

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1103 w/CS                      Uniform Traffic Control  
**SPONSOR(S):** Russell  
**TIED BILLS:** None                              **IDEN./SIM. BILLS:** SB 2414

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety &amp; Crime Prevention</u>	<u>16 Y, 1 N w/CS</u>	<u>Cole</u>	<u>De La Paz</u>
2) <u>Finance and Tax</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

Construction areas along highways and interstates are extremely difficult for law enforcement to attempt to enforce speed laws due the nature of the areas. There are very few places, if any, for a law enforcement officer to run radar or laser and then be able to pursue the offender and safely stop them in a construction zone. Traffic is usually much heavier in these areas due to the construction which makes it very difficult for an officer to get into traffic and stop an offender. Statistics from the Department of Highway Safety and Motor Vehicles (DHSMV) show that the number of crashes, injuries, and fatalities in work zones has increased dramatically over the last several years. In 2002 alone, there were 3,672 crashes resulting in 3,769 injuries and 72 fatalities in work zones. HB 1103 authorizes a photo detection speed system to be implemented to assist law enforcement in enforcing the speed limits in construction zones.

HB 1103 authorizes the Department of Transportation (FDOT) and DHSMV to institute and operate a photo speed detection system for active construction work zones. The bill specifies how the areas shall be marked with signage to notify drivers approaching the area, specifies the content of the citations that will be mailed to the offender, specifies the way to contest the citation, authorizes FDOT and DHSMV to set standards for the equipment and personnel to be used, allows traditional law enforcement methods to still be utilized, but prohibits the issuing of both a Uniform Traffic Citation by a law enforcement officer and a photo citation. The bill specifies that the cameras will only take pictures of the tag and nothing else. The bill authorizes the fine for these photo citations to be \$100, plus court costs if the offender chooses to challenge the citation in traffic court. The bill authorizes FDOT and DHSMV to hire photo speed detection enforcement officers or to contract out the service. The bill specifies that the county where the citation is issued shall receive 25% of the fine and FDOT will receive the remaining 75%.

The cost of the program is to be paid for out of the fines collected.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

The bill authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (FDOT) to hire photo speed detection officers or to contract the service out to independent contractors thus creating an additional responsibility for state government.

#### B. EFFECT OF PROPOSED CHANGES:

Current law prohibits unlawful speed in work zones and allows speeding fines to be doubled if an offender is caught speeding in a work zone and workers are present.<sup>1</sup> There are many practical limitations on law enforcement while attempting to enforce speed limits in a construction zone. Typically, the roadway is obstructed by barricades, construction equipment, and construction workers. If an officer is parked in a way to be able use radar or laser to enforce speed limits, it is extremely dangerous to try to pull out into traffic to pursue and stop an offender. Traffic is typically heavier in construction zones and there is little or no area for a suspect vehicle to pull over safely and allow a citation to be written. Officers attempt to enforce current law while not endangering themselves, other motorists, or construction workers but the conditions in the construction zones frequently render enforcement of speed limits difficult.

Statistics provided by the Department of Highway Safety and Motor Vehicles showed the following crash statistics for work zones in recent years:

- 2000 – 21 fatal crashes in work zones with 22 fatalities  
2,045 crashes resulting in 2133 injuries
- 2001 – 31 fatal crashes in work zones with 37 fatalities  
2,943 crashes resulting in 2986 injuries
- 2002 - 54 fatal crashes in work zones with 72 fatalities  
3,672 crashes resulting in 3769 injuries

The Department of Transportation has estimated that a loss of \$412, 909, 080 occurred in 2002 alone. With 3,672 total work zone crashes in 2002, FDOT estimates the average cost per work zone injury to be \$107, 500. FDOT estimates the cost per work zone crash to \$112, 448. HB 1103 utilizes another way to enforce speed limits in construction zones.

HB 1103 combines the definitions of “work zone area” in s. 316.003(79), F.S., and the aggravating factors of s. 318.18(3)(d) “when workers are present...”, and adds expressway authorities that are established pursuant to chapter 348, F.S. to define an “active work zone area”.

The bill will allow FDOT and DHSMV to develop a system of photo speed detection cameras for use in active construction work zones. The system must meet requirements of DHSMV. The bill requires the

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<sup>1</sup> S. 316.183(6), F.S. relates to unlawful speed in work zones. S. 318.18(3)(d) relates to the doubling of fines in worker occupied work zones.

active work zone area to be posted by warning signs, conforming to FDOT standards, notifying motorists that a photo detection system is in use. The bill authorizes the cameras to only take pictures of the vehicle's tag, not the driver, and only to be used for speed detection. The bill states that the photo detection system does not preclude law enforcement officers from traditional speed enforcement methods. The bill prohibits the issuance of both a photo speeding citation and a uniform traffic citation issued by a law enforcement officer. An offender can only be issued one or the other.

The bill authorizes FDOT and DHSMV to hire and train photo speed detection enforcement officers who will not be authorized to carry firearms or have arrest powers. The bill also authorizes FDOT and DHSMV and expressway authorities to employ independent contractors for these positions, but these contractors must meet DHSMV and FDOT training and qualification standards.

The bill specifies that the operator or registered owner who violates this section may not receive a conviction for the offense, nor shall it be made part of their driving record, nor be used for setting motor vehicle insurance rates, or have points assessed against their driver's license.

The bill provides for a \$100 civil fine for speed limit violations caught by the photo speed detection system. The double fines authorized in s. 318.18(3)(d), F.S. do not apply. The bill specifies that the citation will be mailed to the registered owner of the vehicle who will be responsible for paying the fine. The bill allows the owner of the vehicle to submit an affidavit within 20 days after the receipt of the citation stating that they were not the driver of the vehicle at the time the violation was committed and state who was driving the vehicle along with their address, and driver's license number (if known) at the time the offense was committed. If the vehicle was stolen, the owner may submit a copy of the police report and will not be held liable for the citation. The bill allows for the issuance of a citation to the person alleged to have been in the actual care, custody or control of the vehicle at the time offense was committed.

The bill allows offenders who wish to contest the citation to do so before any judge authorized to preside over traffic infraction hearings. The judge is authorized to impose the \$100 civil penalty plus court costs if the violator is found guilty.

The bill also authorizes 25% of the fines collected to go the county where the offense was committed and the remaining 75% to go into State Transportation Trust Fund. The bill specifies that the money that is not needed to maintain the photo detection enforcement system shall be used for any valid transportation purpose.

#### C. SECTION DIRECTORY:

**Section 1:** Relates to the popular name of the act.

**Section 2:** Relates to Legislative Findings for the act.

**Section 3:** Amends s. 316.003, F.S., relating to definitions of "Active Work Zone Area" and "Photo Speed Detection System."

**Section 4:** Amends s. 316.0745, F.S., relating to requirements of the photo detection system.

**Section 5:** Creates s. 316.0795, F.S., relating to obedience of posted speed in active construction work zones and the use of a photo speed detection system.

**Section 6:** Relates to requiring a report to the Governor, President of the Senate, and Speaker of the House about the use and operation of the photo speed detection system and any proposed changes thought necessary to enhance the program.

**Section 7:** Amends s. 316.183(6), F.S., relating to unlawful speed in active construction work zones.

**Section 8:** Amends s. 316.640(1), F.S., relating to FDOT and DHSMV authority to hire and train photo speed detection enforcement officers or to use independent contractors.

**Section 9:** Amends s. 318.14(2), F.S., relating to exempting signatures from photo speed detection system citations, the elements that such citations must contain, and the due process procedures authorized by the bill.

**Section 10:** Amends s. 318.18(3), F.S., relating to statutorily allowable fines by photo speed detection system cameras.

**Section 11:** Amends s. 318.21, F.S., relating to disbursement of fines from photo speed detection system cameras to the counties and FDOT.

**Section 12:** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The counties where the offenses occur will receive 25% of the collected fines. The bill does not specify what the counties must do with the money.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The general public will be paying an increasing number of fines of \$100. If the program works as it is supposed to, less taxpayer money will be spent on crash investigations and extended work schedules due to the injury and or death of motorists and/or construction workers in these active construction work zones.

### D. FISCAL COMMENTS:

Figures provided by the Florida Transportation Builders' Association to FDOT by one possible vendor gave the following estimates for the cost of the camera systems:

1 year contract - \$20,000 per unit per month with a minimum of 10 units. Each unit ordered over 10 units is \$7,500.

2 year contract – \$12,500 per unit per month with a minimum of 10 units. Each unit ordered over 10 units is \$7,500.

3 year contract – \$10,000 per unit per month with a minimum of 10 units. Each unit ordered over 10 units is \$7,500.

The costs from this particular vendor include the equipment, maintenance, support, communication links, processing of citations, customer service, and scheduling of court hearings. Their estimates assume 1,250 violations per month, or 40 per day, with a fine of \$100 per citation. The revenue generated would be \$125,000 per unit per month. If a one year contract for 5 units was entered into, the total revenue would be \$625,000 per month. With FDOT receiving 75% of the revenue, this would amount to \$468,750 per month and \$5,625,000 per year. The cost to administer the program for one year is \$1,200,000. FDOT would receive \$4,425,000 in new revenue. The counties where the citations were written would receive \$1,875,000 in new revenue.

These figures are only estimates and it is impossible to tell the exact revenue that will be collected by this photo speed detection system.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The bill does not 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:**

HB 1103 provides FDOT and DHSMV the authority to adopt rules and procedures to implement this act.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

Cameras will supplement traditional law enforcement efforts in reducing speeding violations and enhance traffic safety in active construction work zones. DHSMV recommends that it only be responsible for establishing, reviewing and approving the standards of the system and the approval of the individual photo speed detection equipment and that FDOT be responsible for the other aspects of the program.<sup>2</sup>

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The Public Safety & Crime Prevention Committee adopted an amendment that clarifies that the citations issued by a photo speed detection system camera are noncriminal traffic infractions.

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<sup>2</sup> DHSMV bill analysis dated 2/23/04 reviewed by Lt. Col. Ken Howes.