



ECONOMIC AFFAIRS COMMITTEE

MEETING PACKET

**Thursday, February 14, 2013
9:00 AM – 11:00 AM
Reed Hall (102 HOB)**

**Will Weatherford
Speaker**

**Jimmy Patronis
Chair**



The Florida House of Representatives
Economic Affairs Committee

Will Weatherford
Speaker

Jimmy Patronis
Chair

Meeting Agenda
February 14, 2013
9:00 AM - 11:00 AM
Reed Hall (102 HOB)

- I. Call to Order & Opening Remarks by the Chairman**
- II. Consideration of the following bill(s):**
HB 4011 Traffic Infraction Detectors by Rep. Campbell
- III. Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4011 Red light cameras
SPONSOR(S): Campbell
TIED BILLS: IDEN./SIM. **BILLS:** HB 91

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Affairs Committee		Kiner <i>KLK</i>	Creamer <i>TC</i>
2) Appropriations Committee			

SUMMARY ANALYSIS

House Bill 4011 removes local government authorization to use traffic infraction detectors, better known as 'red light cameras.'

The bill leaves intact s. 316.0076, F.S., which expressly preempts to the state regulation of the use of cameras for enforcing the traffic safety provisions of ch. 316, F.S. This means that local governments will not have the authority to implement red light camera programs by local ordinance.

To the extent that the bill eliminates a potential fine, the bill has an indeterminate positive fiscal impact on motor vehicle owners and operators.

However, the bill will reduce revenues received by local governments that have implemented red light camera programs, will reduce one-time and recurring costs related to maintaining such programs, and will reduce expenses related to ongoing enforcement and legal challenges.

The bill also has a significant negative fiscal impact on state revenue.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Red light cameras generally

Red light cameras enforce traffic laws by automatically photographing vehicles running 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 photographs vehicles that enter the intersection above a pre-set minimum speed after the signal has turned red; a second photograph typically shows the driver in the intersection. In some cases, video cameras are used. Red light cameras also record the license plate number, the date and time of day, the time elapsed since the beginning of the red signal, and the vehicle's speed.

Red light cameras 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 also authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to employ red light camera programs.²

Jurisdiction, Installation, and Awareness

Every red light camera must meet requirements established by the Florida Department of Transportation (DOT) and must be tested at regular intervals according to procedures prescribed by DOT.³ If DHSMV, a county, or a municipality installs a red light camera at an intersection, the respective governmental entity must notify the public that a camera is in use at that intersection, including specific notification of enforcement right-on-red violations.⁴ Such signage must meet specifications adopted by DOT pursuant to s. 316.0745, F.S.⁵

Notifications and Citations

If a red light camera captures a driver running a red light, the visual information is reviewed by a traffic infraction enforcement officer. A notice of violation must be issued to the registered owner of the vehicle within 30 days of the alleged violation.⁶ 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.⁷ Violations may not be issued if the driver is making a right-hand turn in a "careful and prudent manner."⁸

If the registered owner of the vehicle does not pay the violation within 30 days of the notification described above, the traffic infraction enforcement officer must issue a uniform traffic citation (UTC) to the owner.⁹ The UTC must be mailed by certified mail, and must be issued no later than 60 days after

¹ s. 316.0076, F.S.

² s. 316.0083, F.S.

³ s. 316.0776, F.S.

⁴ s. 316.0776(2), F.S.

⁵ Id.

⁶ s. 316.0083(1)(b), F.S.

⁷ Id.

⁸ s. 316.0083(2), F.S.

⁹ s. 316.0083(1)(c), F.S.

the violation.¹⁰ The UTC must also include the photograph and statements described above regarding review of the photographic or video evidence.¹¹ The report of an officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used to commit the violation.¹²

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 a UTC to the violator.¹³

Exemptions

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;
- that the vehicle passed through the intersection at the direction of a law enforcement officer;
- that the vehicle was, at the time of the violation, in the care, custody, or control of another person;
- that the driver received a UTC for the alleged violation issued by a law enforcement officer; or
- that the vehicle's owner was deceased on or before the date that the UTC was issued.¹⁴

To establish any of these exemptions, the registered owner of the vehicle must furnish an affidavit to the appropriate governmental entity 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 UTC, if issued.¹⁵ If the registered 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 driver's license number of the driver.¹⁶ A UTC may be issued to the driver, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding the driver's alleged violation of ss. 316.074(1) or 316.075(1)(c)1., F.S.¹⁷ Submission of a false affidavit is a second degree misdemeanor.

If the vehicle is leased, the owner of the leased vehicle is not responsible for paying the UTC, nor required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.¹⁸ If a person presents documentation from the appropriate governmental entity that a UTC was issued in error, the clerk of court may dismiss the UTC and may not charge for such service.¹⁹

Fines

Red light camera citations carry a \$158 fine. When the \$158 fine is the result of a local government's red light camera, \$75 is retained by the local government and \$83 is deposited with the Florida Department of Revenue (DOR).²⁰ DOR subsequently distributes the fine 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.²¹

¹⁰ Id.

¹¹ Id.

¹² s. 316.0083(1)(e), F.S.

¹³ s. 316.650(3)(c), F.S.

¹⁴ s. 316.0083(1)(d), F.S.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ s. 318.18(15), F.S.

²⁰ s. 318.18(15), F.S., s. 316.0083(1)(b)3., F.S.

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 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.²²

Red light camera citations may not result in points assessed against the driver's driver license and may not be used for the purpose of setting motor vehicle insurance rates.²³

Actual Revenue

In FY 2011 – 2012, there were 71 jurisdictions operating red light camera programs throughout the state. The following chart details the state portion of the fines remitted from participating local governments to DOR as a result of red light camera programs in place for FY 2011 – 2012.²⁴

JURISDICTION	COUNTY	Grand Total	JURISDICTION	COUNTY	Grand Total
COCOA BEACH	Brevard	\$295,480	OPA LOCKA	Miami-Dade	\$183,154
PALM BAY	Brevard	\$204,097	SURFSIDE	Miami-Dade	\$365,199
CORAL SPRINGS	Broward	\$228,748	SWEETWATER	Miami-Dade	\$0
DAVIE	Broward	\$392,104	WEST MIAMI	Miami-Dade	\$808,088
FORT LAUDERDALE	Broward	\$1,036,479	APOPKA	Orange	\$1,614,350
HALLANDALE BEACH	Broward	\$172,115	EDGEWOOD	Orange	\$182,635
HOLLYWOOD	Broward	\$1,832,972	MAITLAND	Orange	\$1,008,782
MARGATE	Broward	\$492,273	OCOE	Orange	\$511,921
PEMBROKE PINES	Broward	\$1,420,484	ORANGE COUNTY BOCC	Orange	\$844,691
SUNRISE	Broward	\$459,652	ORLANDO	Orange	\$1,548,697
WEST PARK	Broward	\$27,058	WINTER PARK	Orange	\$537,508
GREEN COVE SPRINGS	Clay	\$750,237	KISSIMMEE	Osceola	\$106,987
COLLIER COUNTY BOCC	Collier	\$718,033	BOCA RATON	Palm Beach	\$324,708
PALM COAST	Flagler	\$208,828	BOYNTON BEACH	Palm Beach	\$908,059
BROOKSVILLE	Hernando	\$7,470	JUNO BEACH	Palm Beach	\$493,197
CLEWISTON	Hendry	\$73,123	PALM SPRINGS	Palm Beach	\$606,149
HILLSBOROUGH BOCC	Hillsborough	\$1,726,702	PALM BEACH COUNTY BOCC	Palm Beach	\$294,318
TAMPA	Hillsborough	\$2,361,542	WEST PALM BEACH	Palm Beach	\$283,091
TEMPLE TERRACE	Hillsborough	\$422,968	NEW PORT RICHEY	Pasco	\$1,001,561

²¹ Id.
²² s. 318.18(15), F.S.
²³ s. 322.27(3)(d)6., F.S.
²⁴ The Department of Revenue makes its most-recent data available online at <http://dor.myflorida.com/dor/taxes/distributions.html> (Last viewed on 1/29/2013).
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DATE: 2/4/2013

CAMPBELLTON	Jackson	\$109,892	PORT RICHEY	Pasco	\$723,926
GROVELAND	Lake	\$88,810	GULFPORT	Pinellas	\$197,872
TALLAHASSEE	Leon	\$1,080,328	KENNETH CITY	Pinellas	\$607,311
BRADENTON	Manatee	\$637,108	ST PETERSBURG	Pinellas	\$1,308,787
DUNNELLON	Marion	\$373,251	SOUTH PASADENA	Pinellas	\$928,416
AVENTURA	Miami-Dade	\$1,201,757	HAINES CITY	Polk	\$1,317,708
CORAL GABLES	Miami-Dade	\$1,387,416	LAKELAND	Polk	\$523,028
CUTLER BAY	Miami-Dade	\$262,114	GULF BREEZE	Santa Rosa	\$291,994
DORAL	Miami-Dade	\$776,804	MILTON	Santa Rosa	\$160,024
EL PORTAL	Miami-Dade	\$63,548	SARASOTA	Sarasota	\$540,247
FLORIDA CITY	Miami-Dade	\$783,024	WINTER SPRINGS	Seminole	\$67,645
HIALEAH GARDENS	Miami-Dade	\$186,357	DAYTONA BEACH	Volusia	\$1,429,509
HOMESTEAD	Miami-Dade	\$332,581	HOLLY HILL	Volusia	\$275,643
KEY BISCAWAYNE	Miami-Dade	\$99,010	Grand Total \$70 General Revenue portion \$10 Health Admin. Trust Fund \$3 Brain & Spinal Cord Injury TF		\$51,065,841 \$43,070,985 \$6,143,495 \$1,851,361
MEDLEY	Miami-Dade	\$85,241			
MIAMI	Miami-Dade	\$4,882,060			
MIAMI BEACH	Miami-Dade	\$300,875			
MIAMI GARDENS	Miami-Dade	\$2,617,654			
MIAMI SPRINGS	Miami-Dade	\$270,954			
NORTH MIAMI FLORIDA	Miami-Dade	\$2,701,489			

From July 2012 through December 2012, there were 77 jurisdictions operating red light camera programs throughout the state. According to the latest DOR revenue numbers, the state portion of the fines collected in FY 2012 – 2013 (through December 2012) is \$29,411,205. Of the total, \$24,803,762 was distributed to the General Revenue Fund; \$3,521,278 was distributed to the Health Administration Trust Fund; and \$1,063,031 was distributed to the Brain & Spinal Cord Injury Trust Fund.²⁵

Litigation

Prior to passage of Ch. 2010-80, L.O.F., some cities in Florida implemented red light camera programs of their own through local ordinances, notwithstanding concerns stated by the Florida Attorney General's office. A 1997 Attorney General opinion concluded that nothing precludes the use of unmanned cameras to record violations of s. 316.075, F.S., but "a photographic record of a vehicle violating traffic control laws may not be used as the [sole] basis for issuing a citation for such violations."²⁶ A 2005 Attorney General opinion reached the same conclusion, stating that, "legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices" as collected from a photographic record from unmanned cameras monitoring intersections.²⁷

In at least some cases, lawsuits were successful in attacking pre-2010 red light camera ordinances on the grounds that a camera cannot "observe" a driver's commission of a traffic infraction to the extent necessary to issue a citation. Other lawsuits were unsuccessful, on the grounds that the violation was merely a violation of a municipal ordinance, not a uniform traffic citation.

²⁵ The number of total jurisdictions is calculated based on current Department of Revenue (DOR) totals. DOR makes its most-recent data available online at <http://dor.myflorida.com/dor/taxes/distributions.html> (Last viewed 1/29/2013).

²⁶ Attorney General Opinion AGO 97-06.

²⁷ Attorney General Opinion AGO 2005-41.

A lawsuit filed in the 15th Judicial Circuit argues that as a result of ch. 2010-80 L.O.F., the “burden of proof” has been unconstitutionally shifted from the state to the motorist, because the statute provides that “if the state is able to prove that a vehicle registered to the Petitioner was involved in the commission of a red light camera violation, [the owner] is presumed to be guilty.”²⁸ The suit further asserts that “the State is not required to prove the identity of the driver who committed the red light camera violation.”²⁹ In a Motion for Summary Judgment (Motion), the state and city of West Palm Beach, among other defenses, argued that the law affords adequate due process to violators by creating a ‘rebuttable presumption’ that the owner was also the operator. The burden-shifting created by this rebuttable presumption, the state argued, is appropriate in “noncriminal situations... [that] contemplate reasonable notice and an opportunity to hear and be heard.”³⁰ The Motion was granted, and the Florida Fourth District Court of Appeal denied to certify the case for immediate review by the Florida Supreme Court.

Impact on Red Light Running Crashes and Fatalities:

Insurance Institute for Highway Safety (IIHS) Analysis

In February 2011, the IIHS published an analysis titled, ‘Effects of Red Light Camera Enforcement on Fatal Crashes in Large US Cities.’³¹ For the analysis, IIHS researchers studied 14 cities with red light camera programs (“RLCs”) and forty-eight cities without RLCs. For the RLC group, IIHS researchers looked at two time periods: 1992-1996, before the installation of red light cameras, and 2004-2008, after the installation of red light cameras. Using these ‘before’ and ‘after’ time periods, researchers “compared the citywide per capita rate of fatal red light running crashes and the citywide per capita rate of all fatal crashes at signalized intersections.”³² Researchers then compared rate changes for both the RLC cities and the non-RLC cities. Based on the results, the IIHS analysis concluded that the “average annual rate of fatal red light running crashes declined for both groups, but the decline was larger for cities with red light camera enforcement programs,” than those without, 35 percent versus 14 percent, respectively.³³ Further, “[a]fter controlling for population density and land area, the rate of fatal red light running crashes during 2004-2008 for RLC cities was an estimated 24 percent lower than what would have been expected without cameras.”³⁴

Florida Public Health Review of IIHS Analysis

In a January 2012 study, University of South Florida researchers argued that the February 2011 IIHS analysis (mentioned above) was “logically flawed” and violated “basic scientific methods.”³⁵ Specifically, the USF study argued that the IIHS analysis actually found that RLCs had a 25 percent higher red light running fatality rate during the ‘after’ period than non-RLCs.³⁶ In addition, USF researchers pointed out, but did not limit their concerns to, the following regarding the IIHS analysis:

²⁸ Action for Declaratory Judgment, *Salvatore Altamari vs. State of Florida; City of West Palm Beach*, 2010 CA 022083, (15th Cir.)

²⁹ *Id.* at 2.

³⁰ Defendant State of Florida’s Motion to Dismiss, *Salvatore Altamari vs. State of Florida; City of West Palm Beach*, 2010 CA 022083, (15th Cir.)

³¹ “Effects of Red Light Camera Enforcement on Fatal Crashes in Large US Cities.” Wen Hu, Anne T. McCartt and Eric R. Teoh. Insurance Institute for Highway Safety, February 2011. The IIHS press release on this analysis may be viewed at <http://www.iihs.org/news/rss/pr020111.html> (Last viewed on 1/28/2013). The IIHS study is on file with the Economic Affairs Committee.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ “Counterpoint: The Insurance Institute for Highway Safety Study Actually Found Cities Using Red Light Cameras Had Higher Red Light Running Fatality Rates.” Barbara Langland-Orban, PhD, Etienne E. Pracht, PhD, and John T. Large, PhD. *Florida Public Health Review*, 2012, Volume 9. This study may be viewed at <http://health.usf.edu/publichealth/fphr/current.htm> (Last viewed on 1/28/2013).

³⁶ *Id.*

- It analyzed city-wide data, not specific to camera sites.
- It excluded variables known to be associated with traffic fatalities, such as changes in public policy or engineering improvements made during or between the periods.
- It expressed its findings as a “percentage change in the rate of red light running fatalities,” instead of a “change in the number of fatalities.” In other words, USF researchers argued the results of the IIHS analysis are misleading because certain variables – namely those relating to population – are reported multiple times. For example, population is a denominator, “fatalities per 100,000,” as well as a numerator, “population per square mile.”
- It was biased in its selection of both RLCs and non-RLCs. Specifically, USF researchers argued “the authors of the IIHS study ignored the fact that the non-RLCs had substantially fewer red light running related fatalities in the ‘before’ period . . . [o]f even greater impact, 23 [percent] of the non-RLCs had two or fewer (including zero) red light running related accidents.” Essentially, USF researchers argued that the non-RLCs had very little room to reduce the total number – or percentage rate – of accidents during the ‘after’ period.³⁷

DHSMV – 2012 Red Light Camera Program Analysis

Florida law requires each county or municipality operating a red light camera program to annually self-report data to DHSMV containing the following:

- red light camera program results over the preceding fiscal year;
- the procedures for enforcement; and
- other statistical data and information required by DHSMV.³⁸

Based on this data covering the period between July 1, 2011 and June 30, 2012 (survey period), DHSMV submitted a summary report to the Governor and Legislature containing the following findings:

- 73 agencies reported that there are 404 intersections across the state with red light cameras installed.
- Historical traffic crash data was the most important factor considered when selecting red light camera locations (roughly 56 percent); however, roughly 44 percent did not consider historical traffic crash data as the most important factor. The next most important factors were video evidence of a red light violation, law enforcement officer observations, citizen complaints, and historical traffic citation data.
- During the survey period, the agencies issued a total of 999,929 Notices of Violation.
- The number of Notices of Violation challenged was 20,064. Of those violations challenged, 14,065 were dismissed (nearly 70 percent), with 950 challenges pending at the time of the summary report.
- A Uniform Traffic Citation (UTC) is issued when a Notice of Violation is not paid within 30 days, and 66 agencies issued 265,783 UTCs for red light camera violations.
- About 70 percent of Notices of Violation (and UTCs) were issued and reviewed by sworn agency employees.
- Florida law states that “a notice of violation and a traffic citation may not be issued for failure to stop at a red light if the driver is making a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible.” Of the 73 agencies, 45 issue Notices of Violation and UTCs for right-on-red violations, but only 16 agencies have a policy defining ‘careful and prudent.’
- Effect on Crashes - the most common outcome was a decrease in rear-end (41 percent) and side-impact (44 percent) crashes. About 56 percent of agencies reported decreases in the total number of crashes at red light camera intersections. Note that 11 percent of agencies reported an increase in side-impact crashes and 22 percent reported an increase in rear-end crashes.

³⁷ Id.

³⁸ s. 316.0083(4), F.S. DHSMV uses an on-line questionnaire to facilitate data collection.

- Agencies also reported that traffic safety improved throughout their jurisdictions as there were fewer drivers running red lights, and in general, drivers were more cautious when approaching all intersections.³⁹

Since its inception, Florida's red light camera program has been the topic of much debate – particularly with regard to the impact that red light cameras have on accidents. As stated in the report, there was a decrease in both rear-end and side-impact crashes in most cases; however, it must be noted that 30 percent of the agencies did not submit crash data. Further, 44 percent of the agencies did not consider historical traffic crash data as the most important factor when deciding on camera placement. Instead, these agencies may have considered video evidence of red light violations, law enforcement officer observations, citizen complaints, or historical traffic citation data as the most important factor.

To be clear, however, while there was a requirement that agencies self-report data to DHSMV, there was no clear statutory requirement that this data include crash statistics.

Effect of Proposed Changes

HB 4011 removes local government authorization to install and maintain red light cameras. To accomplish this, HB 4011 amends, repeals, or deletes the following sections of Florida law:

- amends s. 316.003(87), F.S., to revise the definition of 'traffic infraction detector' to remove a reference to notices of violation;
- repeals s. 316.008(8), F.S., which authorizes local governments to install red light cameras, and s. 321.50, F.S., which authorizes DHSMV to install red light cameras;
- repeals s. 316.0083, F.S., which details ordinance requirements, installation and notification processes, and fine distributions related to red light cameras;
- repeals s. 316.0776, F.S., which provides engineering specifications for installation of red light cameras;
- repeals portions of ss. 316.640 and 316.650, F.S., authorizing 'traffic infraction enforcement officers' to enforce s. 316.0083, F.S.;
- repeals a portion of s. 318.14, F.S., which provides distribution requirements for fines collected from traffic infraction detector programs;
- repeals portions of s. 318.18, F.S., which provide (i) distribution requirements for fines collected from traffic infraction detector programs, (ii) an exemption process for those motor vehicle owners who have successfully appealed a violation from a traffic infraction detector, and (iii) a provision that individuals may not receive commissions or per-ticket fees from the installation of traffic infraction detector programs; and
- repeals a sentence from s. 316.27(3)(d)6., F.S., providing that points are not placed on the license of a person receiving a violation from a traffic infraction detector;
- repeals s. 316.00831, F.S., which authorizes local governments to retain traffic infraction detector fines until such time as the Florida Department of Revenue creates a specific accounting process for receiving such remittances; and
- repeals s. 316.07456, F.S., which provides a 'transitional implementation' period during which red light cameras installed prior to the passage of the 2010 law are permitted to operate.

HB 4011 leaves intact s. 316.0076, F.S., which expressly preempts to the state regulation of the use of cameras for enforcing provisions of ch. 316, F.S. This means that local governments will not have the authority to implement red light camera programs by local ordinance.

³⁹ See the Department of Highway Safety and Motor Vehicles' "Red Light Camera Program Analysis" on its website at <http://www.flhsmv.gov/html/safety.html> (Last viewed on 1/28/13).

Effective Date

The bill is effective upon becoming a law.

B. SECTION DIRECTORY:

- Section 1: amends s. 316.003(87), F.S., to revise the definition of 'traffic infraction detector';
- Section 2: amends s. 316.008(8), F.S., to remove local government authority to employ traffic infraction detectors;
- Section 3: amends s. 28.37(2), F.S., to remove a reference to s. 316.0083, F.S., in conjunction with fines, fees, service charges, and other costs that are remitted to various trust funds by the Clerks of Court;
- Section 4: amends s. 316.640, F.S., to remove DHSMV's authority to designate employees as traffic infraction enforcement officers;
- Section 5: amends s. 316.650, F.S., to references to s. 316.0083, F.S., and traffic infraction detectors;
- Section 6: amends s. 318.14, F.S., to remove a reference to s. 316.0083, F.S.;
- Section 7: amends s. 318.18, F.S., to remove language relating to the distribution of fine amounts collected from violations issued as a result of evidence captured by a traffic infraction detector;
- Section 8: amends s. 322.27, F.S., to remove language that prohibits points from being issued as a result of a violation/citation issued as a result of evidence captured by a traffic infraction detector;
- Section 9: repeals ss. 316.0083, F.S., 316.00831, F.S., 321.50, F.S.;
- Section 10: repeals s. 316.07456, F.S.;
- Section 11: repeals s. 316.0776, F.S.; and
- Section 12: provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

In FY 2011 – 2012, the state portion of the fines collected from traffic infraction detector violations resulted in \$51,065,842, distributed as follows: \$43,070,985 to the General Revenue Fund; \$6,143,495 to the Department of Health Administrative Trust Fund; and \$1,851,361 to the Brain and Spinal Cord Injury Program Trust Fund.

So far in FY 2012 – 2013, the state portion of the fines collected from traffic infraction detector violations has resulted in \$29,411,204, distributed as follows: \$24,803,763 to the General Revenue Fund; \$3,521,278 to the Department of Health Administrative Trust Fund; and \$1,063,031 to the Brain and Spinal Cord Injury Program Trust Fund.

The bill would eliminate the amount going into these funds. Revenue from fines levied as a result of a law enforcement officer's citation, as opposed to a traffic infraction detector, would continue to be distributed to these funds.

2. Expenditures:

Any expenditures using the revenues noted above would have to be eliminated or funded using another source of revenue.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Current law requires \$83 out of each \$158 traffic infraction detector fine (approximately 52.5 percent) to be remitted to the Florida Department of Revenue. Local governments retain \$75 of the \$158 (approximately 47.5 percent). The bill would eliminate the source of this revenue.

2. Expenditures:

It is likely that in each jurisdiction, some percentage of the revenue raised was used to recover initial costs of implementing the program and on monthly maintenance or other program costs.

For those local governments that have implemented red light camera programs as a result of the 2010 legislation, HB 4011 would eliminate the revenues currently expected by those governments, but would also reduce expenses related to ongoing enforcement and legal challenges.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill removes the possibility of motor vehicle operators being issued a \$158 fine for violating a traffic infraction detector.

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 counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise total aggregate revenues over February 1, 1989, levels; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor impacts DHSMV's rulemaking authority.

However, the Department of Health may have to amend ch. 64J-2.019, F.A.C., to remove existing references to the traffic infraction detector program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to traffic infraction detectors;
 3 amending s. 316.003, F.S.; revising definition of the
 4 term "traffic infraction detector" to remove
 5 requirements for issuance of notifications and
 6 citations; amending s. 316.008, F.S.; removing the
 7 authority of counties and municipalities to install
 8 and use traffic infraction detectors to enforce
 9 specified provisions when a driver fails to stop at a
 10 traffic signal; amending ss. 28.37, 316.640, 316.650,
 11 318.14, 318.18, and 322.27, F.S., relating to the
 12 distribution of fines, enforcement by such detectors,
 13 procedures for disposition of citations, penalties,
 14 and distribution of proceeds, to conform provisions to
 15 changes made by the act; repealing ss. 316.0083,
 16 316.00831, and 321.50, F.S., relating to the
 17 installation and use of traffic infraction detectors
 18 to enforce specified provisions when a driver fails to
 19 stop at a traffic signal; removing provisions that
 20 authorize the Department of Highway Safety and Motor
 21 Vehicles, a county, or a municipality to use such
 22 detectors; repealing s. 316.07456, F.S., relating to
 23 transitional implementation of such detectors;
 24 repealing s. 316.0776, F.S., relating to placement and
 25 installation of traffic infraction detectors;
 26 providing an effective date.

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

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Section 1. Subsection (87) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(87) TRAFFIC INFRACTION DETECTOR.—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. ~~Any notification under s. 316.0083(1)(b) or traffic citation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated.~~

Section 2. Subsection (8) of section 316.008, Florida Statutes, is amended to read:

316.008 Powers of local authorities.—

~~(8)(a) A county or municipality may use traffic infraction detectors to enforce s. 316.074(1) or s. 316.075(1)(c)1. when a driver fails to stop at a traffic signal on streets and highways under its jurisdiction under s. 316.0083. Only a municipality may install or authorize the installation of any such detectors within the incorporated area of the municipality. Only a county~~

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57 | ~~may install or authorize the installation of any such detectors~~
 58 | ~~within the unincorporated area of the county.~~

59 | ~~(b) Pursuant to paragraph (a), a municipality may install~~
 60 | ~~or, by contract or interlocal agreement, authorize the~~
 61 | ~~installation of any such detectors only within the incorporated~~
 62 | ~~area of the municipality, and a county may install or, by~~
 63 | ~~contract or interlocal agreement, authorize the installation of~~
 64 | ~~any such detectors only within the unincorporated area of the~~
 65 | ~~county. A county may authorize installation of any such~~
 66 | ~~detectors by interlocal agreement on roads under its~~
 67 | ~~jurisdiction.~~

68 | ~~(c) Pursuant to s. 316.0083, a county or municipality may~~
 69 | ~~use traffic infraction detectors to enforce s. 316.074(1) or s.~~
 70 | ~~316.075(1)(c)1. when a driver fails to stop at a traffic signal~~
 71 | ~~on state roads under the original jurisdiction of the Department~~
 72 | ~~of Transportation when permitted by the Department of~~
 73 | ~~Transportation.~~

74 | Section 3. Subsection (2) of section 28.37, Florida
 75 | Statutes, is amended to read:

76 | 28.37 Fines, fees, service charges, and costs remitted to
 77 | the state.—

78 | (2) Except as otherwise provided in ss. 28.241 and 34.041,
 79 | all court-related fines, fees, service charges, and costs are
 80 | considered state funds and shall be remitted by the clerk to the
 81 | Department of Revenue for deposit into the Clerks of the Court
 82 | Trust Fund within the Justice Administrative Commission.
 83 | However, 10 percent of all court-related fines collected by the
 84 | clerk, ~~except for penalties or fines distributed to counties or~~

85 ~~municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),~~
 86 shall be deposited into the clerk's Public Records Modernization
 87 Trust Fund to be used exclusively for additional clerk court-
 88 related operational needs and program enhancements.

89 Section 4. Paragraph (b) of subsection (1) and paragraph
 90 (a) of subsection (5) of section 316.640, Florida Statutes, are
 91 amended to read:

92 316.640 Enforcement.—The enforcement of the traffic laws
 93 of this state is vested as follows:

94 (1) STATE.—

95 (b)1. The Department of Transportation has authority to
 96 enforce on all the streets and highways of this state all laws
 97 applicable within its authority.

98 2.a. The Department of Transportation shall develop
 99 training and qualifications standards for toll enforcement
 100 officers whose sole authority is to enforce the payment of tolls
 101 pursuant to s. 316.1001. Nothing in this subparagraph shall be
 102 construed to permit the carrying of firearms or other weapons,
 103 nor shall a toll enforcement officer have arrest authority.

104 b. For the purpose of enforcing s. 316.1001, governmental
 105 entities, as defined in s. 334.03, which own or operate a toll
 106 facility may employ independent contractors or designate
 107 employees as toll enforcement officers; however, any such toll
 108 enforcement officer must successfully meet the training and
 109 qualifications standards for toll enforcement officers
 110 established by the Department of Transportation.

111 ~~3. For the purpose of enforcing s. 316.0083, the~~
 112 ~~department may designate employees as traffic infraction~~

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113 ~~enforcement officers. A traffic infraction enforcement officer~~
 114 ~~must successfully complete instruction in traffic enforcement~~
 115 ~~procedures and court presentation through the Selective Traffic~~
 116 ~~Enforcement Program as approved by the Division of Criminal~~
 117 ~~Justice Standards and Training of the Department of Law~~
 118 ~~Enforcement, or through a similar program, but may not~~
 119 ~~necessarily otherwise meet the uniform minimum standards~~
 120 ~~established by the Criminal Justice Standards and Training~~
 121 ~~Commission for law enforcement officers or auxiliary law~~
 122 ~~enforcement officers under s. 943.13. This subparagraph does not~~
 123 ~~authorize the carrying of firearms or other weapons by a traffic~~
 124 ~~infraction enforcement officer and does not authorize a traffic~~
 125 ~~infraction enforcement officer to make arrests. The department's~~
 126 ~~traffic infraction enforcement officers must be physically~~
 127 ~~located in the state.~~

128 (5) (a) Any sheriff's department or police department of a
 129 municipality may employ, as a traffic infraction enforcement
 130 officer, any individual who successfully completes instruction
 131 in traffic enforcement procedures and court presentation through
 132 the Selective Traffic Enforcement Program as approved by the
 133 Division of Criminal Justice Standards and Training of the
 134 Department of Law Enforcement, or through a similar program, but
 135 who does not necessarily otherwise meet the uniform minimum
 136 standards established by the Criminal Justice Standards and
 137 Training Commission for law enforcement officers or auxiliary
 138 law enforcement officers under s. 943.13. Any such traffic
 139 infraction enforcement officer who observes the commission of a
 140 traffic infraction or, in the case of a parking infraction, who

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141 | observes an illegally parked vehicle may issue a traffic
 142 | citation for the infraction when, based upon personal
 143 | investigation, he or she has reasonable and probable grounds to
 144 | believe that an offense has been committed which constitutes a
 145 | noncriminal traffic infraction as defined in s. 318.14. ~~In~~
 146 | ~~addition, any such traffic infraction enforcement officer may~~
 147 | ~~issue a traffic citation under s. 316.0083. For purposes of~~
 148 | ~~enforcing s. 316.0083, any sheriff's department or police~~
 149 | ~~department of a municipality may designate employees as traffic~~
 150 | ~~infraction enforcement officers.~~ The traffic infraction
 151 | enforcement officers must be physically located in the county of
 152 | the respective sheriff's or police department.

153 | Section 5. Paragraphs (a) and (c) of subsection (3) of
 154 | section 316.650, Florida Statutes, are amended to read:

155 | 316.650 Traffic citations.—

156 | (3)(a) Except for a traffic citation issued pursuant to s.
 157 | 316.1001 ~~or s. 316.0083~~, each traffic enforcement officer, upon
 158 | issuing a traffic citation to an alleged violator of any
 159 | provision of the motor vehicle laws of this state or of any
 160 | traffic ordinance of any municipality or town, shall deposit the
 161 | original traffic citation or, in the case of a traffic
 162 | enforcement agency that has an automated citation issuance
 163 | system, the chief administrative officer shall provide by an
 164 | electronic transmission a replica of the citation data to a
 165 | court having jurisdiction over the alleged offense or with its
 166 | traffic violations bureau within 5 days after issuance to the
 167 | violator.

168 | ~~(c) If a traffic citation is issued under s. 316.0083, the~~

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169 ~~traffic infraction enforcement officer shall provide by~~
 170 ~~electronic transmission a replica of the traffic citation data~~
 171 ~~to the court having jurisdiction over the alleged offense or its~~
 172 ~~traffic violations bureau within 5 days after the date of~~
 173 ~~issuance of the traffic citation to the violator.~~

174 Section 6. Subsection (2) of section 318.14, Florida
 175 Statutes, is amended to read:

176 318.14 Noncriminal traffic infractions; exception;
 177 procedures.—

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

191 Section 7. Subsection (15) of section 318.18, Florida
 192 Statutes, is amended to read:

193 318.18 Amount of penalties.—The penalties required for a
 194 noncriminal disposition pursuant to s. 318.14 or a criminal
 195 offense listed in s. 318.17 are as follows:

196 (15) ~~(a)1.~~ One hundred and fifty-eight dollars for a

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197 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver
 198 has failed to stop at a traffic signal ~~and when enforced by a~~
 199 ~~law enforcement officer~~. Sixty dollars shall be distributed as
 200 provided in s. 318.21, \$30 shall be distributed to the General
 201 Revenue Fund, \$3 shall be remitted to the Department of Revenue
 202 for deposit into the Brain and Spinal Cord Injury Trust Fund,
 203 and the remaining \$65 shall be remitted to the Department of
 204 Revenue for deposit into the Emergency Medical Services Trust
 205 Fund of the Department of Health.

206 ~~2. One hundred and fifty-eight dollars for a violation of~~
 207 ~~s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~
 208 ~~stop at a traffic signal and when enforced by the department's~~
 209 ~~traffic infraction enforcement officer. One hundred dollars~~
 210 ~~shall be remitted to the Department of Revenue for deposit into~~
 211 ~~the General Revenue Fund, \$45 shall be distributed to the county~~
 212 ~~for any violations occurring in any unincorporated areas of the~~
 213 ~~county or to the municipality for any violations occurring in~~
 214 ~~the incorporated boundaries of the municipality in which the~~
 215 ~~infraction occurred, \$10 shall be remitted to the Department of~~
 216 ~~Revenue for deposit into the Department of Health Emergency~~
 217 ~~Medical Services Trust Fund for distribution as provided in s.~~
 218 ~~395.4036(1), and \$3 shall be remitted to the Department of~~
 219 ~~Revenue for deposit into the Brain and Spinal Cord Injury Trust~~
 220 ~~Fund.~~

221 ~~3. One hundred and fifty-eight dollars for a violation of~~
 222 ~~s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~
 223 ~~stop at a traffic signal and when enforced by a county's or~~
 224 ~~municipality's traffic infraction enforcement officer. Seventy-~~

225 ~~five dollars shall be distributed to the county or municipality~~
 226 ~~issuing the traffic citation, \$70 shall be remitted to the~~
 227 ~~Department of Revenue for deposit into the General Revenue Fund,~~
 228 ~~\$10 shall be remitted to the Department of Revenue for deposit~~
 229 ~~into the Department of Health Emergency Medical Services Trust~~
 230 ~~Fund for distribution as provided in s. 395.4036(1), and \$3~~
 231 ~~shall be remitted to the Department of Revenue for deposit into~~
 232 ~~the Brain and Spinal Cord Injury Trust Fund.~~

233 ~~(b)~~ Amounts deposited into the Brain and Spinal Cord
 234 Injury Trust Fund pursuant to this subsection shall be
 235 distributed quarterly to the Miami Project to Cure Paralysis and
 236 shall be used for brain and spinal cord research.

237 ~~(c)~~ ~~If a person who is cited for a violation of s.~~
 238 ~~316.074(1) or s. 316.075(1)(c)1., as enforced by a traffic~~
 239 ~~infraction enforcement officer under s. 316.0083, presents~~
 240 ~~documentation from the appropriate governmental entity that the~~
 241 ~~traffic citation was in error, the clerk of court may dismiss~~
 242 ~~the case. The clerk of court shall not charge for this service.~~

243 ~~(d)~~ ~~An individual may not receive a commission or per-~~
 244 ~~ticket fee from any revenue collected from violations detected~~
 245 ~~through the use of a traffic infraction detector. A manufacturer~~
 246 ~~or vendor may not receive a fee or remuneration based upon the~~
 247 ~~number of violations detected through the use of a traffic~~
 248 ~~infraction detector.~~

249 ~~(e)~~ Funds deposited into the Department of Health
 250 Emergency Medical Services Trust Fund under this subsection
 251 shall be distributed as provided in s. 395.4036(1).

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252 Section 8. Paragraph (d) of subsection (3) of section
 253 322.27, Florida Statutes, is amended to read:

254 322.27 Authority of department to suspend or revoke driver
 255 license or identification card.-

256 (3) There is established a point system for evaluation of
 257 convictions of violations of motor vehicle laws or ordinances,
 258 and violations of applicable provisions of s. 403.413(6)(b) when
 259 such violations involve the use of motor vehicles, for the
 260 determination of the continuing qualification of any person to
 261 operate a motor vehicle. The department is authorized to suspend
 262 the license of any person upon showing of its records or other
 263 good and sufficient evidence that the licensee has been
 264 convicted of violation of motor vehicle laws or ordinances, or
 265 applicable provisions of s. 403.413(6)(b), amounting to 12 or
 266 more points as determined by the point system. The suspension
 267 shall be for a period of not more than 1 year.

268 (d) The point system shall have as its basic element a
 269 graduated scale of points assigning relative values to
 270 convictions of the following violations:

- 271 1. Reckless driving, willful and wanton-4 points.
- 272 2. Leaving the scene of a crash resulting in property
 273 damage of more than \$50-6 points.
- 274 3. Unlawful speed resulting in a crash-6 points.
- 275 4. Passing a stopped school bus-4 points.
- 276 5. Unlawful speed:
 - 277 a. Not in excess of 15 miles per hour of lawful or posted
 278 speed-3 points.
 - 279 b. In excess of 15 miles per hour of lawful or posted

280 speed-4 points.

281 6. A violation of a traffic control signal device as
 282 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.
 283 ~~However, no points shall be imposed for a violation of s.~~
 284 ~~316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~
 285 ~~stop at a traffic signal and when enforced by a traffic~~
 286 ~~infraction enforcement officer. In addition, a violation of s.~~
 287 ~~316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~
 288 ~~stop at a traffic signal and when enforced by a traffic~~
 289 ~~infraction enforcement officer may not be used for purposes of~~
 290 ~~setting motor vehicle insurance rates.~~

291 7. All other moving violations (including parking on a
 292 highway outside the limits of a municipality)-3 points. However,
 293 no points shall be imposed for a violation of s. 316.0741 or s.
 294 316.2065(11); and points shall be imposed for a violation of s.
 295 316.1001 only when imposed by the court after a hearing pursuant
 296 to s. 318.14(5).

297 8. Any moving violation covered above, excluding unlawful
 298 speed, resulting in a crash-4 points.

299 9. Any conviction under s. 403.413(6)(b)-3 points.

300 10. Any conviction under s. 316.0775(2)-4 points.

301 Section 9. Sections 316.0083, 316.00831, and 321.50,
 302 Florida Statutes, are repealed.

303 Section 10. Section 316.07456, Florida Statutes, is
 304 repealed.

305 Section 11. Section 316.0776, Florida Statutes, is
 306 repealed.

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307 | Section 12. This act shall take effect upon becoming a
308 | law.