

1 A bill to be entitled
2 An act relating to uniform traffic control; creating the
3 "Mark Wandall Traffic Safety Act"; amending s. 316.003,
4 F.S.; defining the term "traffic infraction detector";
5 creating s. 316.0083, F.S.; creating the Mark Wandall
6 Traffic Safety Program to be administered by the
7 Department of Transportation; requiring a county or
8 municipality to enact an ordinance in order to use a
9 traffic infraction detector to identify a motor vehicle
10 that fails to stop at a traffic control signal steady red
11 light; requiring such detectors to meet department
12 contract specifications; requiring authorization of a
13 traffic infraction enforcement officer or a code
14 enforcement officer to issue and enforce a ticket for such
15 violation; requiring signage; requiring certain public
16 awareness procedures; requiring the ordinance to establish
17 a fine of a certain amount; requiring the ordinance to
18 provide for installing, maintaining, and operating such
19 detectors on rights-of-way owned or maintained by the
20 Department of Transportation, county, or municipality;
21 prohibiting additional charges; exempting emergency
22 vehicles; providing that the registered owner of the motor
23 vehicle involved in the violation is responsible and
24 liable for payment of the fine assessed; providing
25 exceptions; providing procedures for disposition and
26 enforcement of tickets; providing for a person to contest
27 such ticket; providing for disposition of revenue
28 collected; providing complaint procedures; providing for

29 | the Legislature to exclude a county or municipality from
30 | the program; requiring reports from participating
31 | municipalities and counties to the department; requiring
32 | the department to make reports to the Governor and the
33 | Legislature; amending s. 316.0745, F.S.; providing that
34 | traffic infraction detectors must meet certain
35 | specifications; creating s. 316.07456, F.S.; providing for
36 | preexisting equipment; requiring counties and
37 | municipalities that enacted an ordinance to enforce red
38 | light violations or entered into a contract to purchase or
39 | lease equipment to enforce red light violations prior to
40 | the effective date of this act to charge a certain penalty
41 | amount; requiring counties or municipalities that have
42 | acquired such equipment pursuant to an agreement entered
43 | into prior to the effective date of this act to make
44 | certain payments to the state; creating s. 316.0776, F.S.;
45 | providing for placement and installation of detectors on
46 | the State Highway System, county roads, and city streets;
47 | amending s. 316.1967, F.S.; providing for inclusion of
48 | persons with outstanding violations in a list sent to the
49 | department for enforcement purposes; amending s. 395.4036,
50 | F.S.; providing for distribution of funds to trauma
51 | centers, certain hospitals, certain nursing homes, and
52 | certain health units and programs; ratifying prior
53 | enforcement actions; providing for severability; providing
54 | an effective date.

55 |
56 | Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

77 Section 3. Section 316.0083, Florida Statutes, is created
78 to read:

79 316.0083 Mark Wandall Traffic Safety Program;
80 administration; report.--

81 (1) There is created the Mark Wandall Traffic Safety
82 Program governing the operation of traffic infraction detectors.
83 The program shall be administered by the Department of
84 Transportation and shall include the following provisions:

85 (a) In order to use a traffic infraction detector, a
86 county or municipality must enact an ordinance that provides for
87 the use of a traffic infraction detector to enforce s.
88 316.075(1)(c), which requires the driver of a vehicle to stop
89 the vehicle when facing a traffic control signal steady red
90 light on the streets and highways under the jurisdiction of the
91 county or municipality. The traffic infraction detector must
92 conform to the contract specifications adopted by the Department
93 of Transportation under s. 316.0776. A county or municipality
94 may install such detectors on state, county, or municipal
95 rights-of-way within the boundaries of that county or
96 municipality. Only a municipality may install or authorize the
97 installation of any such detectors within the incorporated area
98 of the municipality. A municipality may authorize the state or
99 county to install such detectors within its incorporated area.
100 Only a county may install or authorize the installation of any
101 such detectors within the unincorporated area of the county. A
102 county may authorize the state to install such detectors in the
103 unincorporated area of the county. A county or municipality that
104 operates a traffic infraction detector must authorize a traffic
105 infraction enforcement officer or a code enforcement officer to
106 issue a ticket for a violation of s. 316.075(1)(c) and to
107 enforce the payment of the ticket for such violation. This
108 paragraph does not authorize a traffic infraction enforcement
109 officer or a code enforcement officer to carry a firearm or
110 other weapon and does not authorize such an officer to make
111 arrests. The ordinance must require signs to be posted at
112 locations designated by the county or municipality providing

113 notification that a traffic infraction detector may be in use.
114 Such signage must conform to the specifications adopted by the
115 Department of Transportation under s. 316.0745. The ordinance
116 must provide for the county or municipality to install,
117 maintain, and operate traffic infraction detectors on a right-
118 of-way owned or maintained by the Department of Transportation
119 or on a right-of-way owned or maintained by the county or
120 municipality in which the traffic infraction detector is to be
121 installed. The ordinance must also require that the county or
122 municipality make a public announcement and conduct a public
123 awareness campaign of the proposed use of traffic infraction
124 detectors at least 30 days before commencing the enforcement
125 program. In addition, the ordinance must establish a fine of
126 \$150 to be assessed against the registered owner of a motor
127 vehicle that fails to stop when facing a traffic control signal
128 steady red light as determined through the use of a traffic
129 infraction detector. Any other provision of law to the contrary
130 notwithstanding, an additional surcharge, fee, or cost may not
131 be added to the civil penalty authorized by this paragraph.

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

134 (c) A county or municipality must adopt an ordinance under
135 this section that provides for the use of a traffic infraction
136 detector in order to impose a fine on the registered owner of a
137 motor vehicle for a violation of s. 316.075(1)(c). The fine
138 shall be imposed in the same manner and is subject to the same
139 limitations as provided for parking violations under s.
140 316.1967. Except as specifically provided in this section,

141 chapter 318 and s. 322.27 do not apply to a violation of s.
142 316.075(1)(c) for which a ticket has been issued under an
143 ordinance enacted pursuant to this section. Enforcement of a
144 ticket issued under the ordinance is not a conviction of the
145 operator of the motor vehicle, may not be made a part of the
146 driving record of the operator, and may not be used for purposes
147 of setting motor vehicle insurance rates. Points under s. 322.27
148 may not be assessed based upon such enforcement.

149 (d) The procedures set forth in s. 316.1967(2)-(5) apply
150 to an ordinance enacted pursuant to this section, except that
151 the ticket must contain the name and address of the person
152 alleged to be liable as the registered owner of the motor
153 vehicle involved in the violation, the tag number of the motor
154 vehicle, the violation charged, a copy of the photographic image
155 or images evidencing the violation, the location where the
156 violation occurred, the date and time of the violation,
157 information that identifies the device that recorded the
158 violation, and a signed statement by a specifically trained
159 technician employed by the agency or its contractor that, based
160 on inspection of photographs or other recorded images, the motor
161 vehicle was being operated in violation of s. 316.075(1)(c). The
162 ticket must advise the registered owner of the motor vehicle
163 involved in the violation of the amount of the fine, the date by
164 which the fine must be paid, and the procedure for contesting
165 the violation alleged in the ticket. The ticket must contain a
166 warning that failure to contest the violation in the manner and
167 time provided is deemed an admission of the liability and that a
168 default may be entered thereon. The violation shall be processed

169 by the county or municipality that has jurisdiction over the
170 street or highway where the violation occurred or by any entity
171 authorized by the county or municipality to prepare and mail the
172 ticket.

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

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

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

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

185 c. The motor vehicle was stolen at the time of the alleged
186 violation;

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

190 e. A medical emergency.

191 2. In order to establish any such fact, the registered
192 owner of the vehicle must, within 30 days after receipt of
193 notification of the alleged violation, furnish to the county or
194 municipality, as appropriate, an affidavit that sets forth
195 detailed information supporting an exemption as provided in sub-
196 subparagraph 1.a., sub-subparagraph 1.b., sub-subparagraph 1.c.,

197 or sub-subparagraph 1.d. For an exemption under sub-subparagraph
198 1.c., the affidavit must set forth that the vehicle was stolen
199 and be accompanied by a copy of the police report indicating
200 that the vehicle was stolen at the time of the alleged
201 violation. For an exemption under sub-subparagraph 1.d., the
202 affidavit must set forth that a citation was issued and be
203 accompanied by a copy of the citation indicating the time of the
204 alleged violation and the location of the intersection where it
205 occurred.

206 (g) A person may contest the determination that such
207 person failed to stop at a traffic control signal steady red
208 light as evidenced by a traffic infraction detector by electing
209 to appear before any judge or hearing officer authorized by law
210 to preside over a hearing that adjudicates traffic infractions.
211 A person who elects to appear before the judge or hearing
212 officer to present evidence is deemed to have waived the
213 limitation of civil penalties imposed for the violation. The
214 judge or hearing officer, after hearing, shall determine whether
215 the violation was committed and may impose a civil penalty not
216 to exceed \$150 plus costs. The judge or hearing officer may take
217 appropriate measures to enforce the collection of any penalty
218 not paid within the time permitted by the county, municipality,
219 or court.

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

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

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

234 (2) Of the fine imposed pursuant to paragraph (1)(a) or
 235 paragraph (1)(g), one-fifth shall be remitted by the county or
 236 municipality to the Department of Revenue for deposit into the
 237 General Revenue Fund, one-fifth shall be remitted to the
 238 Department of Revenue for deposit into the Department of Health
 239 Administrative Trust Fund, and three-fifths shall be retained by
 240 the county or municipality enforcing the ordinance enacted
 241 pursuant to this section. Funds deposited into the Department of
 242 Health Administrative Trust Fund under this subsection shall be
 243 distributed as provided in s. 395.4036(1).

244 (3) A complaint that a county or municipality is employing
 245 traffic infraction detectors for purposes other than the
 246 promotion of public health, welfare, and safety or in a manner
 247 inconsistent with this section may be submitted to the governing
 248 body of such county or municipality. Such complaints, along with
 249 any investigation and corrective action taken by the county or
 250 municipal governing body, shall be included in the annual report
 251 to the Department of Transportation and in that department's
 252 annual summary report to the Governor, the President of the

253 Senate, and the Speaker of the House Representatives, as
 254 required by this section. Based on its review of the report, the
 255 Legislature may exclude a county or municipality from further
 256 participation in the program.

257 (4) (a) Each county or municipality that operates a traffic
 258 infraction detector shall submit an annual report to the
 259 Department of Transportation that details the results of using
 260 the traffic infraction detector and the procedures for
 261 enforcement.

262 (b) The Department of Transportation shall provide an
 263 annual summary report to the Governor, the President of the
 264 Senate, and the Speaker of the House of Representatives
 265 regarding the use and operation of traffic infraction detectors
 266 under this section. The summary report must include a review of
 267 the information submitted to the Department of Transportation by
 268 the counties and municipalities and must describe the
 269 enhancement of the traffic safety and enforcement programs. The
 270 Department of Transportation shall report its recommendations,
 271 including any necessary legislation, on or before December 1,
 272 2010, to the Governor, the President of the Senate, and the
 273 Speaker of the House of Representatives.

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

276 316.0745 Uniform signals and devices.--

277 (6) Any system of traffic control devices controlled and
 278 operated from a remote location by electronic computers or
 279 similar devices must ~~shall~~ meet all requirements established for
 280 the uniform system, and, if where such a system affects systems

281 ~~affected~~ the movement of traffic on state roads, the design of the
282 system must ~~shall~~ be reviewed and approved by the Department of
283 Transportation.

284 Section 5. Section 316.07456, Florida Statutes, is created
285 to read:

286 316.07456 Grandfather clause.--

287 (1) Any traffic infraction detector deployed on the
288 streets and highways of the state must meet the contract
289 specifications established by the Department of Transportation
290 and must be tested at regular intervals according to procedures
291 prescribed by that department.

292 (2) Notwithstanding any provision of law to the contrary,
293 prior to September 30, 2010, nothing in this act shall prohibit
294 any county or municipality from utilizing red light traffic
295 enforcement devices of any type or from enforcing violations of
296 s. 316.074(1) or s. 316.075(1)(c) or other red light traffic
297 enforcement ordinances if such county or municipality has
298 enacted an ordinance to enforce red light violations or has
299 entered into a contract to purchase or lease equipment to
300 enforce red light violations prior to the effective date of this
301 act.

302 (3) Counties and municipalities using grandfathered
303 equipment pursuant to subsection (2) shall charge violators a
304 \$150 penalty. One-fifth of the penalty shall be remitted by the
305 county or municipality to the Department of Revenue for deposit
306 into the General Revenue Fund, one-fifth shall be remitted to
307 the Department of Revenue for deposit into the Department of
308 Health Administrative Trust Fund, and three-fifths shall be

309 retained by the county or municipality. Funds deposited into the
 310 Department of Health Administrative Trust Fund under this
 311 subsection shall be distributed as provided in s. 395.4036(1)(a)
 312 as if such funds had been collected under s. 316.0083.

313 (4) This section expires October 1, 2010.

314 Section 6. Section 316.0776, Florida Statutes, is created
 315 to read:

316 316.0776 Traffic infraction detectors; placement and
 317 installation.--Placement and installation of traffic infraction
 318 detectors is allowed on the State Highway System, county roads,
 319 and city streets pursuant to specifications developed by the
 320 Department of Transportation, so long as the safety and
 321 operation of the road facility is not impaired.

322 Section 7. Subsection (6) of section 316.1967, Florida
 323 Statutes, is amended to read:

324 316.1967 Liability for payment of parking ticket
 325 violations and other ~~parking~~ violations.--

326 (6) Any county or municipality may provide by ordinance
 327 that the clerk of the court or the traffic violations bureau
 328 shall supply the department with a magnetically encoded computer
 329 tape reel or cartridge or send by other electronic means data
 330 which is machine readable by the installed computer system at
 331 the department, listing persons who have three or more
 332 outstanding parking violations, including violations of s.
 333 316.1955, or who have one or more outstanding tickets for a
 334 violation of a traffic control signal steady red light
 335 indication issued pursuant to an ordinance adopted under s.
 336 316.0083. Each county shall provide by ordinance that the clerk

337 of the court or the traffic violations bureau shall supply the
 338 department with a magnetically encoded computer tape reel or
 339 cartridge or send by other electronic means data that is machine
 340 readable by the installed computer system at the department,
 341 listing persons who have any outstanding violations of s.
 342 316.1955 or any similar local ordinance that regulates parking
 343 in spaces designated for use by persons who have disabilities.
 344 The department shall mark the appropriate registration records
 345 of persons who are so reported. Section 320.03(8) applies to
 346 each person whose name appears on the list.

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

349 395.4036 Trauma payments.--

350 (1) Recognizing the Legislature's stated intent to provide
 351 financial support to the current verified trauma centers and to
 352 provide incentives for the establishment of additional trauma
 353 centers as part of a system of state-sponsored trauma centers,
 354 the department shall use ~~utilize~~ funds collected under ss.
 355 316.0083 and s. 318.18(15) and deposited into the Administrative
 356 Trust Fund of the department to ensure the availability and
 357 accessibility of trauma and emergency services throughout the
 358 state as provided in this subsection.

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

361 1.(a) Eighteen ~~Twenty~~ percent of the total funds collected
 362 under s. 316.0083 and 20 percent of the total funds collected
 363 under s. 318.18(15) ~~this subsection~~ during the state fiscal year
 364 shall be distributed to verified trauma centers that have a

365 local funding contribution as of December 31. Distribution of
366 funds under this paragraph shall be based on trauma caseload
367 volume for the most recent calendar year available.

368 2.(b) Thirty-eight percent of the total funds collected
369 under s. 316.0083 and 40 forty percent of the total funds
370 collected under s. 318.18(15) this subsection shall be
371 distributed to verified trauma centers based on trauma caseload
372 volume for the most recent calendar year available. The
373 determination of caseload volume for distribution of funds under
374 this paragraph shall be based on the department's Trauma
375 Registry data.

376 3.(e) Thirty-eight percent of the total funds collected
377 under s. 316.0083 and 40 forty percent of the total funds
378 collected under s. 318.18(15) this subsection shall be
379 distributed to verified trauma centers based on severity of
380 trauma patients for the most recent calendar year available. The
381 determination of severity for distribution of funds under this
382 paragraph shall be based on the department's International
383 Classification Injury Severity Scores or another statistically
384 valid and scientifically accepted method of stratifying a trauma
385 patient's severity of injury, risk of mortality, and resource
386 consumption as adopted by the department by rule, weighted based
387 on the costs associated with and incurred by the trauma center
388 in treating trauma patients. The weighting of scores shall be
389 established by the department by rule.

390 4. Two percent of the total funds collected under s.
391 316.0083 shall be distributed to public hospitals that qualify
392 for distributions under s. 409.911(4), that are not verified

393 trauma centers but are located in trauma service areas, as
394 defined under s. 395.402, and that do not have a verified trauma
395 center based on their proportionate number of emergency room
396 visits on an annual basis. The Agency for Health Care
397 Administration shall provide the department with a list of
398 public hospitals and emergency room visits.

399 5. Two percent of the total funds collected under s.
400 316.0083 shall be distributed to provide an enhanced Medicaid
401 payment to nursing homes that serve residents with brain and
402 spinal cord injuries who are Medicaid recipients.

403 6. Two percent of the total funds collected under s.
404 316.0083 shall be distributed equally to crisis stabilization
405 units, rural health initiatives, and community-based support
406 programs that provide supports and services for individuals who
407 have sustained a traumatic brain injury.

408 (b) Funds deposited in the department's Administrative
409 Trust Fund for verified trauma centers may be used to maximize
410 the receipt of federal funds that may be available for such
411 trauma centers and nontrauma center public hospitals.
412 Notwithstanding this section and s. 318.14, distributions to
413 trauma centers may be adjusted in a manner to ensure that total
414 payments to trauma centers represent the same proportional
415 allocation as set forth in this section and s. 318.14. For
416 purposes of this section and s. 318.14, total funds distributed
417 to trauma centers may include revenue from the Administrative
418 Trust Fund and federal funds for which revenue from the
419 Administrative Trust Fund is used to meet state or local
420 matching requirements. Funds collected under ss. 318.14,

421 316.0083, and 318.18(15) and deposited in the Administrative
422 Trust Fund of the department shall be distributed to trauma
423 centers and nontrauma center public hospitals on a quarterly
424 basis using the most recent calendar year data available. Such
425 data shall not be used for more than four quarterly
426 distributions unless there are extenuating circumstances as
427 determined by the department, in which case the most recent
428 calendar year data available shall continue to be used and
429 appropriate adjustments shall be made as soon as the more recent
430 data becomes available.

431 Section 9. This act recognizes and ratifies any
432 enforcement action taken by a county or municipality using a
433 traffic infraction detector that was installed before the
434 effective date of this act.

435 Section 10. If any provision of this act or its
436 application to any person or circumstance is held invalid, the
437 invalidity shall not affect other provisions or applications of
438 this act which can be given effect without the invalid provision
439 or application, and to this end the provisions of this act are
440 declared severable.

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