

1 A bill to be entitled
2 An act relating to traffic control; amending s.
3 316.0083, F.S., relating to enforcement of specified
4 traffic control signal red light provisions; revising
5 circumstances under which the Department of Highway
6 Safety and Motor Vehicles, a county, or a municipality
7 may not issue a notice of violation or a traffic
8 citation for failing to stop; providing that mailing
9 the traffic citation constitutes notification;
10 providing that a person's presence or the person's
11 agent's presence at any proceeding under this section
12 waives any challenge or dispute as to notification of
13 the citation; revising procedures for disposition upon
14 receipt of an affidavit that the vehicle was in the
15 care, custody, or control of another person;
16 specifying application of specified timeframes for
17 mailing the notice of traffic infraction or the
18 traffic citation; providing that certain evidence is
19 self-authenticating; providing for prima facie
20 evidence of reliability of a traffic infraction
21 detector; requiring a person who questions the
22 reliability of the traffic infraction detector to
23 prove by clear and convincing evidence that the
24 detector did not meet required specifications;
25 revising provisions that prohibit issuance of a notice
26 of violation or traffic citation under certain
27 circumstances; providing that a notice of violation or
28 traffic citation for specified violations shall be

29 | issued at the discretion of the reviewing traffic
30 | infraction enforcement officer; providing criteria for
31 | consideration by the officer when examining evidence
32 | of a violation; providing an exception; directing the
33 | department, each county, or each municipality to
34 | submit a report to the Department of Transportation
35 | containing certain specified data; amending s.
36 | 316.075, F.S.; requiring each jurisdiction to
37 | establish minimum yellow light-change interval times
38 | for each intersection designated to receive a traffic
39 | infraction detector; requiring that the intervals
40 | comply with specified engineering standards; requiring
41 | the Department of Transportation to adopt a specified
42 | handbook; requiring that the yellow light-change
43 | interval for each intersection be tested; requiring
44 | notice of a violation to include the length of the
45 | yellow light-change interval; requiring a traffic
46 | infraction detector that is not in compliance with
47 | certain standards be disabled; providing that testing
48 | of the yellow light-change interval or issuance of a
49 | notice including the length of the yellow light-change
50 | interval establishes a presumption of compliance;
51 | providing that a person raising the length of the
52 | yellow light-change interval as an affirmative defense
53 | must prove noncompliance by clear and convincing
54 | evidence; establishing the timeframe for compliance;
55 | amending s. 316.640, F.S.; requiring that a traffic
56 | infraction officer who issues a traffic citation

57 | complete a specialized enforcement training course;
 58 | amending s. 318.15, F.S.; providing that a person who
 59 | is charged with a traffic infraction may request a
 60 | hearing within 180 days after the date of the
 61 | violation if the charge results in suspension of the
 62 | person's driver license; providing an effective date.

63 |

64 | Be It Enacted by the Legislature of the State of Florida:

65 |

66 | Section 1. Subsections (1) and (2) of section 316.0083,
 67 | Florida Statutes, are amended, and subsection (5) is added to
 68 | that section, to read:

69 | 316.0083 Mark Wandall Traffic Safety Program;
 70 | administration; report.—

71 | (1) (a) For purposes of administering this section, the
 72 | department, a county, or a municipality may authorize a traffic
 73 | infraction enforcement officer under s. 316.640 to issue a
 74 | traffic citation for a violation of s. 316.074(1) or s.
 75 | 316.075(1)(c)1. A notice of violation and a traffic citation may
 76 | not be issued for failure to stop at a red light if the driver
 77 | is making a right-hand turn or a left-hand turn in a careful and
 78 | prudent manner at an intersection where right-hand or left-hand
 79 | turns are permissible. This paragraph does not prohibit a review
 80 | of information from a traffic infraction detector by an
 81 | authorized employee or agent of the department, a county, or a
 82 | municipality before issuance of the traffic citation by the
 83 | traffic infraction enforcement officer. This paragraph does not
 84 | prohibit the department, a county, or a municipality from

HB 1203

2013

85 | issuing notification as provided in paragraph (b) to the
86 | registered owner of the motor vehicle or to another person
87 | identified as having care, custody, and control of the motor
88 | vehicle involved in the violation of s. 316.074(1) or s.
89 | 316.075(1)(c)1.

90 | (b)1.a. Within 30 days after a violation, notification
91 | must be sent to the registered owner of the motor vehicle
92 | involved in the violation specifying the remedies available
93 | under s. 318.14 and that the violator must pay the penalty of
94 | \$158 to the department, county, or municipality, or furnish an
95 | affidavit in accordance with paragraph (d), within 30 days
96 | following the date of the notification in order to avoid court
97 | fees, costs, and the issuance of a traffic citation. The
98 | notification shall be sent by first-class mail.

99 | b. Included with the notification to the registered owner
100 | of the motor vehicle involved in the infraction must be a notice
101 | that the owner has the right to review the photographic or
102 | electronic images or the streaming video evidence that
103 | constitutes a rebuttable presumption against the owner of the
104 | vehicle. The notice must state the time and place or Internet
105 | location where the evidence may be examined and observed.

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

HB 1203

2013

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

HB 1203

2013

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 notification under subparagraph (b)1.

165 b. Mailing Delivery of the traffic citation constitutes
166 notification under this paragraph. If the registered owner or
167 the person designated as having care, custody, or control of the
168 motor vehicle at the time of the violation, or a duly authorized

HB 1203

2013

169 representative thereof, is present at any proceeding pursuant to
170 this section, such person waives any challenge or dispute as to
171 notification of the citation.

172 c. In the case of joint ownership of a motor vehicle, the
173 traffic citation shall be mailed to the first name appearing on
174 the registration, unless the first name appearing on the
175 registration is a business organization, in which case the
176 second name appearing on the registration may be used.

177 d. The traffic citation shall be mailed to the registered
178 owner of the motor vehicle involved in the violation no later
179 than 60 days after the date of the violation.

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

188 (d)1. The owner of the motor vehicle involved in the
189 violation is responsible and liable for paying the uniform
190 traffic citation issued for a violation of s. 316.074(1) or s.
191 316.075(1)(c)1. when the driver failed to stop at a traffic
192 signal, unless the owner can establish that:

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

196 b. The motor vehicle passed through the intersection at

HB 1203

2013

197 the direction of a law enforcement officer;

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

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

203 e. The motor vehicle's owner was deceased on or before the
204 date that the uniform traffic citation was issued, as
205 established by an affidavit submitted by the representative of
206 the motor vehicle owner's estate or other designated person or
207 family member.

208 2. In order to establish such facts, the owner of the
209 motor vehicle shall, within 30 days after the date of issuance
210 of the traffic citation, furnish to the appropriate governmental
211 entity an affidavit setting forth detailed information
212 supporting an exemption as provided in this paragraph.

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

221 b. If a traffic citation for a violation of s. 316.074(1)
222 or s. 316.075(1)(c)1. was issued at the location of the
223 violation by a law enforcement officer, the affidavit must
224 include the serial number of the uniform traffic citation.

225 c. If the motor vehicle's owner to whom a traffic citation
 226 has been issued is deceased, the affidavit must include a
 227 certified copy of the owner's death certificate showing that the
 228 date of death occurred on or before the issuance of the uniform
 229 traffic citation and one of the following:

230 (I) A bill of sale or other document showing that the
 231 deceased owner's motor vehicle was sold or transferred after his
 232 or her death, but on or before the date of the alleged
 233 violation.

234 (II) Documentary proof that the registered license plate
 235 belonging to the deceased owner's vehicle was returned to the
 236 department or any branch office or authorized agent of the
 237 department, but on or before the date of the alleged violation.

238 (III) A copy of a police report showing that the deceased
 239 owner's registered license plate or motor vehicle was stolen
 240 after the owner's death, but on or before the date of the
 241 alleged violation.

242
 243 Upon receipt of the affidavit and documentation required under
 244 this sub-subparagraph, the governmental entity must dismiss the
 245 citation and provide proof of such dismissal to the person that
 246 submitted the affidavit.

247 3. Upon receipt of an affidavit, the person designated as
 248 having care, custody, and control of the motor vehicle at the
 249 time of the violation may be issued a notice of violation
 250 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.
 251 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
 252 at a traffic signal. The notice of violation may be issued to

HB 1203

2013

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

267 | 4. Paragraphs (b) and (c) apply to the person identified
268 | on the affidavit, except that the notification under
269 | subparagraph (b)1.a. must be sent within 30 days after receipt
270 | of an affidavit and the traffic citation mailed pursuant to
271 | subparagraph (c)1.d. must be mailed no later than 30 days after
272 | the date the notification of violation is mailed.

273 | ~~5.4.~~ The submission of a false affidavit is a misdemeanor
274 | of the second degree, punishable as provided in s. 775.082 or s.
275 | 775.083.

276 | (e) The photographic or electronic images or streaming
277 | video attached to or referenced in the traffic citation is self-
278 | authenticating evidence that a violation of s. 316.074(1) or s.
279 | 316.075(1)(c)1. when the driver failed to stop at a traffic
280 | signal has occurred and is admissible in any proceeding to

HB 1203

2013

281 enforce this section and raises a rebuttable presumption that
282 the motor vehicle named in the report or shown in the
283 photographic or electronic images or streaming video evidence
284 was used in violation of s. 316.074(1) or s. 316.075(1)(c)1.
285 when the driver failed to stop at a traffic signal.

286 (f) Documentation provided by the Department of
287 Transportation which demonstrates that the traffic infraction
288 detection equipment meets the appropriate testing specifications
289 is prima facie evidence of the reliability of the traffic
290 infraction detector. A person raising the reliability of the
291 traffic infraction detector as an affirmative defense to the
292 notice of violation must establish by clear and convincing
293 evidence that the detector did not meet specifications
294 prescribed by the Department of Transportation.

295 (2) A notice of violation and a traffic citation may not
296 be issued for failure to stop at a red light if the driver is
297 making a right-hand turn in a careful and prudent manner at an
298 intersection where right-hand turns are permissible or if the
299 driver is making a left-hand turn in a careful and prudent
300 manner from a one-way street onto a one-way street where left-
301 hand turns are permitted.

302 (a) A notice of violation or traffic citation for failure
303 to stop at a red light before making a right-hand or left-hand
304 turn may be issued at the discretion of the reviewing traffic
305 infraction enforcement officer, as if the citation had been
306 issued by an officer at an intersection. When examining evidence
307 for violations under this subsection, a traffic infraction
308 enforcement officer shall consider one or more of the following

HB 1203

2013

309 factors that would indicate the turn was not made in a careful
310 or prudent manner:

311 1. The operator of the motor vehicle failed to yield to a
312 pedestrian or bicyclist.

313 2. The operator of the motor vehicle put a pedestrian or
314 bicyclist in danger of injury.

315 3. The operator of the motor vehicle failed to yield to
316 another vehicle or oncoming traffic.

317 4. The operator of the motor vehicle commenced the turn in
318 disregard for the safety of a person or property.

319 (b) A citation may not be issued under this subsection if
320 the driver of the vehicle came to a complete stop before turning
321 right or left when permissible at a red light, but failed to
322 achieve a stop before the point at which a stop is required.

323 (5) Within 15 months or when 1 year of data is available
324 after the date of installation of a traffic infraction detector,
325 the department, each county, or each municipality shall submit a
326 report to the Department of Transportation.

327 (a) The report must include a comparison and analysis of:

328 1. Month-to-month violations of ss. 316.074(1) and
329 316.075(1)(c)1. which occur at an intersection where a traffic
330 infraction detector has been installed to enforce the law
331 requiring drivers to stop at a red light; and

332 2. The number and type of related traffic collisions that
333 occur at each intersection measured as before and after the
334 traffic infraction detector was installed.

335 (b) The report must also describe instances in which
336 camera results are not used and other information, such as

HB 1203

2013

337 | traffic crash reports, which is used in the comparison and
338 | analysis by the department, county, or municipality.

339 | Section 2. Present subsection (4) of section 316.075,
340 | Florida Statutes, is amended and redesignated as subsection (5),
341 | and a new subsection (4) is added to that section, to read:

342 | 316.075 Traffic control signal devices.—

343 | (4) (a) Before installing a traffic infraction detector at
344 | an intersection, each jurisdiction shall establish a minimum
345 | measured yellow light-change interval for the designated
346 | intersection. The interval shall be developed in accordance with
347 | engineering standards established in the Institute of
348 | Transportation Engineers Traffic Engineering Handbook, as
349 | adopted by the Department of Transportation. The interval
350 | established by the jurisdictions may not be less than the
351 | recognized national minimum standard. The Department of
352 | Transportation shall adopt the latest edition of the Institute
353 | of Transportation Engineers Engineering Handbook for use in
354 | compliance with this subsection.

355 | (b) To ensure compliance with this section, a jurisdiction
356 | issuing a notice of violation under s. 316.0083 shall include in
357 | the notice the length of the yellow light-change interval during
358 | the signal phase of the traffic control signal immediately
359 | before the violation or shall maintain for inspection the
360 | records of the most recent programmed intervals.

361 | (c) Unless each notice of violation for a particular
362 | approach states the length of the yellow light duration, the
363 | yellow light-change interval shall be tested at least once
364 | during every calendar year beginning in 2013. A traffic

HB 1203

2013

365 infraction detector that monitors a traffic signal that is not
366 in compliance with Institute of Transportation Engineers Traffic
367 Engineering Handbook standards, as adopted by the Department of
368 Transportation, shall be disabled until that signal is brought
369 into compliance with the standards.

370 (d) Issuance of a notice stating the length of the yellow
371 light duration, or annual testing of the yellow light-change
372 interval time pursuant to this subsection, establishes a
373 presumption that the yellow light cycle was operating in
374 compliance with this subsection at the time the violation is
375 alleged to have occurred. A certificate or signed affidavit that
376 shows that the testing of the yellow light-change cycle was
377 completed in compliance with this subsection is admissible as
378 proof of such compliance.

379 (e) A person who raises the length of the yellow light-
380 change cycle as an affirmative defense to the notice of
381 violation must establish by clear and convincing evidence that
382 the signal was not operating in compliance with the Institute of
383 Transportation Engineers Traffic Engineering Handbook standards,
384 as adopted by the Department of Transportation.

385 (f) A traffic infraction detector that is operational on
386 July 1, 2013, must be in compliance with this section by January
387 1, 2014.

388 (5)-(4) A violation of subsection (1) or subsection (2)
389 this section is a noncriminal traffic infraction, punishable
390 pursuant to chapter 318 as either a pedestrian violation or, if
391 the infraction resulted from the operation of a vehicle, as a
392 moving violation.

HB 1203

2013

393 Section 3. Paragraph (a) of subsection (5) of section
394 316.640, Florida Statutes, is amended to read:

395 316.640 Enforcement.—The enforcement of the traffic laws
396 of this state is vested as follows:

397 (5) (a) Any sheriff's department or police department of a
398 municipality may employ, as a traffic infraction enforcement
399 officer, any individual who successfully completes instruction
400 in traffic enforcement procedures and court presentation through
401 the Selective Traffic Enforcement Program as approved by the
402 Division of Criminal Justice Standards and Training of the
403 Department of Law Enforcement, or through a similar program, but
404 who does not necessarily otherwise meet the uniform minimum
405 standards established by the Criminal Justice Standards and
406 Training Commission for law enforcement officers or auxiliary
407 law enforcement officers under s. 943.13. Any such traffic
408 infraction enforcement officer who observes the commission of a
409 traffic infraction or, in the case of a parking infraction, who
410 observes an illegally parked vehicle may issue a traffic
411 citation for the infraction when, based upon personal
412 investigation, he or she has reasonable and probable grounds to
413 believe that an offense has been committed which constitutes a
414 noncriminal traffic infraction as defined in s. 318.14. In
415 addition, any such traffic infraction enforcement officer may
416 issue a traffic citation under s. 316.0083 so long as the
417 officer successfully completes a specialized enforcement
418 training course for traffic infraction detectors through the
419 Selective Traffic Enforcement Program as approved by the
420 Department of Law Enforcement. For purposes of enforcing s.

HB 1203

2013

421 316.0083, any sheriff's department or police department of a
422 municipality may designate employees as traffic infraction
423 enforcement officers. The traffic infraction enforcement
424 officers must be physically located in the county of the
425 respective sheriff's or police department.

426 Section 4. Paragraph (c) of subsection (1) of section
427 318.15, Florida Statutes, is amended to read:

428 318.15 Failure to comply with civil penalty or to appear;
429 penalty.—

430 (1)

431 (c) A person who is charged with a traffic infraction that
432 results in the suspension of his or her driver license may
433 request a hearing within 180 days after the date upon which the
434 violation occurred, regardless of any action taken by the court
435 or the department to suspend the person's driving privilege,
436 and, upon request, the clerk must set the case for hearing. The
437 person shall be given a form for requesting that his or her
438 driving privilege be reinstated. If the 180th day after the date
439 upon which the violation occurred is a Saturday, Sunday, or
440 legal holiday, the person who is charged must request a hearing
441 within 177 days after the date upon which the violation
442 occurred; however, the court may grant a request for a hearing
443 made more than 180 days after the date upon which the violation
444 occurred. This paragraph does not affect the assessment of late
445 fees as otherwise provided in this chapter.

446 Section 5. This act shall take effect July 1, 2013.