

By Senator Wise

5-00609-12

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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 governmental entity bringing the charge;  
12          specifying that a person may not be compelled to be a  
13          witness 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

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30 violation or citation based on such device is void  
31 unless the device has passed specified accuracy test;  
32 providing an effective date.

33  
34 Be It Enacted by the Legislature of the State of Florida:

35  
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 by  
44 the detector or similar device exhibits a yellow signal, if  
45 applicable.

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

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

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

56 (2) The accuracy checks shall be random and unannounced and  
57 conducted by a private company that does not have any interest  
58 in the outcome of the accuracy check. A government agency or

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59 company that gives away, leases, or sells traffic infraction  
60 detectors or similar unattended devices used to enforce the  
61 traffic laws of this state or any affiliate of such company may  
62 not perform the accuracy check. Any company operating a traffic  
63 infraction detector or similar unattended device used to enforce  
64 the traffic laws of this state shall provide access and  
65 cooperation for the accuracy check, shall pay the costs of the  
66 accuracy check, and may not charge for access.

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

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

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

77 318.14 Noncriminal traffic infractions; exception;  
78 procedures.-

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

81 (b) Notwithstanding any law to the contrary, in any hearing  
82 of a charge of a noncriminal traffic infraction, the burden of  
83 proving guilt rests upon the governmental entity bringing the  
84 charge. A person appearing in any such hearing may not be  
85 compelled to be a witness against himself or herself.

86 (c) Notwithstanding any law to the contrary, in any  
87 prosecution involving a traffic infraction detector or similar

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

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

108 (e) There shall be no prosecution of a charge for an  
109 alleged violation based on evidence from a traffic infraction  
110 detector or similar unattended device used to enforce traffic  
111 laws of this state, and a notice of violation or citation based  
112 on such device is void unless the device has passed the accuracy  
113 test specified in s. 316.0077.

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