

By Senator Evers

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1 A bill to be entitled
2 An act relating to traffic infraction detectors;
3 amending s. 316.008, F.S.; requiring certain signage
4 at an intersection with a traffic infraction detector
5 installed; providing exceptions; amending s. 316.0083,
6 F.S.; providing for the basis for compensation paid
7 for a traffic infraction detector; providing that the
8 owner of a motor vehicle is not responsible for a
9 violation if the motor vehicle or registration license
10 plate was stolen at the time of the violation, the
11 yellow-change interval did not conform to certain
12 requirements, or the motor vehicle passed through the
13 intersection under certain circumstances; providing
14 that a county or municipality may not issue a notice
15 of or citation under specified provisions for a
16 violation when the motor vehicle stops at a point past
17 a stop line or crosswalk under certain circumstances;
18 requiring a municipality or county operating a traffic
19 infraction detector to conduct a statistical analysis
20 to assess the safety impact of the traffic infraction
21 detector at the intersection; providing for
22 consideration of specified defenses to a notice or
23 citation; amending s. 316.075, F.S.; providing
24 requirements for installation of traffic infraction
25 detectors; requiring specified standards be used for
26 yellow light-change intervals; requiring that notice
27 concerning such interval be given with the notice of
28 violation; requiring tests; providing for a
29 presumption of compliance; requiring installed

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30 detectors to comply within a certain timeframe;
31 providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Paragraph (d) is added to subsection (8) of
36 section 316.008, Florida Statutes, to read:

37 316.008 Powers of local authorities.—

38 (8)

39 (d) An intersection equipped with a traffic infraction
40 detector must be posted with a sign visible to approaching
41 traffic indicating that the intersection is being monitored by a
42 traffic infraction detector.

43 Section 2. Subsections (1), (2), and (4) and paragraph (d)
44 of subsection (5) of section 316.0083, Florida Statutes, are
45 amended to read:

46 316.0083 Mark Wandall Traffic Safety Program;
47 administration; report.—

48 (1)(a) For purposes of administering this section, the
49 department, a county, or a municipality may authorize a traffic
50 infraction enforcement officer under s. 316.640 to issue a
51 traffic citation for a violation of s. 316.074(1) or s.

52 ~~316.075(1)(c)1. A notice of violation and a traffic citation may~~
53 ~~not be issued for failure to stop at a red light if the driver~~
54 ~~is making a right-hand turn in a careful and prudent manner at~~
55 ~~an intersection where right-hand turns are permissible. A notice~~
56 ~~of violation and a traffic citation may not be issued under this~~
57 ~~section if the driver of the vehicle came to a complete stop~~
58 ~~after crossing the stop line and before turning right if~~

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59 ~~permissible at a red light, but failed to stop before crossing~~
60 ~~over the stop line or other point at which a stop is required.~~

61 This paragraph does not prohibit a review of information from a
62 traffic infraction detector by an authorized employee or agent
63 of the department, a county, or a municipality before issuance
64 of the traffic citation by the traffic infraction enforcement
65 officer. This paragraph does not prohibit the department, a
66 county, or a municipality from issuing notification as provided
67 in paragraph (b) to the registered owner of the motor vehicle
68 involved in the violation of s. 316.074(1) or s. 316.075(1)(c)1.

69 (b)1.a. Within 30 days after a violation, notification must
70 be sent to the registered owner of the motor vehicle involved in
71 the violation specifying the remedies available under s. 318.14
72 and that the violator must pay the penalty of \$158 to the
73 department, county, or municipality, or furnish an affidavit in
74 accordance with paragraph (d), or request a hearing within 60
75 days following the date of the notification in order to avoid
76 the issuance of a traffic citation. The notification must be
77 sent by first-class mail. The mailing of the notice of violation
78 constitutes notification.

79 b. Included with the notification to the registered owner
80 of the motor vehicle involved in the infraction must be a notice
81 that the owner has the right to review the photographic or
82 electronic images or the streaming video evidence that
83 constitutes a rebuttable presumption against the owner of the
84 vehicle. The notice must state the time and place or Internet
85 location where the evidence may be examined and observed.

86 c. Notwithstanding any other provision of law, a person who
87 receives a notice of violation under this section may request a

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88 hearing within 60 days following the notification of violation
89 or pay the penalty pursuant to the notice of violation, but a
90 payment or fee may not be required before the hearing requested
91 by the person. The notice of violation must be accompanied by,
92 or direct the person to a website that provides, information on
93 the person's right to request a hearing and on all court costs
94 related thereto and a form to request a hearing. As used in this
95 sub-subparagraph, the term "person" includes a natural person,
96 registered owner or coowner of a motor vehicle, or person
97 identified on an affidavit as having care, custody, or control
98 of the motor vehicle at the time of the violation.

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

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 failed to stop at
119 a traffic signal if enforcement is by the department's traffic
120 infraction enforcement officer. One hundred dollars shall be
121 remitted to the Department of Revenue for deposit into the
122 General Revenue Fund, \$10 shall be remitted to the Department of
123 Revenue for deposit into the Department of Health Emergency
124 Medical Services Trust Fund, \$3 shall be remitted to the
125 Department of Revenue for deposit into the Brain and Spinal Cord
126 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 used for brain and spinal
135 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 failed to stop at
138 a traffic signal if enforcement is by a county or municipal
139 traffic infraction enforcement officer. Seventy dollars shall be
140 remitted by the county or municipality to the Department of
141 Revenue for deposit into the General Revenue Fund, \$10 shall be
142 remitted to the Department of Revenue for deposit into the
143 Department of Health Emergency Medical Services Trust Fund, \$3
144 shall be remitted to the Department of Revenue for deposit into
145 the Brain and Spinal Cord Injury Trust Fund, and \$75 shall be

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

154 4. The compensation paid for a traffic infraction detector
155 must be based on the value of the equipment or the services
156 provided and may not be based on the number of traffic citations
157 issued or the revenue generated by the system. An individual may
158 not receive a commission from any revenue collected from
159 violations detected through the use of a traffic infraction
160 detector. A manufacturer or vendor may not receive a fee or
161 remuneration based upon the number of violations detected
162 through the use of a traffic infraction detector.

163 (c)1.a. A traffic citation issued under this section shall
164 be issued by mailing the traffic citation by certified mail to
165 the address of the registered owner of the motor vehicle
166 involved in the violation if payment has not been made within 60
167 days after notification under paragraph (b), if the registered
168 owner has not requested a hearing as authorized under paragraph
169 (b), or if the registered owner has not submitted an affidavit
170 under this section.

171 b. Delivery of the traffic citation constitutes
172 notification under this paragraph. If the registered owner or
173 coowner of the motor vehicle, or the person designated as having
174 care, custody, or control of the motor vehicle at the time of

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175 the violation, or a duly authorized representative of the owner,
176 coowner, or designated person, initiates a proceeding to
177 challenge the citation pursuant to this section, such person
178 waives any challenge or dispute as to the delivery of the
179 traffic citation.

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

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, in person or
188 remotely, the photographic or electronic images or the streaming
189 video evidence that constitutes a rebuttable presumption against
190 the owner of the vehicle. The notice must state the time and
191 place or Internet location where the evidence may be examined
192 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 the
202 direction of a law enforcement officer;

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

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204 the care, custody, or control of another person, or the motor
205 vehicle or registration license plate of the motor vehicle was
206 stolen at the time of the violation;

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

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

215 f. The yellow light-change interval did not conform to the
216 requirements of s. 316.075; or

217 g. The motor vehicle passed through the intersection in
218 conformance with a municipal or county ordinance.

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

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

232 b. If a traffic citation for a violation of s. 316.074(1)

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233 or s. 316.075(1)(c)1. was issued at the location of the
234 violation by a law enforcement officer, the affidavit must
235 include the serial number of the uniform traffic citation.

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

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

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

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

253
254 Upon receipt of the affidavit and documentation required under
255 this sub-subparagraph, the governmental entity must dismiss the
256 citation and provide proof of such dismissal to the person that
257 submitted the affidavit.

258 3. Upon receipt of an affidavit, the person designated as
259 having care, custody, or control of the motor vehicle at the
260 time of the violation may be issued a notice of violation
261 pursuant to paragraph (b) for a violation of s. 316.074(1) or s.

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262 316.075(1)(c)1. when the driver failed to stop at a traffic
263 signal. The affidavit is admissible in a proceeding pursuant to
264 this section for the purpose of providing proof that the person
265 identified in the affidavit was in actual care, custody, or
266 control of the motor vehicle. The owner of a leased vehicle for
267 which a traffic citation is issued for a violation of s.
268 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
269 at a traffic signal is not responsible for paying the traffic
270 citation and is not required to submit an affidavit as specified
271 in this subsection if the motor vehicle involved in the
272 violation is registered in the name of the lessee of such motor
273 vehicle.

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

278 5. The submission of a false affidavit is a misdemeanor of
279 the second degree, punishable as provided in s. 775.082 or s.
280 775.083.

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

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291 (2) The department, a county, or a municipality, including
292 a home rule county or municipality, may not issue a notice of
293 violation and a traffic citation under this section ~~may not be~~
294 ~~issued~~ for failure to stop at a red light if:

295 (a) The driver is making a right-hand turn in a careful and
296 prudent manner at an intersection where right-hand turns are
297 permissible.

298 (b) The driver of the vehicle comes to a complete stop
299 after crossing the stop line and before turning right, if
300 permissible at the red light, but fails to stop before crossing
301 over the stop line or other point at which a stop is required.

302 (c) The driver of the vehicle comes to a complete stop at a
303 point past the stop line or crosswalk or other point where a
304 driver is required to stop and does not enter the intersection
305 during the cycle of the red signal indication.

306 (4) (a) Each county or municipality that operates a traffic
307 infraction detector shall submit a report by October 1, 2012,
308 and annually thereafter, to the department which details the
309 results of using the traffic infraction detector and the
310 procedures for enforcement for the preceding state fiscal year.
311 The information submitted by the counties and municipalities
312 must include statistical data and information required by the
313 department to complete the report required under paragraph (b).

314 (b) On or before December 31, 2012, and annually
315 thereafter, the department shall provide a summary report to the
316 Governor, the President of the Senate, and the Speaker of the
317 House of Representatives regarding the use and operation of
318 traffic infraction detectors under this section, along with the
319 department's recommendations and any necessary legislation. The

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320 summary report must include a review of the information
321 submitted to the department by the counties and municipalities
322 and must describe the enhancement of the traffic safety and
323 enforcement programs.

324 (c) After installing a traffic infraction detector, the
325 municipality or county operating the traffic infraction detector
326 shall conduct a statistical analysis to assess the safety impact
327 of the traffic infraction detector. The statistical analysis
328 shall be based on the best available crash, traffic, and other
329 data and shall cover a period before and after installation of
330 the traffic infraction detector sufficient to provide a
331 statistically valid comparison or safety impact. The statistical
332 analysis shall be consistent with professional judgment and
333 acceptable industry practice. The statistical analysis shall
334 also be consistent with the data required for valid comparisons
335 of before and after conditions and shall be conducted within a
336 reasonable period after the installation of the traffic
337 infraction detector. The statistical analysis required by this
338 paragraph shall be made available to the public and shall be
339 published on the website of the municipality or county. If the
340 statistical analysis for the 36-month period after installation
341 of the traffic infraction detector indicates that there has been
342 an increase in the rate of crashes at the approach to the
343 intersection monitored by the traffic infraction detector, the
344 municipality or county shall undertake additional studies to
345 determine the cause and severity of the crashes and may take any
346 action necessary or appropriate to reduce the number or severity
347 of crashes at that intersection.

348 (5) Procedures for a hearing under this section are as

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349 follows:

350 (d) All testimony at the hearing shall be under oath and
351 shall be recorded. The local hearing officer shall take
352 testimony from a traffic infraction enforcement officer and the
353 petitioner, and may take testimony from others. The local
354 hearing officer shall review the photographic or electronic
355 images or the streaming video made available under sub-
356 subparagraph(1) (b)1.b. The hearing officer may consider evidence
357 supporting an exception specified in paragraph (1) (d) in defense
358 of a violation. Formal rules of evidence do not apply, but due
359 process shall be observed and govern the proceedings.

360 Section 3. Subsection (4) of section 316.075, Florida
361 Statutes, is renumbered as subsection (5), and a new subsection
362 (4) is added to that section, to read:

363 316.075 Traffic control signal devices.—

364 (4) Before installing a traffic infraction detector at an
365 intersection, each jurisdiction shall establish a minimum
366 measured yellow light-change interval for the designated
367 intersection. The interval shall be developed in accordance with
368 engineering standards established in the Institute of
369 Transportation Engineers Traffic Engineering Handbook, as
370 adopted by the Department of Transportation. The interval
371 established by the jurisdiction may not be less than the
372 recognized national minimum standard. The Department of
373 Transportation shall adopt the latest edition of the Institute
374 of Transportation Engineers Traffic Engineering Handbook for use
375 in compliance with this subsection.

376 (a) To ensure compliance with this section, a jurisdiction
377 issuing a notice of violation under s. 316.0083 shall include in

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378 the notice the length of the yellow light-change interval during
379 the signal phase of the traffic control signal immediately
380 before the violation or shall maintain for inspection the
381 records of the most recent programmed intervals.

382 (b) Unless each notice of a violation for a particular
383 intersection states the length of the yellow light duration, the
384 yellow light-change interval shall be tested at least once each
385 year beginning in 2014. A traffic infraction detector that
386 monitors a traffic signal that is not in compliance with
387 Institute of Transportation Engineers Traffic Engineering
388 Handbook standards, as adopted by the Department of
389 Transportation, shall be disabled until that signal is brought
390 into compliance with the standards.

391 (c) Issuance of a notice stating the length of the yellow
392 light duration or annual testing of the yellow light-change
393 interval time pursuant to this subsection establishes a
394 presumption that the yellow light cycle was operating in
395 compliance with this subsection when the violation is alleged to
396 have occurred. A certificate or signed affidavit that shows that
397 the testing of the yellow light-change cycle was completed in
398 compliance with this subsection is admissible as proof of such
399 compliance.

400 (d) A traffic infraction detector that is operational on
401 July 1, 2014, must be in compliance with this section by January
402 1, 2015.

403 Section 4. This act shall take effect July 1, 2014.