

1 A bill to be entitled
2 An act relating to traffic control; amending s.
3 316.0083, F.S.; revising provisions for enforcement of
4 specified provisions using a traffic infraction
5 detector; prohibiting a notice of violation or a
6 traffic citation for a right on red violation under
7 specified provisions; revising notification
8 requirements; revising procedures for disposition upon
9 notice of violation; providing that initiating a
10 proceeding to challenge the delivery or attempted
11 delivery of the notice of violation or a citation
12 waives any challenge or dispute as to delivery;
13 revising provisions for issuance of a citation;
14 revising provisions for enforcement when a person
15 other than the owner is designated as having care,
16 custody, or control of the motor vehicle at the time
17 of the violation; providing that specified provisions
18 for notice of violation apply to such designated
19 person; specifying that the burden of proving guilt
20 rests upon the governmental entity bringing the charge
21 and that a person may not be compelled to be a witness
22 against himself or herself; specifying that, in any
23 hearing involving a traffic infraction detector or
24 similar unattended device, each person so charged has
25 the right to confront the witnesses against him or
26 her; providing procedures for presentation and
27 authentication of evidence relating to a traffic
28 infraction detector or similar unattended device;

29 specifying requirements for compensation of witnesses
 30 for the prosecution; amending s. 316.075, F.S.;
 31 requiring traffic control signals to maintain certain
 32 signal intervals and display durations based on posted
 33 speeds; providing that a citation for specified
 34 violations shall be dismissed if the traffic control
 35 signal does not meet specified requirements; providing
 36 dates for intersections to meet such requirements;
 37 providing penalties for violation by a local
 38 governmental entity; providing for dismissal of
 39 citations issued at certain nonconforming
 40 intersections and refund of penalties collected
 41 pursuant to such citations; providing an effective
 42 date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Subsections (1) and (2) of section 316.0083,
 47 Florida Statutes, are amended to read:

48 316.0083 Mark Wandall Traffic Safety Program;
 49 administration; report.—

50 (1) (a) For purposes of administering this section, the
 51 department, a county, or a municipality may authorize a traffic
 52 infraction enforcement officer under s. 316.640 to issue a
 53 traffic citation for a violation of s. 316.074(1) or s.
 54 316.075(1)(c)1. Neither a notice of violation nor ~~and~~ a traffic
 55 citation may ~~not~~ be issued under this section for a right on red
 56 violation for failure to stop at a red light if the driver is

HB 1061

2013

57 | ~~making a right-hand turn in a careful and prudent manner at an~~
58 | ~~intersection where right-hand turns are permissible.~~ This
59 | paragraph does not prohibit a review of information from a
60 | traffic infraction detector by an authorized employee or agent
61 | of the department, a county, or a municipality before issuance
62 | of the traffic citation by the traffic infraction enforcement
63 | officer. This paragraph does not prohibit the department, a
64 | county, or a municipality from issuing notification as provided
65 | in paragraph (b) to the registered owner of the motor vehicle or
66 | to another person identified as having care, custody, or control
67 | of the motor vehicle involved in the violation of s. 316.074(1)
68 | or s. 316.075(1)(c)1. unless the notification is for a right on
69 | red violation.

70 | (b)1.a. Within 30 days after a violation, notification
71 | must be sent to the registered owner of the motor vehicle
72 | involved in the violation specifying the remedies available
73 | under s. 318.14 and that the violator must pay the penalty of
74 | \$158 to the department, county, or municipality, or furnish an
75 | affidavit in accordance with paragraph (d), or request a
76 | hearing, within 30 days following the date of delivery or
77 | attempted delivery of the notification in order to avoid court
78 | fees, costs, and the issuance of a traffic citation. The
79 | notification shall be sent by certified ~~first-class~~ mail.

80 | b. Included with the notification to the registered owner
81 | of the motor vehicle involved in the infraction must be a notice
82 | that the owner has the right to review the photographic or
83 | electronic images or the streaming video evidence that
84 | constitutes a rebuttable presumption against the owner of the

HB 1061

2013

85 | vehicle. The notice must state the time and place or Internet
86 | location where the evidence may be examined and observed.

87 | c. Notwithstanding any other provision of law, a person
88 | who receives a notice of violation under this section shall have
89 | the option of requesting a hearing within 30 days following the
90 | date of delivery or attempted delivery of the notice of
91 | violation or paying the penalty pursuant to the notice of
92 | violation, but no payment or fee may be required before a
93 | hearing requested by the person. For purposes of this
94 | subparagraph, the term "person" includes a natural person,
95 | registered owner or coowner of a motor vehicle, or person
96 | identified on an affidavit as having care, custody, or control
97 | of the motor vehicle at the time of the violation.

98 | d. If the registered owner or coowner of the motor
99 | vehicle, or the person designated as having care, custody, or
100 | control of the motor vehicle at the time of the violation, or a
101 | duly authorized representative of the owner, coowner, or
102 | designated person, initiates a proceeding to challenge the
103 | delivery or attempted delivery of the notice of violation
104 | pursuant to this paragraph, such person waives any challenge or
105 | dispute as to delivery.

106 | 2. Penalties assessed and collected by the department,
107 | county, or municipality authorized to collect the funds provided
108 | for in this paragraph, less the amount retained by the county or
109 | municipality pursuant to subparagraph 3., shall be paid to the
110 | Department of Revenue weekly. Payment by the department, county,
111 | or municipality to the state shall be made by means of
112 | electronic funds transfers. In addition to the payment, summary

113 detail of the penalties remitted shall be reported to the
114 Department of Revenue.

115 3. Penalties to be assessed and collected by the
116 department, county, or municipality are as follows:

117 a. One hundred fifty-eight dollars for a violation of s.
118 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
119 stop at a traffic signal if enforcement is by the department's
120 traffic infraction enforcement officer. One hundred dollars
121 shall be remitted to the Department of Revenue for deposit into
122 the General Revenue Fund, \$10 shall be remitted to the
123 Department of Revenue for deposit into the Department of Health
124 Emergency Medical Services Trust Fund, \$3 shall be remitted to
125 the Department of Revenue for deposit into the Brain and Spinal
126 Cord Injury Trust Fund, and \$45 shall be distributed to the
127 municipality in which the violation occurred, or, if the
128 violation occurred in an unincorporated area, to the county in
129 which the violation occurred. Funds deposited into the
130 Department of Health Emergency Medical Services Trust Fund under
131 this sub-subparagraph shall be distributed as provided in s.
132 395.4036(1). Proceeds of the infractions in the Brain and Spinal
133 Cord Injury Trust Fund shall be distributed quarterly to the
134 Miami Project to Cure Paralysis and shall be used for brain and
135 spinal cord research.

136 b. One hundred fifty-eight dollars for a violation of s.
137 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
138 stop at a traffic signal if enforcement is by a county or
139 municipal traffic infraction enforcement officer. Seventy
140 dollars shall be remitted by the county or municipality to the

141 Department of Revenue for deposit into the General Revenue Fund,
 142 \$10 shall be remitted to the Department of Revenue for deposit
 143 into the Department of Health Emergency Medical Services Trust
 144 Fund, \$3 shall be remitted to the Department of Revenue for
 145 deposit into the Brain and Spinal Cord Injury Trust Fund, and
 146 \$75 shall be retained by the county or municipality enforcing
 147 the ordinance enacted pursuant to this section. Funds deposited
 148 into the Department of Health Emergency Medical Services Trust
 149 Fund under this sub-subparagraph shall be distributed as
 150 provided in s. 395.4036(1). Proceeds of the infractions in the
 151 Brain and Spinal Cord Injury Trust Fund shall be distributed
 152 quarterly to the Miami Project to Cure Paralysis and shall be
 153 used for brain and spinal cord research.

154 4. An individual may not receive a commission from any
 155 revenue collected from violations detected through the use of a
 156 traffic infraction detector. A manufacturer or vendor may not
 157 receive a fee or remuneration based upon the number of
 158 violations detected through the use of a traffic infraction
 159 detector.

160 (c)1.a. A traffic citation issued under this section shall
 161 be issued by mailing the traffic citation by certified mail to
 162 the address of the registered owner of the motor vehicle
 163 involved in the violation when payment has not been made within
 164 30 days after the date of delivery or attempted delivery of the
 165 notification under paragraph (b), the registered owner has not
 166 requested a hearing as permitted by paragraph (b), and the
 167 registered owner has not submitted an affidavit under this
 168 section subparagraph (b)1.

HB 1061

2013

169 b. Delivery or attempted delivery of the traffic citation
170 constitutes notification under this paragraph. If the registered
171 owner or the person designated as having care, custody, or
172 control of the motor vehicle at the time of the violation, or a
173 duly authorized representative of the owner or designated
174 person, initiates a proceeding to challenge the delivery or
175 attempted delivery of the citation pursuant to this section,
176 such person waives any challenge or dispute as to delivery.

177 c. In the case of joint ownership of a motor vehicle, the
178 traffic citation shall be mailed to the first name appearing on
179 the registration, unless the first name appearing on the
180 registration is a business organization, in which case the
181 second name appearing on the registration may be used.

182 ~~d. The traffic citation shall be mailed to the registered~~
183 ~~owner of the motor vehicle involved in the violation no later~~
184 ~~than 60 days after the date of the violation.~~

185 2. Included with the notification to the registered owner
186 of the motor vehicle involved in the infraction shall be a
187 notice that the owner has the right to review, either in person
188 or remotely, the photographic or electronic images or the
189 streaming video evidence that constitutes a rebuttable
190 presumption against the owner of the vehicle. The notice must
191 state the time and place or Internet location where the evidence
192 may be examined and observed.

193 (d)1. The owner of the motor vehicle involved in the
194 violation is responsible and liable for paying the uniform
195 traffic citation issued for a violation of s. 316.074(1) or s.
196 316.075(1)(c)1. when the driver failed to stop at a traffic

197 | signal, unless the owner can establish that:

198 | a. The motor vehicle passed through the intersection in
199 | order to yield right-of-way to an emergency vehicle or as part
200 | of a funeral procession;

201 | b. The motor vehicle passed through the intersection at
202 | the direction of a law enforcement officer;

203 | c. The motor vehicle was, at the time of the violation, in
204 | the care, custody, or control of another person;

205 | d. A uniform traffic citation was issued by a law
206 | enforcement officer to the driver of the motor vehicle for the
207 | alleged violation of s. 316.074(1) or s. 316.075(1)(c)1; or

208 | e. The motor vehicle's owner was deceased on or before the
209 | date that the uniform traffic citation was issued, as
210 | established by an affidavit submitted by the representative of
211 | the motor vehicle owner's estate or other designated person or
212 | family member.

213 | 2. In order to establish such facts, the owner of the
214 | motor vehicle shall, within 30 days after the date of issuance
215 | of the traffic citation, furnish to the appropriate governmental
216 | entity an affidavit setting forth detailed information
217 | supporting an exemption as provided in this paragraph.

218 | a. An affidavit supporting an exemption under sub-
219 | subparagraph 1.c. must include the name, address, date of birth,
220 | and, if known, the driver license number of the person who
221 | leased, rented, or otherwise had care, custody, or control of
222 | the motor vehicle at the time of the alleged violation. If the
223 | vehicle was stolen at the time of the alleged offense, the
224 | affidavit must include the police report indicating that the

225 | vehicle was stolen.

226 | b. If a traffic citation for a violation of s. 316.074(1)
 227 | or s. 316.075(1)(c)1. was issued at the location of the
 228 | violation by a law enforcement officer, the affidavit must
 229 | include the serial number of the uniform traffic citation.

230 | c. If the motor vehicle's owner to whom a traffic citation
 231 | has been issued is deceased, the affidavit must include a
 232 | certified copy of the owner's death certificate showing that the
 233 | date of death occurred on or before the issuance of the uniform
 234 | traffic citation and one of the following:

235 | (I) A bill of sale or other document showing that the
 236 | deceased owner's motor vehicle was sold or transferred after his
 237 | or her death, but on or before the date of the alleged
 238 | violation.

239 | (II) Documentary proof that the registered license plate
 240 | belonging to the deceased owner's vehicle was returned to the
 241 | department or any branch office or authorized agent of the
 242 | department, but on or before the date of the alleged violation.

243 | (III) A copy of a police report showing that the deceased
 244 | owner's registered license plate or motor vehicle was stolen
 245 | after the owner's death, but on or before the date of the
 246 | alleged violation.

247 |
 248 | Upon receipt of the affidavit and documentation required under
 249 | this sub-subparagraph, the governmental entity must dismiss the
 250 | citation and provide proof of such dismissal to the person that
 251 | submitted the affidavit.

252 | 3. Upon receipt of an affidavit, the person designated as

HB 1061

2013

253 having care, custody, and control of the motor vehicle at the
254 time of the violation may be issued a notice of violation
255 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.
256 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
257 at a traffic signal. The affidavit is admissible in a proceeding
258 pursuant to this section for the purpose of providing proof that
259 the person identified in the affidavit was in actual care,
260 custody, or control of the motor vehicle. The owner of a leased
261 vehicle for which a traffic citation is issued for a violation
262 of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to
263 stop at a traffic signal is not responsible for paying the
264 traffic citation and is not required to submit an affidavit as
265 specified in this subsection if the motor vehicle involved in
266 the violation is registered in the name of the lessee of such
267 motor vehicle.

268 4. Paragraphs (b) and (c) apply to the person identified
269 on the affidavit, except that the notification under sub-
270 subparagraph (b)1.a. must be sent to the person identified on
271 the affidavit within 30 days after receipt of an affidavit.

272 ~~5.4.~~ The submission of a false affidavit is a misdemeanor
273 of the second degree, punishable as provided in s. 775.082 or s.
274 775.083.

275 (e) The photographic or electronic images or streaming
276 video attached to or referenced in the traffic citation is
277 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.
278 when the driver failed to stop at a traffic signal has occurred
279 and is admissible in any proceeding to enforce this section and
280 raises a rebuttable presumption that the motor vehicle named in

281 | the report or shown in the photographic or electronic images or
 282 | streaming video evidence was used in violation of s. 316.074(1)
 283 | or s. 316.075(1)(c)1. when the driver failed to stop at a
 284 | traffic signal.

285 | (f) Notwithstanding any other provision of law, the burden
 286 | of proving guilt shall rest upon the governmental entity
 287 | bringing the charge under this section. A person appearing in
 288 | any hearing under this section may not be compelled to be a
 289 | witness against himself or herself.

290 | (g) Notwithstanding any other provision of law, in any
 291 | hearing involving a traffic infraction detector or similar
 292 | unattended device used to enforce the traffic laws of this
 293 | state, each person so charged has the right to confront the
 294 | witnesses against him or her. Any evidence obtained from such
 295 | device must be authenticated in court by the person receiving or
 296 | processing the evidence, any person having reviewed such
 297 | evidence in order to make a decision to issue a notice of
 298 | violation, and any person who issued the notice of violation or
 299 | traffic citation. An affidavit is not sufficient to authenticate
 300 | such evidence, and such evidence must be accounted for in
 301 | writing from the time of the alleged violation until the
 302 | issuance of any notice of violation or traffic citation.
 303 | Compensation of any witness for the prosecution shall be as
 304 | required in s. 92.143.

305 | (2) Neither a notice of violation nor ~~and~~ a traffic
 306 | citation may ~~not~~ be issued under this section for a right on red
 307 | violation ~~for failure to stop at a red light if the driver is~~
 308 | ~~making a right hand turn in a careful and prudent manner at an~~

HB 1061

2013

309 | ~~intersection where right-hand turns are permissible.~~

310 | Section 2. Section 316.075, Florida Statutes, is amended
311 | to read:

312 | 316.075 Traffic control signal devices.—

313 | (1) Except for automatic warning signal lights installed
314 | or to be installed at railroad crossings, whenever traffic,
315 | including municipal traffic, is controlled by traffic control
316 | signals exhibiting different colored lights, or colored lighted
317 | arrows, successively one at a time or in combination, only the
318 | colors green, red, and yellow shall be used, except for special
319 | pedestrian signals carrying a word legend, and the lights shall
320 | indicate and apply to drivers of vehicles and pedestrians as
321 | follows:

322 | (a) Green indication.—

323 | 1. Vehicular traffic facing a circular green signal may
324 | proceed cautiously straight through or turn right or left unless
325 | a sign at such place prohibits either such turn. But vehicular
326 | traffic, including vehicles turning right or left, shall yield
327 | the right-of-way to other vehicles and to pedestrians lawfully
328 | within the intersection or an adjacent crosswalk at the time
329 | such signal is exhibited.

330 | 2. Vehicular traffic facing a green arrow signal, shown
331 | alone or in combination with another indication, as directed by
332 | the manual, may cautiously enter the intersection only to make
333 | the movement indicated by such arrow, or such other movement as
334 | is permitted by other indications shown at the same time, except
335 | the driver of any vehicle may U-turn, so as to proceed in the
336 | opposite direction unless such movement is prohibited by posted

HB 1061

2013

337 traffic control signs. Such vehicular traffic shall yield the
338 right-of-way to pedestrians lawfully within an adjacent
339 crosswalk and to other traffic lawfully using the intersection.

340 3. Unless otherwise directed by a pedestrian control
341 signal as provided in s. 316.0755, pedestrians facing any green
342 signal, except when the sole green signal is a turn arrow, may
343 proceed across the roadway within any marked or unmarked
344 crosswalk.

345 (b) Steady yellow indication.—

346 1. Vehicular traffic facing a steady yellow signal is
347 thereby warned that the related green movement is being
348 terminated or that a red indication will be exhibited
349 immediately thereafter when vehicular traffic shall not enter
350 the intersection.

351 2. Pedestrians facing a steady yellow signal, unless
352 otherwise directed by a pedestrian control signal as provided in
353 s. 316.0755, are thereby advised that there is insufficient time
354 to cross the roadway before a red indication is shown and no
355 pedestrian shall start to cross the roadway.

356 (c) Steady red indication.—

357 1. Vehicular traffic facing a steady red signal shall stop
358 before entering the crosswalk on the near side of the
359 intersection or, if none, then before entering the intersection
360 and shall remain standing until a green indication is shown;
361 however:

362 a. The driver of a vehicle which is stopped at a clearly
363 marked stop line, but if none, before entering the crosswalk on
364 the near side of the intersection, or, if none then at the point

HB 1061

2013

365 nearest the intersecting roadway where the driver has a view of
366 approaching traffic on the intersecting roadway before entering
367 the intersection in obedience to a steady red signal may make a
368 right turn, but shall yield the right-of-way to pedestrians and
369 other traffic proceeding as directed by the signal at the
370 intersection, except that municipal and county authorities may
371 prohibit any such right turn against a steady red signal at any
372 intersection, which prohibition shall be effective when a sign
373 giving notice thereof is erected in a location visible to
374 traffic approaching the intersection.

375 b. The driver of a vehicle on a one-way street that
376 intersects another one-way street on which traffic moves to the
377 left shall stop in obedience to a steady red signal, but may
378 then make a left turn into the one-way street, but shall yield
379 the right-of-way to pedestrians and other traffic proceeding as
380 directed by the signal at the intersection, except that
381 municipal and county authorities may prohibit any such left turn
382 as described, which prohibition shall be effective when a sign
383 giving notice thereof is attached to the traffic control signal
384 device at the intersection.

385 2.a. The driver of a vehicle facing a steady red signal
386 shall stop before entering the crosswalk and remain stopped to
387 allow a pedestrian, with a permitted signal, to cross a roadway
388 when the pedestrian is in the crosswalk or steps into the
389 crosswalk and is upon the half of the roadway upon which the
390 vehicle is traveling or when the pedestrian is approaching so
391 closely from the opposite half of the roadway as to be in
392 danger.

393 b. Unless otherwise directed by a pedestrian control
 394 signal as provided in s. 316.0755, pedestrians facing a steady
 395 red signal shall not enter the roadway.

396 (2) In the event an official traffic control signal is
 397 erected and maintained at a place other than an intersection,
 398 the provisions of this section shall be applicable except as to
 399 those provisions which by their nature can have no application.
 400 Any stop required shall be made at a sign or marking on the
 401 pavement indicating where the stop shall be made, but in the
 402 absence of any such sign or marking the stop shall be made at
 403 the signal.

404 (3) (a) A ~~No~~ traffic control signal device may not ~~shall~~ be
 405 used unless it exhibits ~~which does not exhibit~~ a yellow or
 406 "caution" light between the green or "go" signal and the red or
 407 "stop" signal. Whenever an engineering analysis is undertaken
 408 for the purpose of evaluating or reevaluating yellow and red
 409 signal display durations of a new or existing traffic control
 410 signal, the department and local authorities shall adhere to the
 411 following:

412 1. The minimum yellow signal display duration on traffic
 413 control signals shall be based on the posted speed limit plus 10
 414 percent along with the standards set forth in the Florida
 415 Department of Transportation's Traffic Engineering Manual. The
 416 minimum yellow signal display duration shall be 3 seconds for
 417 traffic control signals on streets with a posted speed limit of
 418 25 miles per hour or less. The minimum yellow signal display
 419 duration found after the evaluation or reevaluation under this

HB 1061

2013

420 paragraph shall be raised to the nearest half second, not to
421 exceed 6 seconds.

422 2. Intersections with a posted speed limit greater than 55
423 miles per hour shall have, on approach, a sign posted in
424 accordance with the Florida Department of Transportation's
425 Traffic Engineering Manual to alert drivers to the traffic
426 control signal.

427 (b) A ~~No~~ traffic control signal device may not shall
428 display other than the color red at the top of the vertical
429 signal, nor may shall it display other than the color red at the
430 extreme left of the horizontal signal.

431 (c) To provide additional time before conflicting traffic
432 movements proceed, the yellow signal display shall be followed
433 by an all red clearance interval delaying the change of opposing
434 red light signals. The duration of the clearance interval shall
435 be determined by engineering practices as provided for in the
436 Florida Department of Transportation's Traffic Engineering
437 Manual required under s. 316.0745. The duration of a red
438 clearance interval may be extended from its predetermined value
439 for a given cycle based upon the detection of a vehicle that is
440 predicted to violate the red signal indication.

441 (4)(a) A violation of subsection (1) or subsection (2)
442 ~~this section~~ is a noncriminal traffic infraction, punishable
443 pursuant to chapter 318 as either a pedestrian violation or, if
444 the infraction resulted from the operation of a vehicle, as a
445 moving violation. However, a citation for a violation of
446 subparagraph (1)(c)1. committed at an intersection where the
447 traffic signal device does not meet all requirements under

HB 1061

2013

448 subsection (3) is unenforceable, and the court, clerk of the
449 court, designated official, or authorized operator of a traffic
450 violations bureau shall dismiss the citation without penalty or
451 assessment of points against the license of the person cited.

452 (b) Intersections with traffic infraction detectors must
453 meet the requirements of this section by December 31, 2013.

454 (c) All intersections with traffic infraction detectors
455 installed after December 31, 2013, must meet the requirements of
456 this section upon installation of the traffic infraction
457 detector.

458 (d) All other intersections must meet the requirements of
459 this section by December 31, 2014.

460 (e) A local governmental entity that violates this
461 paragraph shall be fined \$500 per violation, which shall be
462 remitted to the Department of Revenue for deposit into the Brain
463 and Spinal Cord Injury Trust Fund.

464 (f) In addition to the fine listed in paragraph (f), all
465 citations issued at a nonconforming intersection over the
466 preceding 60 days shall be dismissed and all fine amounts paid
467 shall be refunded. For purposes of this paragraph, the 60-day
468 period shall begin on, and include, the date the traffic
469 infraction detector was found to be in violation of this
470 section.

471 Section 3. This act shall take effect July 1, 2013.
472