The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL:	CS/SB 168
INTRODUCER:	Transportation Committee and Senator Brandes
SUBJECT:	Traffic Infraction Detectors
DATE:	February 4, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Eichin	TR	**Fav/CS**
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 168 repeals and amends various provisions of law to remove authorization for the use of traffic infraction detectors, commonly known as "red light cameras," which are currently used to enforce specified provisions of traffic law by automatically photographing vehicles whose drivers run red lights. The bill leaves intact the express preemption to the state of regulation of the use of red light cameras, thereby prohibiting implementation of red light camera programs by local ordinance.

II. Present Situation:

Traffic Infraction Detectors Generally

Traffic infraction detectors, or "red-light cameras," are used to enforce traffic laws by automatically photographing vehicles whose drivers run, or fail to yield at, red lights. The cameras are connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously photographs vehicles that enter the intersection above a pre-set minimum speed after the signal has turned red. In some cases, video cameras are used. These video cameras and accompanying sensors record the license plate number, the date and time of day, the time elapsed since the signal has turned red and the vehicle's speed.

Traffic Infraction Detectors in Florida

In 2010, the Florida Legislature enacted ch. 2010-80, L.O.F. The law expressly preempted to the state regulation of the use of cameras for enforcing the provisions of ch. 316, F.S.[1] The law authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to authorize officials to issue notices of violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver's failure to stop at a traffic signal when such violation was identified by a traffic infraction detector.[2]

Municipalities may install or authorize installation of traffic infraction detectors on streets and highways in accordance with Department of Transportation (DOT) standards, and on state roads within the incorporated area when permitted by DOT.[3] Counties may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with DOT standards, and on state roads in unincorporated areas of the county when permitted by DOT.[4] DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of DOT, when permitted by DOT.[5]

If DHSMV, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must notify the public that a traffic infraction device may be in use at that intersection, including specific notification of enforcement of violations concerning right turns.[6] Such signage must meet the specifications for uniform signals and devices adopted by DOT pursuant to s. 316.0745, F.S.[7]

Notifications and Citations

If a traffic infraction detector identifies a vehicle violating ss. 316.074(1) or 316.075(1)(c)1., F.S., the visual information is captured and reviewed by a traffic infraction enforcement officer. Notices of violation and traffic citations may not be issued for failure to stop if the driver is making a right-hand turn "in a careful and prudent manner" at an intersection where right-hand turns are permissible,[8] and may not be issued if the driver of the vehicle came to a complete stop after crossing the stop line and before turning right but failed to stop before crossing over the stop line.[9]

A notification must be issued to the registered owner of a vehicle within 30 days of an alleged violation,[10] notifying the alleged violator that he or she must pay the required penalty to the county or municipality,[11] furnish an affidavit setting forth an authorized defense (see below), or

[1] Section 316.0076, F.S.
[2] *See generally* s. 316.0083, F.S.
[3] Section 316.008(8), F.S.; s. 316.0776(1), F.S.
[4] *Id.*
[5] Section 321.50, F.S. DHSMV has not undertaken any effort to install or authorize traffic infraction detectors.
[6] Section 316.0776(2), F.S.
[7] *Id.*
[8] Section 316.0083(1)(a) and (2), F.S.
[9] Section 316.0083(1)(a), F.S.
[10] Notifications of violation must be sent by first-class mail, and mailing of the notifications of violation constitutes notice.
[11] However, payment or a fee may not be required before any hearing requested by the alleged violator. *See* s. 316.0083(1)(b)1.c., F.S.

request a hearing within 60 days of the date of the notification to avoid issuance of a uniform traffic citation. The notification must include notice that the owner has the right to review the photographic or electronic images or the streaming video evidence, which constitute(s) a rebuttable presumption against the vehicle owner, and must state the time and place, or the Internet location, where the evidence may be examined and observed.[12] The notification must also direct the alleged violator to a website that provides information on the right to request a hearing and on all related court costs, and a form to request a hearing.[13]

If the registered owner of the vehicle does not submit payment, request a hearing, or submit an affidavit setting forth an authorized defense within 60 days of receipt of the notification described above, the traffic infraction enforcement officer must issue a uniform traffic citation[14] to the registered owner (first name on registration in cases of joint registration).[15] The citation must also include the statements described above regarding review of the photographic or video evidence.[16] The report of a traffic infraction enforcement officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used in a violation.[17] A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data when issued under s. 316.0083, F.S., to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the issuance date of the citation to the violator, or, if a hearing is requested, to the clerk for the local hearing officer having jurisdiction over the alleged offense within 14 days.[18]

Defenses

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer; or
- Was, at the time of the violation, in the care, custody, or control of another person.

Additional defenses are available if a law enforcement officer issues a uniform traffic citation for the alleged violation or if the owner was deceased on or before the date the uniform traffic citation was issued. [19]

To establish any of these defenses, the owner of the vehicle must furnish an affidavit to the appropriate governmental entity within 30 days after the date of issuance of the uniform traffic citation that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the uniform traffic citation, if issued.[20] If the owner submits an affidavit that another driver was

[12] Section 316.0083(1)(b)1.b., F.S.
[13] Section 316.0083(1)(b)1.c., F.S.
[14] Citations must be sent by certified mail, and delivery constitutes notification. s. 316.0083(1)(c)1.a. and b., F.S.
[15] Section 316.0083(1)(c)1.c., F.S.
[16] Section 316.0083(1)(c)2., F.S.
[17] Section 316.0083(1)(e), F.S.
[18] Section 316.650(3)(c), F.S.
[19] Section 316.0083(1)(d), F.S.
[20] Section 316.0083(1)(d)2., F.S.

behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the driver's license number, of the other driver.[21] Upon receipt of an affidavit and required documentation, the appropriate governmental entity must dismiss the citation and provide proof of such dismissal to the person that submitted the affidavit.[22] A notice of violation may then be issued to the person identified in the affidavit as having care, custody or control of the vehicle at the time of the alleged violation, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation of ss. 316.074(1) or 316.075(1)(c)1., F.S.[23] Submission of a false affidavit is a second degree misdemeanor.[24]

If a vehicle is leased, the owner of the leased vehicle is not responsible for paying the citation, nor required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.[25] If a person presents documentation from the appropriate governmental entity that the citation was issued in error, the clerk of court may dismiss the case and may not charge for such service.[26]

Fines

A fine of $158 is levied on violators who fail to stop at a traffic signal as required by ss. 316.074(1) or 316.075(1)(c)1., F.S. When the $158 fine is the result of a local government's traffic infraction detector, $75 is retained by the local government and $83 is deposited with the Department of Revenue (DOR).[27] DOR subsequently distributes the fines by depositing $70 in the General Revenue Fund, $10 in the Department of Health Emergency Services Trust Fund, and $3 in the Brain and Spinal Cord Injury Trust Fund.[28]

If a law enforcement officer cites a motorist for the same offense, the fine is still $158, but the revenue is distributed from the local clerk of court to DOR, where $30 is distributed to the General Revenue Fund, $65 is distributed to the Department of Health Emergency Services Trust Fund, and $3 is distributed to the Brain and Spinal Cord Injury Trust Fund. The remaining $60 is distributed in small percentages to a number of funds pursuant to s. 318.21, F.S.[29]

Violations of ss. 316.074(1) or 316.075(1)(c)1., F.S., enforced by traffic infraction detectors may not result in points being assessed against the operator's driver's license and may not be used for the purpose of setting motor vehicle insurance rates.[30]

Actual Revenues

According to the DOR website, from July 2014 through June 2015, 75 jurisdictions operated red light camera programs throughout the state. DOR reports the state portion of the fines collected during that fiscal year amount to $54,114,003. Of the total, $45,644,880 was distributed to the

[21] Section 316.0083(1)(d)2.a., F.S.
[22] Section 316.0083(1)(d)2., F.S.
[23] Section 316.0083(1)(d)3., F.S.
[24] Section 316.0083(1)(d)5., F.S.
[25] Section 316.0083(1)(d)3., F.S.
[26] Section 318.18(15)(c), F.S.
[27] Section 318.18(15)(a)3., F.S., s. 316.0083(1)(b)3.b., F.S.
[28] *Id.*
[29] Section 318.18(15)(a)1., F.S.
[30] Section 322.27(3)(d)6., F.S.

General Revenue Fund; $6,514,765 was distributed to the Health Administration Trust Fund; and $1,954,389 was distributed to the Brain & Spinal Cord Injury Trust Fund.[31]

Impact on Crashes and Fatalities

Research reveals numerous studies of the impact of red light cameras on crashes and fatalities, and the studies are contradictory.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 316.003, F.S., to repeal the current subsection (87) definition of "traffic infraction detector," currently defined to mean a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light. Also removed is the requirement to include in any notice of violation or traffic citation issued by the use of a traffic infraction detector a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated.

This section of the bill also amends s. 316.003, F.S., to repeal the current subsection (91) definition of "local hearing officer," currently defined to mean the person, designated by a department, county, or municipality that elects to authorize traffic infraction enforcement officers to issue traffic citations under s. 316.0083(1)(a), who is authorized to conduct hearings related to a notice of violation issued pursuant to s. 316.0083. Authorization of a charter county, noncharter county, or municipality to use a currently appointed code enforcement board or special magistrate to serve as the local hearing officer, as well as authorization of the Department of Highway Safety and Motor Vehicles to enter into interlocal agreements to use a county or municipal local hearing officer, is likewise removed.

Section 2 amends s. 316.008, F.S., to repeal the current subsection (8) authorization of counties or municipalities to install, or authorize the installation of, and use traffic infraction detectors to enforce specified provisions of traffic law relating to obedience to traffic control signals and stopping a vehicle facing a steady red signal.

Section 3 repeals s. 316.0083, F.S., the "Mark Wandall Traffic Safety Program," which currently:

- Authorizes DHSMV, a county, or a municipality to authorize a traffic infraction enforcement officer to issue traffic citations for specified provisions of traffic law relating to obedience to traffic control signals and stopping a vehicle facing a steady red signal;
- Prohibits issuance of notices of violation or traffic citations for failing to stop while making rolling, "right-on-red" turns in a "careful and prudent manner" and for failing to stop before crossing the stop line or other point at which a stop is required when making a "right-on-red" turn;
- Provides the process and requirements for issuance of notices of violation, sets forth specific information to be included in such notices; provides alternative options for an alleged

[31] See DOR website: http://dor.myflorida.com/dor/taxes/distributions.html (last visited Feb. 2, 2016).

violator, including providing a specified affidavit, requesting a hearing, or paying the penalty stated in the notice; provides penalty amounts and fine distributions; and prohibits certain individuals manufacturers, or vendors from receiving commissions, fees, or remuneration relating to the use of traffic infraction detectors;

- Provides the process and requirements for issuance of traffic citations; sets forth specific information to be included in such notices; provides for defenses to be established by affidavit, states requirements for information to be included in such affidavits, provides penalties for submission of false affidavits; provides for dismissal of citations and issuance of notices of violation and traffic citations to the person designated in an affidavit as having care, custody, or control of the motor vehicle at the time of the violation; and provides for supplemental enforcement;
- Requires each county or municipality that operates traffic infraction detectors to provide a specified annual summary report to DHSMV regarding the use and operation of traffic infraction detectors, and requires DHSMV to prepare an annual report to the Governor, Senate President, and House Speaker; and
- Sets forth procedures for hearings on notices of violation and authorizes a specified appeal of a final administrative order.

Section 4 repeals s, 316.00831, F.S., which currently provides for retention by a county or municipality and subsequent remission to the Department of Revenue, as appropriate, of penalties collected for notices of violation during the interim between passage of the Mark Wandall Safety Program in 2010 and DOR's notification of its ability to receive and distribute the retained funds.

Section 5 repeals s. 316.07456, F.S., which currently requires deployed traffic infraction detectors to meet specifications published by DOT and be tested at regular intervals according to DOT specifications; requires DOT to establish such specifications on or before December 31, 2010; and provides that any detectors in operation before July 1, 2011, are not required to meet the DOT specifications until July 1, 2011.

Section 6 repeals s. 316.0776, F.S., which currently provides permitting, placement, and installation standards for traffic infraction detectors; and for signage, public announcement, and public awareness campaigns under certain conditions.

Section 7 amends s. 318.15, F.S., to repeal provision in current subsection (3) for withholding of a license plate or revalidation sticker for any motor vehicle owned or co-owned by a person who failed to pay the penalty, comply with the terms of a payment plan or order, or failed to appear at a hearing; and authorizes a person to challenge the withholding solely on the basis that the outstanding fines and civil penalties have been paid.

Section 8 repeals s. 321.50, F.S., which currently authorizes DHSMV to use traffic infraction detectors to enforce specified provisions of traffic law relating to obedience to traffic control signals and stopping a vehicle facing a steady red signal on state roads under DOT jurisdiction when permitted by DOT.

Section 9 amends s. 28.37(5), F.S., to remove a cross reference and to correct a cross reference to conform to changes made by the act.

Section 10 amends s. 316.640(1)(b) and (5)(a), F.S., to remove DHSMV authorization to designate employees as traffic infraction enforcement officers; instruction and training requirements for such officers; provisions relating to such officers carrying firearms or other weapons and making arrests; the requirement that such officers be physically located in the state.; authorization of such officers to issue traffic citations under the Mark Wandall Traffic Safety Program; and authorization of any sheriff's department or police department of a municipality to designate employees as traffic infraction officers.

Section 11 amends s. 316.650(3)(a) and (c), F.S., to remove a cross reference to conform to changes made by the act and to remove provisions relating to provision of replicas of traffic citations and notices of violation issued under the Mark Wandall Traffic Safety Program.

Section 12 amends s. 318.121, F.S., to remove a cross reference to conform to changes made by the act.

Section 13 amends s. 318.14(2), F.S., to remove a cross reference to conform to changes made by the act.

Section 14 amends s. 318.18(15) and (22), F.S., to remove penalty amounts for red light violations enforced by a traffic infraction enforcement officer; distribution requirements for fines collected from traffic infraction detector programs; provisions for dismissal of notices of violation or traffic citations issued in error; the prohibition against certain individuals manufacturers, or vendors receiving commissions, fees, or remuneration relating to the use of traffic infraction detectors; and authorization of local hearing officers to order payment of county or municipal costs, not to exceed $250.

Section 15 amends s. 320.03(8), F.S., to remove a cross reference to conform to changes made by the act.

Section 16 amends s. 322.27(3)((d), F.S., to remove prohibitions against imposition of driver license points for red light violations enforced by a traffic infraction enforcement officer and against using red light violations enforced by a traffic infraction enforcement officer to set motor vehicle insurance rates.

Section 17 provides that the act takes effect July 1, 2019.

Because the preemption provisions of s. 316.0076, F.S., remain in statute, local governments will have no authority to implement red light camera programs.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Research of available vendor contracts suggests that some local governments anticipated the possible repeal of authority to implement red light camera programs and made provision for termination of such contracts in the event of repeal, while others did not. Some vendors may raise impairment of contract claims.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) Impact Conference estimated the bill will have a recurring negative impact of[32]:

	General Revenue	Trust Fund	Local/Other	Total
2019-2020	$56.8 million	$10.8 million	$65.7 million	$133.3 million
2020-2021	$57.5 million	$11 million	$66.5 million	$135 million

B. Private Sector Impact:

The possible imposition of a $158 fine (and potential court costs) for red light violations detected by red light cameras is eliminated.

C. Government Sector Impact:

The state portion of the $158 fine is $83. The bill would eliminate the source of this revenue for the distributions identified above. Revenue from fines collected for red light violation citations issued by law enforcement officers would continue to be distributed to the identified funds.

The local jurisdiction retains $75 of the $158 fine. The bill would eliminate this source of revenue but would also eliminate expenses related to operating and maintaining red light camera programs. No future revenues would be realized following repeal of red light camera authorization.

VI. Technical Deficiencies:

None.

[32] Revenue Estimating Conference, *Red Light Camera Repeal* (Oct. 16, 2015), *available at:* http://edr.state.fl.us/content/conferences/revenueimpact/archives/2016/_pdf/Impact1016.pdf at 54 (last visited Feb. 4, 2016).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 28.37, 316.003, 316.008, 318.15, 316.640, 316.650, 318.121, 318.14, 318.18, 320.03, and 322.27.

This bill repeals the following sections of the Florida Statutes: 316.0083, 316.00831, 316.07456, 316.0776, and 321.50.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on February 4, 2016:
The CS changes the effective date of the bill from when the bill becomes law to July 1, 2019.

B. Amendments:

None.