

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 343 Noncriminal Traffic Infractions  
**SPONSOR(S):** Transportation & Highway Safety Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee		Kiner	Kruse

### SUMMARY ANALYSIS

The bill relates to the disposition of red-light camera citations and revises the procedure that applies to a person identified on an affidavit as having care, custody, and control of a motor vehicle captured by a traffic infraction detector for an alleged violation of the red-light camera statute. The bill makes these changes by:

- providing that upon receipt of an affidavit, the person identified as having care, custody, and control of the motor vehicle at the time of the violation may be issued a notice of violation before a uniform traffic citation (UTC) is issued; and
- providing that the same procedure that applies to the registered owner under the provisions of the red-light camera statute applies to the person identified as the driver on the affidavit

Under current law, in instances where the registered owner furnishes an affidavit raising the exemption that the vehicle was, at the time of the violation, in the care, custody, or control of another person, the identified person is not issued a notice of violation. Instead, the person is immediately issued a UTC at a higher amount, which includes associated court fees and costs.

The bill provides that upon receipt of an affidavit, the person identified as having care, custody, and control of the motor vehicle at the time of the violation may be issued a notice of violation before issuance of a uniform traffic citation. The effect of the proposed change lifts the time constraints on traffic infraction enforcement officers responsible for mailing notices of violations and uniform traffic citations (UTC) and gives the identified person the same rights as the registered owner.

The bill's fiscal impact is indeterminate.

The bill has an effective date of July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current 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 red lights. A red light camera is connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously monitors the traffic signal and the camera is triggered by any vehicle entering the intersection above a pre-set minimum speed and following a specified time after the signal has turned red. A second photograph typically shows the red light violator in the intersection. In some cases, video cameras are used. These video cameras 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 Chapter 2010-80, Laws of Florida. This legislation expressly preempted to the state regulation of the use of cameras for enforcing the provisions of Chapter 316, Florida Statutes.<sup>1</sup> The legislation also authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties and municipalities to authorize officials to issue notices of violations for running red lights.<sup>2</sup>

#### *Installation, Operation, Equipment and Testing Specifications*

By statute, traffic infraction detectors must meet placement and installation specifications established by the Florida Department of Transportation (DOT).<sup>3</sup> Additionally, traffic infraction detectors must be tested at regular intervals to ensure specified technical and operational requirements are met.<sup>4</sup> These requirements are published by DOT and are to be conducted in accordance with the manufacturer’s recommendations or County or City testing requirements, whichever is more stringent.<sup>5</sup> Pursuant to the process, traffic infraction detectors are required to perform and record the results of a daily internal self test sequence that confirms proper operation of each critical system component. If the system fails on one or more portions of the internal self test, the system will render itself inoperable until a successful internal self test is recorded.<sup>6</sup>

During the system test phase, traffic infraction detectors are required to activate and create ‘event information’ consistent with an ‘event,’ when artificially activated. According to DOT specifications, an ‘event’ is defined as the point at which “a motor vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red indication.”<sup>7</sup> With regard to the capturing of ‘event information’ during the testing phase, traffic infraction detectors are required to capture the following:

- a photographic or electronic image of the intersection that includes the rear of the vehicle and license tag at a time the vehicle is in advance (and beyond) of the stop bar or clearly marked stop line with the corresponding traffic control signal steady red light visible in the image; and

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<sup>1</sup> s. 316.0776, F.S.

<sup>2</sup> See generally s. 316.0083, F.S.

<sup>3</sup> s. 316.07456, F.S., and s. 316.0776, F.S.

<sup>4</sup> s. 316.07456, F.S.

<sup>5</sup> DOT’s Traffic Infraction Detector Equipment and Testing Specifications may be viewed at <http://www.dot.state.fl.us/trafficoperations/Operations/RLRC.shtm> (Last viewed 1/5/2012).

<sup>6</sup> Id.

<sup>7</sup> Id.

- if 'right on red' violations are enforced, a minimum of five seconds of streaming video showing the rear of the vehicle (and license tag) in advance of the stop bar or clearly marked stop line with the corresponding traffic control signal steady red light visible in the image. The streaming video must continue until after the vehicle is beyond the stop bar or clearly marked stop line with the corresponding traffic control signal steady red light visible in the image

### *Notifications and Citations*

If a traffic infraction detector catches a motor vehicle running a red light, the visual evidence is captured and reviewed by a traffic infraction enforcement officer. As required by statute, a notice of violation is mailed to the registered owner (first name on registration in cases of joint registration) of the vehicle within 30 days after the alleged violation.<sup>8</sup> The notice must be accompanied by a photograph or other recorded image of the violation and must include a statement of the vehicle owner's right to review images or video of the violation and the time, place and Internet location where the evidence may be reviewed.<sup>9</sup> A notice of violation may not be issued if the driver is making a right-hand turn "in a careful and prudent manner."<sup>10</sup>

If the registered owner of the vehicle does not submit payment within 30 days of receipt of the notification described above, the traffic infraction enforcement officer must issue a uniform traffic citation (UTC) to the registered owner (first name on registration in cases of joint registration).<sup>11</sup> The UTC must be mailed by certified mail and must be issued no later than 60 days after the violation.<sup>12</sup> The UTC must also include the photograph and statements described above regarding review of the photographic and/or video evidence.<sup>13</sup> The officer's (that initially reviewed the evidence) report and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the owner's vehicle was used to commit the violation.<sup>14</sup>

A UTC issued for a violation of the red-light camera statute may be resolved in one of three ways:

- the person cited may pay the fine;
- the person cited may request a hearing; or
- the person cited may furnish an affidavit that raises a statutory exemption

If the person cited elects to do nothing, he or she may have his or her driving privileges suspended.

### *Fines*

A violation of the red-light camera statute carries a \$158 fine. When the traffic infraction detector is owned by a local government, \$75 is retained by the local government and \$83 is deposited with the Department of Revenue (DOR).<sup>15</sup> DOR subsequently distributes the fines by depositing \$70 in the General Revenue Fund, \$10 in the Department of Health Administrative Trust Fund and \$3 in the Brain and Spinal Cord Injury Trust Fund.<sup>16</sup>

If a law enforcement officer cites a motorist for a red-light camera violation, 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 Administrative 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.<sup>17</sup>

<sup>8</sup> s. 316.0083(1)(b), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 316.0083(2), F.S.

<sup>11</sup> Section 316.0083(1)(c), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Section 316.0083(1)(e), F.S.

<sup>15</sup> Section 318.18(15), F.S., s. 316.0083(1)(b)3., F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Section 318.18(15), F.S.

## *Exemptions*

The registered owner of the motor vehicle is responsible for payment of the fine unless the registered 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;
- was, at the time of the violation, in the care, custody or control of another person; or
- received a UTC for the alleged violation issued by a law enforcement officer

To establish any of these exemptions, the registered owner<sup>18</sup> of the vehicle must furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the UTC, if issued. If the owner submits an affidavit that another driver was behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the operator's driver's license number. In such cases, a UTC will be issued to the identified driver and the affidavit may be used as evidence in any proceeding used to enforce the red-light camera statute. Submission of a false affidavit is a second degree misdemeanor.

### *No Notice of Violation Issued to Person Named in the Affidavit*

In instances where the registered owner furnishes an affidavit raising the exemption that the vehicle was, at the time of the violation, in the care, custody or control of another person, the identified person is not issued a notice of violation. Instead, the person is immediately issued a UTC at a higher amount,<sup>19</sup> which includes associated court fees and costs.<sup>20</sup> The immediate issuance of a UTC comes as a result of time constraints imposed by the red-light camera statute. Because a UTC must be issued to the registered owner within 60 days after the date of the violation in cases of nonpayment, there is not enough time to issue another notice of violation – even if the registered owner furnishes an affidavit identifying someone else as the driver. As such, while registered owners are given the opportunity to pay a \$158 fine pursuant to the notice of violation, persons identified on the affidavit are subject to a higher fine and run the risk of having a conviction recorded on their driving record if they elect to attend a hearing and are found to have committed the violation.

### Effect of Proposed Changes

The bill revises the procedure that applies to a person identified on an affidavit as having care, custody, and control of a motor vehicle captured by a traffic infraction detector for an alleged violation of the red-light camera statute. The bill makes these changes by:

- providing that upon receipt of an affidavit, the person identified as having care, custody, and control of the motor vehicle at the time of the violation may be issued a notice of violation before a uniform traffic citation (UTC) is issued; and
- providing that the same procedure that applies to the registered owner under the provisions of the red-light camera statute applies to the person identified as the driver on the affidavit

### *Issuance of a Notice of Violation Before Issuance of a Uniform Traffic Citation*

The bill provides that upon receipt of an affidavit, the person identified as having care, custody, and control of the motor vehicle at the time of the violation may be issued a notice of violation before issuance of a uniform traffic citation. The effect of the proposed change lifts the time constraints on

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<sup>18</sup> If a vehicle is leased, the owner of the leased vehicle is neither responsible for paying the citation nor required to submit an affidavit if the motor vehicle is registered in the name of the lessee.

<sup>19</sup> The UTC amount varies across jurisdictions due to differing court costs and fees, but is generally above \$200.

<sup>20</sup> s. 316.0083(1)(d)3., F.S.

traffic infraction enforcement officers responsible for mailing notices of violations and uniform traffic citations (UTC) and gives the identified person the same rights as the registered owner. Specifically, the bill allows the person identified as having care, custody, and control of the motor vehicle at the time of the violation the opportunity to pay a \$158 fine that is not subject to court costs, fees and risks associated with attending a hearing – namely the possibility of a conviction being recorded on the person’s driving record. Additionally, because the bill provides that a notice of violation may be sent to the person identified on the affidavit, the identified person receives the same amount of time as a registered owner of a motor vehicle to pay the imposed fine before a UTC is issued.

*The Same Procedure that Applies to the Registered Owner Applies to the Person Identified on an Affidavit*

The bill provides that the same procedure that applies to the registered owner under the provisions of the red-light camera statute applies to the person identified on the affidavit as having care, custody, and control of the motor vehicle. The effect of the proposed change will require the same notice of violation sent to a registered owner be sent to the person identified on the affidavit. A notice of violation must be accompanied by a photograph or other recorded image of the violation and must include a statement of the cited person’s right to review images or video of the violation and the time, place and Internet location where the evidence may be reviewed. The same procedure for non-payment that applies to a registered owner also applies to a person identified on an affidavit.

*Effective Date*

The bill has an effective date of July 1, 2012.

**B. SECTION DIRECTORY:**

Section 1: Provides that a person identified as having care, custody, and control of a motor vehicle used to violate the red-light camera statute may be issued a notice of violation and is subject to the same procedure as a registered owner.

Section 2: Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

Indeterminate. It is unclear if the bill's change to allow a person identified on an affidavit to receive a notice of violation first instead of a uniform traffic citation will reduce or increase the amount of revenue received by state government.

2. Expenditures:

Indeterminate.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Indeterminate. It is unclear if the bill's change to allow a person identified on an affidavit to receive a notice of violation first instead of a uniform traffic citation will reduce or increase the amount of revenue received by local government.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The registered owner of a motor vehicle and the person identified as having care, custody, and control of the motor vehicle at the time of the violation will be subject to the same procedure for the disposition of a red-light camera citation.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds, reduce the authority that cities or counties have to raise revenues in the aggregate, or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**