

By Senator Evers

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1 A bill to be entitled
2 An act relating to traffic infraction procedures;
3 amending s. 318.14, F.S.; providing that a person
4 receiving a notice of violation involving a traffic
5 infraction detector or similar unattended device may
6 request a hearing or pay a fine; providing that if a
7 hearing is requested, the person is not required to
8 pay the fine until after adjudication or settlement;
9 prohibiting issuance of a subsequent traffic citation
10 based on the original violation; specifying that the
11 burden for proving guilt in a traffic infraction
12 proceeding rests with the governmental entity bringing
13 the charge; providing that a person is not compelled
14 to be a witness against himself or herself in a
15 traffic court; providing that a person charged with a
16 violation of a traffic infraction detector statute or
17 any similar law has the right to confront witnesses
18 used against himself or herself; providing that
19 evidence from an unattended device must be
20 authenticated in court by specified persons; providing
21 that an affidavit is not sufficient to authenticate
22 the evidence; requiring the governmental entity to
23 account for all evidence collected from the time of
24 the alleged violation until the issuance of a notice
25 of violation or traffic citation in writing; providing
26 for compensation for witnesses as required by law;
27 providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (2) and (6) of section 318.14, Florida Statutes, are amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(2) (a) Except as provided in ss. 316.1001(2) and 316.0083, any person cited for a violation requiring a mandatory hearing listed in s. 318.19 or any other criminal traffic violation listed in chapter 316 must sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing and must indicate the applicable civil penalty established in s. 318.18. For all other infractions under this section, except for infractions under s. 316.1001, the officer must certify by electronic, electronic facsimile, or written signature that the citation was delivered to the person cited. This certification is prima facie evidence that the person cited was served with the citation.

(b) Notwithstanding any other law, a person receiving a notice of violation involving a traffic infraction detector or similar unattended device has the option of requesting a hearing to contest the notice of violation or of paying a penalty. If the person elects to request a hearing, he or she is not required to pay the penalty until after adjudication or settlement. A second or subsequent traffic citation may not be issued to this person if the traffic citation is based on the original violation involving a traffic infraction detector.

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

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59 (b) Notwithstanding any other law, the governmental entity
60 bringing the charge bears the burden of proving guilt in a non-
61 criminal traffic court hearing. A person appearing in a traffic
62 court proceeding may not be compelled to be a witness against
63 himself or herself.

64 (c)1. Notwithstanding any other law, a person charged in a
65 prosecution involving a traffic infraction detector or similar
66 unattended device used to enforce the traffic laws of this state
67 has the right to confront at trial adverse witnesses used
68 against himself or herself.

69 2. Evidence obtained from an unattended device must be
70 authenticated in court by the person:

71 a. Receiving or processing the evidence;

72 b. Reviewing such evidence before making the decision to
73 file a notice of violation; and

74 c. Issuing the notice of violation or traffic citation.

75 3. An affidavit submitted by the governmental entity is
76 insufficient to authenticate the evidence. The governmental
77 entity shall account for all evidence collected from the time of
78 the alleged violation until the issuance of a notice of
79 violation or traffic citation in writing.

80 4. Any witness used to prosecute the proceeding shall be
81 compensated as required in s. 92.143.

82 Section 2. This act shall take effect July 1, 2013.