature*, Traffic Injury Prevention 4:17-23, 2003.

⁵ Federal Highway Administration, *Safety Evaluation of Red-Light Cameras*, Publication No. FHWA-HRT-05-048, available online here: <http://www.tfhr.gov/safety/pubs/05048/>

⁶ *Id.*

Other studies, including a 7-jurisdiction study conducted by the Virginia Department of Transportation⁷ and a USDOT-funded study by the Urban Transit Institute at North Carolina A&T University,⁸ have reached conflicting results regarding crash reduction. The results of these studies are best summarized by this excerpt from the North Carolina study:

The results do not support the conventional wisdom expressed in recent literature and popular press that red light cameras reduce accidents.... Our findings are more pessimistic, finding no change in angle accidents and large increases in rear-end crashes and many other types of crashes relative to other intersections. We did find a decrease in accidents involving a vehicle turning left and a vehicle on the same roadway, which may have been included as an angle accident in some other studies. However, given that these left turn accidents occur only one third as often as angle accidents, and the fact that we find no benefit from decreasing severity of accidents suggests that there has been no demonstrable benefit from the RLC [red light camera] program in terms of safety. In many ways, the evidence points toward the installation of RLCs as a detriment to safety.

Critics on each side of the debate raise concerns about the scientific methodology of opposing studies and potential bias of researchers. Criticisms have focused on issues such as sample size, control of variables (weather, similarity of intersections, etc), and other possible control methods (e.g., failure to analyze intersections before/after detectors are placed).

Currently there are no recognized independent standards or certifications for the red light camera industry. The Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) have developed guidelines for the use of state and local agencies on the implementation and operation of red light camera systems. These guidelines were most-recently updated in January 2005.⁹ Although not a regulatory requirement, the guidance is intended to provide critical information for state and local agencies on relevant aspects of red light camera systems in order to promote consistency and proper implementation and operation. The guidelines present research that suggests engineering improvements, safety education and increased enforcement by law enforcement officers can significantly reduce red light violations.

Examples of engineering improvements include:

- *Improving signal head visibility.* Signal head visibility can be improved by increasing the size of the traffic signal lamps from 8 to 12 inches. The addition of backplates can also make signals more visible.
- *All-red interval.* An all-red clearance interval, where the traffic signals on all sides are red for a period of time, provides additional time for motorists already in the intersection to proceed through the intersection on the red indication while holding cross traffic on the cross street approaches. The red clearance interval is not intended to reduce the incidence of red light running; rather it is a safety measure.
- *Appropriate yellow times.* The likelihood of a motorist running a red light increases as the yellow interval is shortened. Lengthening the yellow interval, within appropriate guidelines, has been shown to significantly reduce the number of inadvertent red light violations.
- *Traffic signal coordination.* A coordinated traffic signal operation where motorists are able to move smoothly in platoons from intersection to intersection reduces the risk of red light violations and collisions.

Cameras are permitted by current Florida law to enforce violations of payment of tolls.¹⁰ For example, toll facility operators use a digital camera to capture an image of the vehicle's license plate as the vehicle travels through the tolling zone. If the system receives payment from a SunPass, the image is

⁷ Available online here: <http://www.thenewspaper.com/rlc/docs/05-vdot.pdf>

⁸ Available online here: <http://www.thenewspaper.com/rlc/docs/burkeyobeng.pdf>

⁹ U.S. Department of Transportation, *Red Light Camera Systems Operational Guidelines*, Publication No. FHWA-SA-05-002, January 2005.

¹⁰ s. 316.1001(2)(d), F.S.

deleted. If no payment is received, the image is processed for video tolling or is considered a toll violation and a Uniform Traffic Citation is issued.

In response to the city of Pembroke Pines' inquiry regarding the use of unmanned cameras to enforce violations of traffic signals, the Attorney General issued an advisory legal opinion on July 12, 2005.¹¹ The opinion concluded that it was within the local government's scope of authority "to 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 problem identified by a 1997 Attorney General opinion¹² was whether unmanned electronic traffic infraction detectors may independently be used as the basis for issuing citations for violations of traffic laws. Current statute requires that citations be issued when an officer "observes the commission of a traffic infraction."¹³ The 1997 Attorney General opinion concluded that nothing precludes the use of unmanned cameras to record violations of s. 316.075, F.S., but "a photographic record of a vehicle violating traffic control laws may not be used as the basis for issuing a citation for such violations." The 2005 opinion reached the same conclusion, stating, "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.

Several local governments in Florida have participated in the use of red light cameras enforcement of red light violations. Due to the Attorney General's advisory opinions, the majority of local governments have used the cameras in pilot projects solely for data collection purposes or as a warning system to motorists, by sending a letter and attaching no penalty. Sarasota County, Manatee County, Palm Beach County, Polk County, and the cities of Orlando and Melbourne are examples of local governments that have at one time participated in a red light camera pilot project. The Palm Beach County Commission reported that their two-month pilot project using traffic cameras at a test intersection in Palm Beach County showed alarming results. One fifth of those who ran a red light did so two seconds after the light had changed. On average, fifty cars a day ran the light at the test site during the first month of the pilot project. During the second month of the project, following publicity about the program, that number dropped to less than twenty.¹⁴

The city of Gulf Breeze passed a local ordinance in 2005 allowing use of red light cameras. A violation by any motor vehicle running a red light that is recorded by a traffic enforcement photographic system is a civil code violation¹⁵ and a \$100 civil fee is assessed against the motor vehicle owner. The city has installed one red light camera at Daniel Drive and U.S. 98 in front of Gulf Breeze Middle School. The Gulf Breeze City Council adopted the ordinance despite the opinion issued by the Attorney General. The Gulf Breeze Police Chief said that after the signs went up, violations dropped from 150 a month to 95 in a little over a year.¹⁶ The camera was installed by "Traffipax." According to the police chief, the vendor paid for the initial cost of setting up the program. In return, the vendor is paid a percentage of the \$100 fine. "Peek Traffic", the vendor who donated the equipment and monitoring for Sarasota County's pilot project, states that a camera is valued at approximately \$50,000 and costs \$10,000 to install.

¹¹ Attorney General Opinion 05-41.

¹² Attorney General Opinion 97-06.

¹³ s. 316.640(5)(a), F.S.

¹⁴ Palm Beach County Board of County Commissioners, "FY 2007 State Legislative Program", available online here: <http://www.pbcgov.com/legislativeaffairs/pdf/LegProg.pdf>

¹⁵ Section 18-113, Code of Ordinances, City of Gulf Breeze, Florida.

¹⁶ Ginny Laroe, "Police Research Traffic Cameras," *Sarasota Herald Tribune*, March 26, 2007.

Proposed Changes

Local Ordinance Authorization

CS/HB 439 creates the "Mark Wandall Traffic Safety Act." 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;
- authorize a traffic infraction enforcement officer or a code 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 to be posted at locations designated by the county or municipality providing notification that a traffic infraction detector may be in use;
- 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;
- establish a fine of \$150 to be assessed against the owner of a motor vehicle whose vehicle fails to stop when facing a red light, as determined through use of a traffic infraction detector; and
- require offenders to attend a basic driving school.

The ordinance must allow the county to operate a traffic infraction detector within the right-of-way owned by the county or the Department of Transportation. The county or the Department of Transportation is required to issue permits for installation, including access to DOT right-of-way, according to the established permitting process.

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 Chapter 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 as provided by s. 318.21, F.S.;¹⁷ and
- One-fifth to be deposited in the Department of Health Administrative Trust Fund, with the following further direction:
 - Forty-nine percent allocated equally among all Level I, Level II, and pediatric trauma centers,
 - Forty-nine percent allocated by relative volume of trauma cases to all Level I, Level II, and pediatric trauma centers, and
 - Two-percent allocated to non-trauma center public hospitals based on proportionate number of emergency-room visits.

Procedure for Issuance and Contestation of Tickets

The bill cites current statutory procedures addressing liability for payment of parking ticket violations and other parking violations¹⁸ and applies those procedures to violations of ordinances created under s.

¹⁷ Section 318.21, F.S. contains the general disposition of all civil penalties by county courts.

¹⁸ Section 316.1967(2)-(5), F.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 registration number of the vehicle;
- the violation charged;
- a photographic image evidencing the violation;
- 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 requirement to attend a basic driving school;
- 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 owner of the vehicle involved in the violation no less 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 as the result of a medical emergency.

The owner of the vehicle must, within 30 days, 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 a judge authorized to adjudicate traffic infractions. If the person elects to appear before the court, they are deemed to have waived the limitation of civil penalties imposed for the violation and the court may impose a civil penalty not to exceed \$150 plus court costs. The court 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 evidence of the facts contained in the certificate. A photograph or other recorded image evidencing a violation 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. 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 the fine has been paid.

Oversight and Accountability

Any traffic infraction detector installed on the state's streets or highways must meet requirements established by the Florida Department of Transportation (FDOT) and must be tested at regular intervals according to procedures prescribed by FDOT. The bill provides a 'grandfather clause' for a period of one year 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 1 year after the bill becomes law.

CS/HB 439 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 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.

B. SECTION DIRECTORY:

Section 1. Citing the act as the "Mark Wandall Traffic Safety Act."

Section 2. Amending s. 316.003, F.S.; defining the term "traffic infraction detector."

Section 3. Creating s. 316.0083, F.S.; creating the "Mark Wandall Traffic Safety Program" to be administered by the Department; authorizing counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifying the requirements of an ordinance; requiring access to county or Department of Transportation right-of-way; exempting emergency vehicles from an ordinance enacted under this section; providing penalties for traffic control signal violations detected by traffic infraction detectors; providing for the issuance, challenge, and disposition of tickets; providing for disposition of fine revenue; providing a process for complaints that a county or municipality is employing detectors in a manner inconsistent with this section; and requiring the Department to submit a report to the Governor and Legislature.

Section 4. Amending s. 316.0745(6), F.S.; requiring traffic infraction detectors to meet requirements established by the Department of Transportation and be tested at regular intervals; providing a grandfather clause for existing municipal equipment and programs.

Section 5. Amending s. 316.1967, F.S., adding red-light camera ordinance violations to the violations list reported to the Department.

Section 6. Reenacting s. 320.03, F.S.

Section 7. Providing a severability clause.

Section 8. Providing that the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments, below.

2. Expenditures:

See Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments, below.

2. Expenditures:

See Fiscal Comments, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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 a judge, but they are deemed to have waived the limitation of civil penalties imposed for the violation and, if the ticket is upheld by the judge, may be charged the \$150 fine plus court costs.

D. FISCAL COMMENTS:

The Department of Health Administrative Trust Fund will receive one-fifth of all revenue generated by the bill. 98 percent of this revenue will be directed to Level I, Level II, and pediatric trauma centers, and 2 percent will be distributed to non-trauma center hospitals, based on their proportional number of emergency-room visits.

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.

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.

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 plus court costs,” there may be an indeterminate cost to the local court system.

Two state agencies will incur minor expenses as a result of this legislation. The bill requires the Department of Highway Safety and Motor Vehicles to collect reports from municipalities and to prepare an annual report for the Legislature. The bill also requires the Department of Transportation to prepare standards for traffic infraction detectors.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 4, 2009, the Roads, Bridges, and Ports Policy Committee reported the bill favorably with a strike-everything amendment. The amendment makes changes to the ordinance requirements necessary for municipalities to use traffic infraction detectors, including inserting a requirement that offenders attend basic traffic school, and allowing code enforcement officers to review ordinance violations.

The amendment also

- clarifies Department of Transportation right-of-way access issues – if a municipality enacts a suitable ordinance, the Department of Transportation shall issue permits to the county or its agents for appropriate installation of traffic infraction devices,
- provides a one-year ‘grandfather clause’ for those Florida municipalities already engaged in the use of traffic infraction detectors,
- lengthens the amount of time 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,”), and
- 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).