

1 A bill to be entitled
 2 An act relating to noncriminal traffic infractions;
 3 amending s. 316.0083, F.S., relating to use of a
 4 traffic infraction detector when a driver has failed
 5 to stop at a traffic control signal pursuant to
 6 specified provisions; revising procedures applied to a
 7 person identified by a motor vehicle owner as having
 8 care, custody, and control of the vehicle when a
 9 violation occurred; providing for notification and
 10 citation within certain time periods after receipt of
 11 an affidavit from the owner identifying such person;
 12 providing an effective date.

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

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 16 Section 1. Subsection (1) of section 316.0083, Florida
 17 Statutes, is amended to read:

18 316.0083 Mark Wandall Traffic Safety Program;
 19 administration; report.—

20 (1) (a) For purposes of administering this section, the
 21 department, a county, or a municipality may authorize a traffic
 22 infraction enforcement officer under s. 316.640 to issue a
 23 traffic citation for a violation of s. 316.074(1) or s.
 24 316.075(1)(c)1. A notice of violation and a traffic citation may
 25 not be issued for failure to stop at a red light if the driver
 26 is making a right-hand turn in a careful and prudent manner at
 27 an intersection where right-hand turns are permissible. This
 28 paragraph does not prohibit a review of information from a

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29 traffic infraction detector by an authorized employee or agent
30 of the department, a county, or a municipality before issuance
31 of the traffic citation by the traffic infraction enforcement
32 officer. This paragraph does not prohibit the department, a
33 county, or a municipality from issuing notification as provided
34 in paragraph (b) to the registered owner of the motor vehicle or
35 to another person identified as having care, custody, and
36 control of the motor vehicle involved in the violation of s.
37 316.074(1) or s. 316.075(1)(c)1.

38 (b)1.a. Within 30 days after a violation, notification
39 must be sent to the registered owner of the motor vehicle
40 involved in the violation specifying the remedies available
41 under s. 318.14 and that the violator must pay the penalty of
42 \$158 to the department, county, or municipality, or furnish an
43 affidavit in accordance with paragraph (d), within 30 days
44 following the date of the notification in order to avoid court
45 fees, costs, and the issuance of a traffic citation. The
46 notification shall be sent by first-class mail.

47 b. Included with the notification to the registered owner
48 of the motor vehicle involved in the infraction must be a notice
49 that the owner has the right to review the photographic or
50 electronic images or the streaming video evidence that
51 constitutes a rebuttable presumption against the owner of the
52 vehicle. The notice must state the time and place or Internet
53 location where the evidence may be examined and observed.

54 2. Penalties assessed and collected by the department,
55 county, or municipality authorized to collect the funds provided
56 for in this paragraph, less the amount retained by the county or

57 | municipality pursuant to subparagraph 3., shall be paid to the
58 | Department of Revenue weekly. Payment by the department, county,
59 | or municipality to the state shall be made by means of
60 | electronic funds transfers. In addition to the payment, summary
61 | detail of the penalties remitted shall be reported to the
62 | Department of Revenue.

63 | 3. Penalties to be assessed and collected by the
64 | department, county, or municipality are as follows:

65 | a. One hundred fifty-eight dollars for a violation of s.
66 | 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
67 | stop at a traffic signal if enforcement is by the department's
68 | traffic infraction enforcement officer. One hundred dollars
69 | shall be remitted to the Department of Revenue for deposit into
70 | the General Revenue Fund, \$10 shall be remitted to the
71 | Department of Revenue for deposit into the Department of Health
72 | Administrative Trust Fund, \$3 shall be remitted to the
73 | Department of Revenue for deposit into the Brain and Spinal Cord
74 | Injury Trust Fund, and \$45 shall be distributed to the
75 | municipality in which the violation occurred, or, if the
76 | violation occurred in an unincorporated area, to the county in
77 | which the violation occurred. Funds deposited into the
78 | Department of Health Administrative Trust Fund under this sub-
79 | subparagraph shall be distributed as provided in s. 395.4036(1).
80 | Proceeds of the infractions in the Brain and Spinal Cord Injury
81 | Trust Fund shall be distributed quarterly to the Miami Project
82 | to Cure Paralysis and shall be used for brain and spinal cord
83 | research.

84 | b. One hundred fifty-eight dollars for a violation of s.

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85 | 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
86 | stop at a traffic signal if enforcement is by a county or
87 | municipal traffic infraction enforcement officer. Seventy
88 | dollars shall be remitted by the county or municipality to the
89 | Department of Revenue for deposit into the General Revenue Fund,
90 | \$10 shall be remitted to the Department of Revenue for deposit
91 | into the Department of Health Administrative Trust Fund, \$3
92 | shall be remitted to the Department of Revenue for deposit into
93 | the Brain and Spinal Cord Injury Trust Fund, and \$75 shall be
94 | retained by the county or municipality enforcing the ordinance
95 | enacted pursuant to this section. Funds deposited into the
96 | Department of Health Administrative Trust Fund under this sub-
97 | subparagraph shall be distributed as provided in s. 395.4036(1).
98 | Proceeds of the infractions in the Brain and Spinal Cord Injury
99 | Trust Fund shall be distributed quarterly to the Miami Project
100 | to Cure Paralysis and shall be used for brain and spinal cord
101 | research.

102 | 4. An individual may not receive a commission from any
103 | revenue collected from violations detected through the use of a
104 | traffic infraction detector. A manufacturer or vendor may not
105 | receive a fee or remuneration based upon the number of
106 | violations detected through the use of a traffic infraction
107 | detector.

108 | (c)1.a. A traffic citation issued under this section shall
109 | be issued by mailing the traffic citation by certified mail to
110 | the address of the registered owner of the motor vehicle
111 | involved in the violation when payment has not been made within
112 | 30 days after notification under subparagraph (b)1.

113 b. Delivery of the traffic citation constitutes
114 notification under this paragraph.

115 c. In the case of joint ownership of a motor vehicle, the
116 traffic citation shall be mailed to the first name appearing on
117 the registration, unless the first name appearing on the
118 registration is a business organization, in which case the
119 second name appearing on the registration may be used.

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

123 2. Included with the notification to the registered owner
124 of the motor vehicle involved in the infraction shall be a
125 notice that the owner has the right to review, either in person
126 or remotely, the photographic or electronic images or the
127 streaming video evidence that constitutes a rebuttable
128 presumption against the owner of the vehicle. The notice must
129 state the time and place or Internet location where the evidence
130 may be examined and observed.

131 (d)1. The owner of the motor vehicle involved in the
132 violation is responsible and liable for paying the uniform
133 traffic citation issued for a violation of s. 316.074(1) or s.
134 316.075(1)(c)1. when the driver failed to stop at a traffic
135 signal, unless the owner can establish that:

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

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

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

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

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

151 a. An affidavit supporting an exemption under sub-
 152 subparagraph 1.c. must include the name, address, date of birth,
 153 and, if known, the driver ~~driver's~~ license number of the person
 154 who leased, rented, or otherwise had care, custody, or control
 155 of the motor vehicle at the time of the alleged violation. If
 156 the vehicle was stolen at the time of the alleged offense, the
 157 affidavit must include the police report indicating that the
 158 vehicle was stolen.

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

163 3. Upon receipt of an affidavit, the person designated as
 164 having care, custody, and control of the motor vehicle at the
 165 time of the violation may be issued a notice of violation
 166 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.
 167 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop
 168 at a traffic signal. The affidavit is admissible in a proceeding

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169 pursuant to this section for the purpose of providing proof that
170 the person identified in the affidavit was in actual care,
171 custody, or control of the motor vehicle. The owner of a leased
172 vehicle for which a traffic citation is issued for a violation
173 of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to
174 stop at a traffic signal is not responsible for paying the
175 traffic citation and is not required to submit an affidavit as
176 specified in this subsection if the motor vehicle involved in
177 the violation is registered in the name of the lessee of such
178 motor vehicle.

179 4. Paragraphs (b) and (c) apply to the person identified
180 on the affidavit, except that the notification under sub-
181 subparagraph (b)1.a. must be sent within 30 days after receipt
182 of an affidavit and the traffic citation mailed pursuant to sub-
183 subparagraph (c)1.d. must be mailed no later than 60 days after
184 the date of receipt of an affidavit.

185 ~~5.4.~~ The submission of a false affidavit is a misdemeanor
186 of the second degree, punishable as provided in s. 775.082 or s.
187 775.083.

188 (e) The photographic or electronic images or streaming
189 video attached to or referenced in the traffic citation is
190 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.
191 when the driver failed to stop at a traffic signal has occurred
192 and is admissible in any proceeding to enforce this section and
193 raises a rebuttable presumption that the motor vehicle named in
194 the report or shown in the photographic or electronic images or
195 streaming video evidence was used in violation of s. 316.074(1)
196 or s. 316.075(1)(c)1. when the driver failed to stop at a

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197 | traffic signal.

198 | Section 2. This act shall take effect July 1, 2012.