



LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
03/25/2013	.	
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The Committee on Transportation (Clemens) recommended the following:

Senate Amendment to Amendment (824056)

Delete lines 12 - 287
and insert:
traffic citation for a violation of s. 316.074(1) or s.
316.075(1)(c)1. A notice of violation and a traffic citation may
not be issued for failure to stop at a red light if the driver
is making a right-hand turn in a careful and prudent manner at
an intersection where right-hand turns are permissible. This
paragraph does not prohibit a review of information from a
traffic infraction detector by an authorized employee or agent
of the department, a county, or a municipality before issuance



342468

13 of the traffic citation by the traffic infraction enforcement
14 officer. This paragraph does not prohibit the department, a
15 county, or a municipality from issuing notification as provided
16 in paragraph (b) to the registered owner of the motor vehicle or
17 to another person identified as having care, custody, and
18 control of the motor vehicle involved in the violation of s.
19 316.074(1) or s. 316.075(1)(c)1.

20 (b)1.a. Within 30 days after a violation, notification must
21 be sent to the registered owner of the motor vehicle involved in
22 the violation specifying the remedies available under s. 318.14
23 and that the violator must pay the penalty of \$158 to the
24 department, county, or municipality, or furnish an affidavit in
25 accordance with paragraph (d), within 30 days following the date
26 of the notification in order to avoid court fees, costs, and the
27 issuance of a traffic citation. The notification shall be sent
28 by first-class mail.

29 b. Included with the notification to the registered owner
30 of the motor vehicle involved in the infraction must be a notice
31 that the owner has the right to review the photographic or
32 electronic images or the streaming video evidence that
33 constitutes a rebuttable presumption against the owner of the
34 vehicle. The notice must state the time and place or Internet
35 location where the evidence may be examined and observed.

36 2. Penalties assessed and collected by the department,
37 county, or municipality authorized to collect the funds provided
38 for in this paragraph, less the amount retained by the county or
39 municipality pursuant to subparagraph 3., shall be paid to the
40 Department of Revenue weekly. Payment by the department, county,
41 or municipality to the state shall be made by means of



342468

42 electronic funds transfers. In addition to the payment, summary
43 detail of the penalties remitted shall be reported to the
44 Department of Revenue.

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

47 a. One hundred fifty-eight dollars for a violation of s.
48 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
49 stop at a traffic signal if enforcement is by the department's
50 traffic infraction enforcement officer. One hundred dollars
51 shall be remitted to the Department of Revenue for deposit into
52 the General Revenue Fund, \$10 shall be remitted to the
53 Department of Revenue for deposit into the Department of Health
54 Emergency Medical Services Trust Fund, \$3 shall be remitted to
55 the Department of Revenue for deposit into the Brain and Spinal
56 Cord Injury Trust Fund, and \$45 shall be distributed to the
57 municipality in which the violation occurred, or, if the
58 violation occurred in an unincorporated area, to the county in
59 which the violation occurred. Funds deposited into the
60 Department of Health Emergency Medical Services Trust Fund under
61 this sub-subparagraph shall be distributed as provided in s.
62 395.4036(1). Proceeds of the infractions in the Brain and Spinal
63 Cord Injury Trust Fund shall be distributed quarterly to the
64 Miami Project to Cure Paralysis and shall be used for brain and
65 spinal cord research.

66 b. One hundred fifty-eight dollars for a violation of s.
67 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
68 stop at a traffic signal if enforcement is by a county or
69 municipal traffic infraction enforcement officer. Seventy
70 dollars shall be remitted by the county or municipality to the



71 Department of Revenue for deposit into the General Revenue Fund,
72 \$10 shall be remitted to the Department of Revenue for deposit
73 into the Department of Health Emergency Medical Services Trust
74 Fund, \$3 shall be remitted to the Department of Revenue for
75 deposit into the Brain and Spinal Cord Injury Trust Fund, and
76 \$75 shall be retained by the county or municipality enforcing
77 the ordinance enacted pursuant to this section. Funds deposited
78 into the Department of Health Emergency Medical Services Trust
79 Fund under this sub-subparagraph shall be distributed as
80 provided in s. 395.4036(1). Proceeds of the infractions in the
81 Brain and Spinal Cord Injury Trust Fund shall be distributed
82 quarterly to the Miami Project to Cure Paralysis and shall be
83 used for brain and spinal cord research.

84 4. An individual may not receive a commission from any
85 revenue collected from violations detected through the use of a
86 traffic infraction detector. A manufacturer or vendor may not
87 receive a fee or remuneration based upon the number of
88 violations detected through the use of a traffic infraction
89 detector.

90 (c)1.a. A traffic citation issued under this section shall
91 be issued by mailing the traffic citation by certified mail to
92 the address of the registered owner of the motor vehicle
93 involved in the violation when payment has not been made within
94 30 days after notification under subparagraph (b)1.

95 b. Mailing Delivery of the traffic citation constitutes
96 notification under this paragraph. If the registered owner or
97 the person designated as having care, custody, and control of
98 the motor vehicle at the time of the violation, or a duly
99 authorized representative thereof, is present at any proceeding



342468

100 pursuant to this section, such person waives any challenge or
101 dispute as to notification of the citation.

102 c. In the case of joint ownership of a motor vehicle, the
103 traffic citation shall be mailed to the first name appearing on
104 the registration, unless the first name appearing on the
105 registration is a business organization, in which case the
106 second name appearing on the registration may be used.

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

110 2. Included with the notification to the registered owner
111 of the motor vehicle involved in the infraction shall be a
112 notice that the owner has the right to review, either in person
113 or remotely, the photographic or electronic images or the
114 streaming video evidence that constitutes a rebuttable
115 presumption against the owner of the vehicle. The notice must
116 state the time and place or Internet location where the evidence
117 may be examined and observed.

118 (d)1. The owner of the motor vehicle involved in the
119 violation is responsible and liable for paying the uniform
120 traffic citation issued for a violation of s. 316.074(1) or s.
121 316.075(1)(c)1. when the driver failed to stop at a traffic
122 signal, unless the owner can establish that:

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

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

128 c. The motor vehicle was, at the time of the violation, in



342468

129 the care, custody, or control of another person;

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

133 e. The motor vehicle's owner was deceased on or before the
134 date that the uniform traffic citation was issued, as
135 established by an affidavit submitted by the representative of
136 the motor vehicle owner's estate or other designated person or
137 family member.

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

143 a. An affidavit supporting an exemption under sub-
144 subparagraph 1.c. must include the name, address, date of birth,
145 and, if known, the driver license number of the person who
146 leased, rented, or otherwise had care, custody, or control of
147 the motor vehicle at the time of the alleged violation. If the
148 vehicle was stolen at the time of the alleged offense, the
149 affidavit must include the police report indicating that the
150 vehicle was stolen.

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

155 c. If the motor vehicle's owner to whom a traffic citation
156 has been issued is deceased, the affidavit must include a
157 certified copy of the owner's death certificate showing that the



342468

158 date of death occurred on or before the issuance of the uniform
159 traffic citation and one of the following:

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

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

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

172
173 Upon receipt of the affidavit and documentation required under
174 this sub-subparagraph, the governmental entity must dismiss the
175 citation and provide proof of such dismissal to the person that
176 submitted the affidavit.

177 3. Upon receipt of an affidavit, the person designated as
178 having care, custody, and control of the motor vehicle at the
179 time of the violation may be issued a notice of violation
180 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.
181 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
182 at a traffic signal. The notice of violation may be issued to
183 the person designated by a traffic infraction officer or an
184 agent of the department, county, or municipality in the
185 affidavit as having care, custody, and control of the motor
186 vehicle at the time of the violation. The affidavit is



342468

187 admissible in a proceeding pursuant to this section for the
188 purpose of providing proof that the person identified in the
189 affidavit was in actual care, custody, or control of the motor
190 vehicle. The owner of a leased vehicle for which a traffic
191 citation is issued for a violation of s. 316.074(1) or s.
192 316.075(1)(c)1. when the driver failed to stop at a traffic
193 signal is not responsible for paying the traffic citation and is
194 not required to submit an affidavit as specified in this
195 subsection if the motor vehicle involved in the violation is
196 registered in the name of the lessee of such motor vehicle.

197 4. Paragraphs (b) and (c) apply to the person identified on
198 the affidavit, except that the notification under sub-
199 subparagraph (b)1.a. must be sent within 30 days after receipt
200 of an affidavit and the traffic citation mailed pursuant to sub-
201 subparagraph (c)1.d. must be mailed no later than 30 days after
202 the date the notification of violation is mailed.

203 5.4. The submission of a false affidavit is a misdemeanor
204 of the second degree, punishable as provided in s. 775.082 or s.
205 775.083.

206 (e) The photographic or electronic images or streaming
207 video attached to or referenced in the traffic citation is
208 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.
209 when the driver failed to stop at a traffic signal has occurred
210 and is admissible in any proceeding to enforce this section and
211 raises a rebuttable presumption that the motor vehicle named in
212 the report or shown in the photographic or electronic images or
213 streaming video evidence was used in violation of s. 316.074(1)
214 or s. 316.075(1)(c)1. when the driver failed to stop at a
215 traffic signal.



342468

216 (f) Documentation provided by the Department of
217 Transportation which demonstrates that the traffic infraction
218 detection equipment meets the appropriate testing specifications
219 is prima facie evidence of the reliability of the traffic
220 infraction detector. A person raising the reliability of the
221 traffic infraction detector as an affirmative defense to the
222 notice of violation must establish by clear and convincing
223 evidence that the detector did not meet specifications
224 prescribed by the Department of Transportation.

225 (2) A notice of violation and a traffic citation may not be
226 issued for failure to stop at a red light if the driver is
227 making a right-hand turn in a careful and prudent manner at an
228 intersection where right-hand turns are permissible.

229 (a) A notice of violation or traffic citation for failure
230 to stop at a red light before making a right-hand turn may be
231 issued at the discretion of the reviewing traffic infraction
232 enforcement officer, as if the citation had been issued by an
233 officer at an intersection. When examining evidence for
234 violations under this subsection, a traffic infraction
235 enforcement officer shall consider one or more of the following
236 factors that would indicate the turn was not made in a careful
237 or prudent manner:

238 1. The operator of the motor vehicle failed to yield to a
239 pedestrian or bicyclist.

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

242 3. The operator of the motor vehicle failed to yield to
243 another vehicle or oncoming traffic.

244 4. The operator of the motor vehicle did not substantially



342468

245 reduce the speed of the motor vehicle before making the right-
246 hand turn movement. For violations of this factor, the reviewing
247 officer must approximate that the speed of the turn was made in
248 excess of 10 miles per hour.

249 (b) A citation may not be issued under this subsection if
250 the driver of the vehicle came to a complete stop before turning
251 right, when permissible at a red light, but failed to stop
252 before the point at which a stop is required.

253 (c) A county or municipality that installs a traffic
254 infraction detector at an intersection shall install a sign
255 notifying the public that a traffic infraction detector is in
256 use at that intersection. Such signage must specifically include
257 notification of camera enforcement of violations for right turns
258 at that intersection. Such signage must meet the specifications
259 for uniform signals and devices adopted by the Department of
260 Transportation. Counties and municipalities must be in
261 compliance with this subsection by January 1, 2014.