

By Senator Abruzzo

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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

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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

57 ~~making a right-hand turn in a careful and prudent manner at an~~

58 ~~intersection where right-hand turns are permissible.~~ This

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

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

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

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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

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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.

169 b. Delivery or attempted delivery of the traffic citation
170 constitutes notification under this paragraph. If the registered
171 owner or coowner of the motor vehicle, or the person designated
172 as having care, custody, or control of the motor vehicle at the
173 time of the violation, or a duly authorized representative of
174 the owner, coowner, or designated person, initiates a proceeding

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175 to challenge the delivery or attempted delivery of the citation
176 pursuant to this section, such person waives any challenge or
177 dispute as to delivery.

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

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

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

194 (d)1. The owner of the motor vehicle involved in the
195 violation is responsible and liable for paying the uniform
196 traffic citation issued for a violation of s. 316.074(1) or s.
197 316.075(1)(c)1. when the driver failed to stop at a traffic
198 signal, unless the owner can establish that:

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

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

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

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

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

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

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

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

231 c. If the motor vehicle's owner to whom a traffic citation
232 has been issued is deceased, the affidavit must include a

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233 certified copy of the owner's death certificate showing that the
234 date of death occurred on or before the issuance of the uniform
235 traffic citation and one of the following:

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

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

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

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

253 3. Upon receipt of an affidavit, the person designated as
254 having care, custody, or ~~and~~ control of the motor vehicle at the
255 time of the violation may be issued a notice of violation
256 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.
257 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
258 at a traffic signal. The affidavit is admissible in a proceeding
259 pursuant to this section for the purpose of providing proof that
260 the person identified in the affidavit was in actual care,
261 custody, or control of the motor vehicle. The owner of a leased

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262 vehicle for which a traffic citation is issued for a violation
263 of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to
264 stop at a traffic signal is not responsible for paying the
265 traffic citation and is not required to submit an affidavit as
266 specified in this subsection if the motor vehicle involved in
267 the violation is registered in the name of the lessee of such
268 motor vehicle.

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

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

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

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

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

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

313 316.075 Traffic control signal devices.—

314 (1) Except for automatic warning signal lights installed or
315 to be installed at railroad crossings, whenever traffic,
316 including municipal traffic, is controlled by traffic control
317 signals exhibiting different colored lights, or colored lighted
318 arrows, successively one at a time or in combination, only the
319 colors green, red, and yellow shall be used, except for special

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320 pedestrian signals carrying a word legend, and the lights shall
321 indicate and apply to drivers of vehicles and pedestrians as
322 follows:

323 (a) *Green indication.*—

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

331 2. Vehicular traffic facing a green arrow signal, shown
332 alone or in combination with another indication, as directed by
333 the manual, may cautiously enter the intersection only to make
334 the movement indicated by such arrow, or such other movement as
335 is permitted by other indications shown at the same time, except
336 the driver of any vehicle may U-turn, so as to proceed in the
337 opposite direction unless such movement is prohibited by posted
338 traffic control signs. Such vehicular traffic shall yield the
339 right-of-way to pedestrians lawfully within an adjacent
340 crosswalk and to other traffic lawfully using the intersection.

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

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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
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

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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 signal
394 as provided in s. 316.0755, pedestrians facing a steady red
395 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

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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
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

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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) ~~this~~
442 section is a noncriminal traffic infraction, punishable pursuant
443 to chapter 318 as either a pedestrian violation or, if the
444 infraction resulted from the operation of a vehicle, as a moving
445 violation. However, a citation for a violation of subparagraph
446 (1) (c) 1. committed at an intersection where the traffic signal
447 device does not meet all requirements under subsection (3) is
448 unenforceable, and the court, clerk of the court, designated
449 official, or authorized operator of a traffic violations bureau
450 shall dismiss the citation without penalty or assessment of
451 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 section
461 shall be fined \$500 per violation, which shall be remitted to
462 the Department of Revenue for deposit into the Brain and Spinal
463 Cord Injury Trust Fund.

464 (f) In addition to the fine listed in paragraph (e), all

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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.