

1 A bill to be entitled
2 An act relating to noncriminal traffic infractions;
3 creating s. 316.0077, F.S.; providing for testing of
4 certain unattended devices used to enforce traffic
5 laws; providing that such devices used to enforce
6 speed limit laws are also subject to specified
7 provisions; providing civil fines for violations;
8 amending s. 318.14, F.S.; specifying that, at a
9 hearing of any charge of a noncriminal traffic
10 infraction, the burden for proving guilt rests with
11 the government entity bringing the charge; specifying
12 that a person may not be compelled to be a witness
13 against himself or herself in any hearing of a
14 noncriminal traffic infraction; specifying that any
15 person charged with a violation that involves a
16 traffic infraction detector or any similar device has
17 the right to confront any witnesses against him or
18 her; requiring that evidence obtained from such device
19 must be authenticated in court by certain persons who
20 must appear in person and offer direct testimony and
21 account in writing for any evidence used; providing
22 for witness compensation pursuant to specified
23 provisions; providing that a person receiving a notice
24 of violation involving such device has the option of
25 paying a fine or requesting a hearing without further
26 issuance of a traffic citation and may not be charged
27 a surcharge for requesting the hearing; providing that
28 there shall be no prosecution of a traffic infraction

29 based upon evidence from such device and a notice of
 30 violation or citation based on such device is void
 31 unless the device has passed specified accuracy test;
 32 providing an effective date.

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

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 36 Section 1. Section 316.0077, Florida Statutes, is created
 37 to read:

38 316.0077 Unattended traffic law enforcement devices.-

39 (1) (a) Any traffic infraction detector or similar
 40 unattended device used to enforce the traffic laws of this state
 41 must be tested for accuracy at least once every 6 months. Such
 42 accuracy test shall consist of, at a minimum:

43 1. The length of time a traffic control device monitored
 44 by the detector or similar device exhibits a yellow signal, if
 45 applicable.

46 2. The amount of time elapsed, in milliseconds, between
 47 the alleged violation and the capturing of any photograph or
 48 video.

49 3. Real-time verification that the vehicle or device used
 50 for the accuracy test provides a valid test of the response of
 51 the traffic infraction detector or similar unattended device
 52 used to enforce the traffic laws of this state to an actual
 53 potential violator.

54 (b) Any traffic infraction detector or other unattended
 55 device used to enforce the unlawful speed laws of this state is
 56 also subject to s. 316.1905.

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57 (2) The accuracy checks shall be random and unannounced
58 and conducted by a private company that does not have any
59 interest in the outcome of the accuracy check. A government
60 agency or company that gives away, leases, or sells traffic
61 infraction detectors or similar unattended devices used to
62 enforce the traffic laws of this state or any affiliate of such
63 company may not perform the accuracy check. Any company
64 operating a traffic infraction detector or similar unattended
65 device used to enforce the traffic laws of this state shall
66 provide access and cooperation for the accuracy check, shall pay
67 the costs of the accuracy check, and may not charge for access.

68 (3) A person engaged in the process of an accuracy check
69 does not commit a violation of this chapter unless the check is
70 conducted in a reckless manner.

71 (4) A government agency or a company that operates, gives
72 away, leases, or sells traffic infraction detectors or similar
73 unattended devices used to enforce the traffic laws of this
74 state that violates this section shall pay a civil fine of not
75 less than \$500 per incident to the person aggrieved.

76 Section 2. Subsection (6) of section 318.14, Florida
77 Statutes, is amended to read:

78 318.14 Noncriminal traffic infractions; exception;
79 procedures.—

80 (6) (a) The commission of a charged infraction at a hearing
81 under this chapter must be proved beyond a reasonable doubt.

82 (b) Notwithstanding any law to the contrary, in any
83 hearing of a charge of a noncriminal traffic infraction, the
84 burden of proving guilt rests upon the government entity

85 bringing the charge. A person appearing in any such hearing may
86 not be compelled to be a witness against himself or herself.

87 (c) Notwithstanding any law to the contrary, in any
88 prosecution involving a traffic infraction detector or similar
89 unattended device used to enforce traffic laws of this state, a
90 person so charged has the right to confront the witnesses
91 against him or her. Any evidence obtained from such device must
92 be authenticated in court by the person receiving or processing
93 such evidence, any person having reviewed such evidence in order
94 to make a decision to file a notice of violation, and any person
95 that issued the notice of violation or traffic citation. An
96 affidavit is not sufficient to authenticate such evidence, and
97 such evidence must be accounted for in writing from the time of
98 the alleged violation until the issuance of a notice of
99 violation or traffic citation. Compensation of any witness for
100 the prosecution shall be provided as required in s. 92.143.

101 (d) Notwithstanding any law to the contrary, a person
102 receiving a notice of violation involving a traffic infraction
103 detector or similar unattended device used to enforce traffic
104 laws of this state has the option of requesting a hearing or
105 paying a fine. If the person so charged requests a hearing, no
106 payment or fee may be required prior to conviction and no
107 further traffic citations may be issued to such person based on
108 the violation for which a hearing was requested.

109 (e) There shall be no prosecution of a charge for an
110 alleged violation based on evidence from a traffic infraction
111 detector or similar unattended device used to enforce traffic
112 laws of this state, and a notice of violation or citation based

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113 | on such device is void unless the device has passed the accuracy
114 | test specified in s. 316.0077.

115 | Section 3. This act shall take effect upon becoming a law.