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1 A bill to be entitled

2 An act relating to uniform traffic control; providing a
3 popular name, the "Active Construction Work Zone Safety
4 Act of 2004"; providing legislative findings and
5 declarations; amending s. 316.003, F.S.; defining the
6 terms "active construction work zone" and "photo speed
7 detection system"; amending s. 316.0745, F.S.; providing
8 that photo speed detection system requirements and testing
9 procedures be reviewed and approved by the Department of
10 Highway Safety and Motor Vehicles; requiring testing of
11 such systems; creating s. 316.0795, F.S.; requiring
12 obedience to posted speed limit in an active construction
13 work zone; providing for use of a photo speed detection
14 system to enforce speed limits in an active construction
15 work zone; requiring advance warning signs to notify
16 drivers of the photo speed detection system; requiring the
17 signs to meet requirements established by the Department
18 of Transportation; providing for designation of photo
19 speed detection enforcement officers by the Department of
20 Transportation in conjunction with the Department of
21 Highway Safety and Motor Vehicles; providing procedures
22 for processing citations; specifying liability for payment
23 of fines; providing for contest of citations in court;
24 authorizing the Department of Transportation, in
25 conjunction with the Department of Highway Safety and
26 Motor Vehicles, to adopt rules and procedures; providing
27 that enforcement by photo speed detection systems is
28 supplemental to enforcement by law enforcement officers;
29 providing penalties; requiring annual reports by the

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30 Department of Transportation, in coordination with the
31 Department of Highway Safety and Motor Vehicles, to the
32 Governor and the Legislature; amending s. 316.183, F.S.;
33 prohibiting exceeding the posted maximum speed limit in an
34 active construction work zone; providing penalties;
35 amending s. 316.640, F.S.; providing for training and
36 qualifications of photo speed detection enforcement
37 officers; authorizing the Department of Transportation,
38 the Department of Highway Safety and Motor Vehicles, and
39 expressway authorities to employ independent contractors
40 or designate employees as photo speed detection
41 enforcement officers; authorizing the officers to enforce
42 speed limits in active construction work zones; amending
43 s. 318.14, F.S.; revising procedures for issuance and
44 acceptance of citations for traffic infractions; providing
45 for civil penalties when a person cited for violation of
46 the speed limit in an active construction work zone elects
47 to appear in court; providing requirements and procedures
48 for citations issued under s. 316.0795, F.S.; providing
49 for effect of the violation; providing circumstances under
50 which a person other than the owner of the vehicle shall
51 be responsible and liable for payment of fine; providing
52 for civil penalties when a person cited under s. 316.0795,
53 F.S., for violation of the speed limit in an active
54 construction work zone elects to appear in court; amending
55 s. 318.18, F.S.; providing civil penalties for violation
56 of the speed limit in an active construction work zone;
57 amending s. 318.21, F.S.; providing for disposition of

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58 civil penalties collected for violations cited under s.
 59 316.0795, F.S.; providing an effective date.

60

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

62

63 Section 1. Popular name.--This act shall be known by the
 64 popular name the "Active Construction Work Zone Safety Act of
 65 2004."

66 Section 2. Legislative findings and declarations.--The
 67 Legislature finds that safe work conditions at active
 68 construction work zones are vital to protecting the citizens of
 69 this state and are a primary requirement to be observed on all
 70 Department of Transportation construction work. The
 71 transportation construction industry is experiencing dangerous
 72 work conditions in areas designated as active construction work
 73 zones. Existing law allows violators of posted speed limits in
 74 construction work zones to be assessed fines of double the
 75 amount set in law. The ability to double regular speeding fines
 76 provides only a small deterrent to speeders. The Legislature
 77 further finds that increased traffic enforcement measures are
 78 necessary in order to ensure the safety of transportation
 79 construction workers and the motoring public. It is in the
 80 public interest and necessary for public safety to enforce
 81 traffic speed limits and reduce the number of violations that
 82 occur at active construction work zones through issuing
 83 citations using photo speed detection systems.

84 Section 3. Subsections (84) and (85) are added to section
 85 316.003, Florida Statutes, to read:

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86 316.003 Definitions.--The following words and phrases,
 87 when used in this chapter, shall have the meanings respectively
 88 ascribed to them in this section, except where the context
 89 otherwise requires:

90 (84) ACTIVE CONSTRUCTION WORK ZONE.--The area and its
 91 approaches on any state-maintained highway or a highway included
 92 in an expressway system as part of an expressway authority
 93 established pursuant to chapter 348, in which area construction,
 94 repair, maintenance, or other street-related, highway-related,
 95 or expressway authority-related work is being performed, if
 96 construction personnel are present or operating equipment on the
 97 road or immediately adjacent to the road under construction, or
 98 if site conditions warrant such an active construction work zone
 99 designation. The active construction work zone must be
 100 designated by mounted signs and early warning systems.

101 (85) PHOTO SPEED DETECTION SYSTEM.--A device or system
 102 installed to automatically record one or more sequenced
 103 photographs, microphotographs, or electronic images of only the
 104 rear of the motor vehicle at the time the vehicle violates
 105 traffic speed in an active construction work zone.

106 Section 4. Subsection (6) of section 316.0745, Florida
 107 Statutes, is amended to read:

108 316.0745 Uniform signals and devices.--

109 (6)(a) Any system of traffic control devices controlled
 110 and operated from a remote location by electronic computers or
 111 similar devices shall meet all requirements established for the
 112 uniform system, and, if any where such system affects systems
 113 ~~affect~~ the movement of traffic on state roads, the design of

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114 that ~~the~~ system shall be reviewed and approved by the Department
 115 of Transportation.

116 (b) Any photo speed detection system deployed on the
 117 streets and highways of the state must meet requirements
 118 reviewed and approved by the Department of Highway Safety and
 119 Motor Vehicles and must be tested according to procedures and at
 120 regular intervals as reviewed and approved by the Department of
 121 Highway Safety and Motor Vehicles.

122 Section 5. Section 316.0795, Florida Statutes, is created
 123 to read:

124 316.0795 Obedience to posted speed limit in active
 125 construction work zones.--

126 (1) Unless otherwise directed by a law enforcement
 127 officer, the driver of any vehicle, except the driver of an
 128 authorized emergency vehicle in accordance with s. 316.072(5),
 129 shall comply with instructions of any photo speed detection
 130 system placed in accordance with the provisions of this chapter
 131 and shall not exceed the speed limit posted in an active
 132 construction work zone. A violation of this subsection is a
 133 noncriminal traffic infraction, punishable as a moving violation
 134 as provided in s. 318.18.

135 (2) A photo speed detection system shall not be used
 136 unless advance warning signs have been posted ahead of the photo
 137 speed detection system within the active construction work zone
 138 to notify motorists that a photo speed detection system is being
 139 used to enforce speed limits. The advance warning signs must
 140 conform to the standards and requirements established by the
 141 Department of Transportation.

142 (3) The Department of Transportation, in conjunction with

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143 the Department of Highway Safety and Motor Vehicles, may
 144 designate photo speed detection enforcement officers pursuant to
 145 s. 316.640(1).

146 (4) Citations for violations of subsection (1) shall be
 147 processed by photo speed detection enforcement officers or by
 148 any other authorized entity, who shall prepare and mail the
 149 citation to the registered owner of the vehicle. The following
 150 procedures shall apply:

151 (a) The registered owner of a vehicle is responsible and
 152 liable for payment of any citation for violation unless the
 153 owner can furnish evidence that the vehicle was, at the time of
 154 the violation, in the care, custody, or control of another
 155 person. In such instances, the provisions of s. 318.14(13)(c)
 156 shall apply.

157 (b) Any person who is issued a citation by a photo speed
 158 detection enforcement officer for a violation of subsection (1)
 159 is deemed to be charged with a noncriminal violation and shall
 160 comply with the directions on the citation. If payment is not
 161 received or a response to the citation is not made within the
 162 time period specified thereon, the county court or its traffic
 163 violations bureau shall notify the registered owner of the
 164 vehicle that was cited, by mail to the address given on the
 165 motor vehicle registration, of the citation. Mailing the notice
 166 to this address constitutes notification. Upon notification, the
 167 registered owner shall comply with the court's directive.

168 (c) Any person who fails to satisfy the court's directive
 169 waives his or her right to pay the applicable civil penalty.

170 (d) Any person who elects to appear before a designated
 171 official to present evidence waives his or her right to pay the

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172 civil penalty provided in the citation. The official, after a
 173 hearing, shall make a determination as to whether a violation of
 174 subsection (1) has been committed and may impose a civil penalty
 175 not to exceed \$100 plus court costs. Any person who fails to pay
 176 the civil penalty within the time allowed by the court is deemed
 177 to have been convicted of a violation of subsection (1), and the
 178 court shall take appropriate measures to enforce collection of
 179 the fine.

180 (5) The Department of Transportation, in conjunction with
 181 the Department of Highway Safety and Motor Vehicles, may adopt
 182 procedures and rules pursuant to ss. 120.536(1) and 120.54 to
 183 carry out the provisions of this section.

184 (6) This section supplements the enforcement of the posted
 185 speed limit in an active construction work zone under s.
 186 316.183(6) by law enforcement officers and does not prohibit a
 187 law enforcement officer from issuing a citation for a violation
 188 of s. 316.183(6) in accordance with normal traffic enforcement
 189 techniques; however, no more than one citation for a violation
 190 of s. 316.183(6) arising from the same incident shall be
 191 enforceable.

192 Section 6. The Department of Transportation, in
 193 coordination with the Department of Highway Safety and Motor
 194 Vehicles, shall submit an annual report to the Governor, the
 195 President of the Senate, and the Speaker of the House of
 196 Representatives regarding the use and operation of photo speed
 197 detection systems to enforce s. 316.0795, Florida Statutes, and
 198 the procedures used for enforcement. The report shall include a
 199 review of the information by the Department of Transportation
 200 and describe the potential for enhancement of traffic safety and

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201 enforcement programs. The Department of Transportation shall
 202 report its recommendations on or before December 1, 2006, to the
 203 Governor, the President of the Senate, and the Speaker of the
 204 House of Representatives, including recommendations for any
 205 necessary legislation that would be beneficial to enhance the
 206 use and operation of photo speed detection systems on a
 207 statewide basis.

208 Section 7. Subsection (6) of section 316.183, Florida
 209 Statutes, is amended to read:

210 316.183 Unlawful speed.--

211 (6) No driver of a vehicle shall exceed the posted maximum
 212 speed limit in a work zone area or an active construction work
 213 zone.

214 (7) A violation of this section is a noncriminal traffic
 215 infraction, punishable as a moving violation as provided in
 216 chapter 318.

217 Section 8. Paragraph (b) of subsection (1) of section
 218 316.640, Florida Statutes, is amended to read:

219 316.640 Enforcement.--The enforcement of the traffic laws
 220 of this state is vested as follows:

221 (1) STATE.--

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

225 2.a. The Department of Transportation shall develop
 226 training and qualifications standards for toll enforcement
 227 officers whose sole authority is to enforce the payment of tolls
 228 pursuant to s. 316.1001. Nothing in this subparagraph shall be

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229 construed to permit the carrying of firearms or other weapons,
 230 nor shall a toll enforcement officer have arrest authority.

231 b. For the purpose of enforcing s. 316.1001, governmental
 232 entities, as defined in s. 334.03, which own or operate a toll
 233 facility may employ independent contractors or designate
 234 employees as toll enforcement officers; however, any such toll
 235 enforcement officer must successfully meet the training and
 236 qualifications standards for toll enforcement officers
 237 established by the Department of Transportation.

238 3.a. The Department of Transportation and the Department
 239 of Highway Safety and Motor Vehicles shall develop training and
 240 qualifications standards for photo speed detection enforcement
 241 officers whose sole authority is to enforce the provisions of s.
 242 316.0795. Nothing in this subparagraph shall be construed to
 243 permit the carrying of firearms or other weapons, nor shall a
 244 photo speed detection enforcement officer have arrest authority.

245 b. For the purposes of processing and enforcing citations
 246 for violations of s. 316.0795(1), the Department of
 247 Transportation, the Department of Highway Safety and Motor
 248 Vehicles, and expressway authorities established pursuant to
 249 chapter 348 may employ independent contractors or designate
 250 employees as photo speed detection enforcement officers;
 251 however, any such photo speed detection enforcement officer must
 252 successfully meet the training and qualifications standards for
 253 photo speed detection enforcement officers established by the
 254 Department of Transportation and the Department of Highway
 255 Safety and Motor Vehicles.

256 (8) TRAFFIC ENFORCEMENT AGENCY.--Any agency or
 257 governmental entity designated in subsection (1), subsection

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258 (2), or subsection (3), including a university, a community
 259 college, a school board, or an airport authority, is a traffic
 260 enforcement agency for purposes of s. 316.650.

261 Section 9. Subsections (2) and (5) of section 318.14,
 262 Florida Statutes, are amended, and subsection (13) is added to
 263 said section, to read:

264 318.14 Noncriminal traffic infractions; exception;
 265 procedures.--

266 (2) Except as provided in ss. 316.0795 and ~~s.~~ 316.1001(2),
 267 any person cited for an infraction under this section must sign
 268 and accept a citation indicating a promise to appear. The
 269 officer may indicate on the traffic citation the time and
 270 location of the scheduled hearing and must indicate the
 271 applicable civil penalty established in s. 318.18.

272 (5) Any person electing to appear before the designated
 273 official or who is required so to appear shall be deemed to have
 274 waived his or her right to the civil penalty provisions of s.
 275 318.18. The official, after a hearing, shall make a
 276 determination as to whether an infraction has been committed. If
 277 the commission of an infraction has been proven, the official
 278 may impose a civil penalty not to exceed \$500, except that in
 279 cases involving unlawful speed in a school zone, involving
 280 unlawful speed in a construction zone or an active construction
 281 work zone, or involving a death, the civil penalty may not
 282 exceed \$1,000; or require attendance at a driver improvement
 283 school, or both. If the official determines that no infraction
 284 has been committed, no costs or penalties shall be imposed and
 285 any costs or penalties that have been paid shall be returned.

286 (13)(a) Citations issued pursuant to s. 316.0795 shall

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287 contain the following information:

288 1. The name and address of the person alleged to be liable
289 as the operator or registered owner of the motor vehicle
290 involved in the violation. In the case of joint ownership of a
291 motor vehicle, the traffic citation shall be mailed to the first
292 name appearing on the registration, unless the first name
293 appearing on the registration is a business organization, in
294 which case the second name appearing on the registration may be
295 used.

296 2. A photograph showing the offending vehicle at the time
297 of the speeding violation, with a data bar within the photograph
298 depicting the speed of the vehicle, the posted speed limit, the
299 date and time of the offense, and the location code, which shall
300 be described in the narrative in the body of the citation.

301 3. The registration number of the vehicle.

302 4. An enlarged photograph of the license plate of the
303 offending vehicle at the time of the violation.

304 5. Information that identifies the photo speed detection
305 system that recorded the violation.

306 6. The amount of the fine.

307 7. The date by which the fine must be paid.

308 8. The procedure for contesting the violation alleged in
309 the citation.

310 9. A warning that failure to contest the violation in the
311 manner and time provided shall be deemed an admission of
312 liability and that a default may be entered thereon.

313 (b) Violation of s. 316.0795(1) shall not:

314 1. Be a conviction of the operator or registered owner of
315 the motor vehicle;

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316 2. Be made part of the driving record of the operator or
 317 registered owner of the motor vehicle;

318 3. Be used for the purposes of setting motor vehicle
 319 insurance rates; or

320 4. Result in points being assessed against the operator or
 321 registered owner of the motor vehicle.

322 (c) The registered owner of the motor vehicle that was
 323 involved in a violation shall be responsible and liable for
 324 payment of the fine assessed in accordance with this subsection
 325 unless the owner can establish that the motor vehicle was, at
 326 the time of the violation, in the care, custody, or control of
 327 another person. In order to establish such facts, the registered
 328 owner shall, within 20 days after receipt of notification of the
 329 alleged violation, furnish to the court, as appropriate, an
 330 affidavit that sets forth:

331 1. The name, address, and, if known, driver license number
 332 of the person who leased, rented, or was otherwise responsible
 333 for the care, custody, or control of the motor vehicle at the
 334 time of the alleged violation; or

335 2. That the vehicle was stolen, with a copy of the police
 336 report attached indicating that the vehicle was stolen at the
 337 time of the alleged violation. The owner of a vehicle shall not
 338 be responsible for a violation if the vehicle involved was, at
 339 the time of the violation, stolen or in the care, custody, or
 340 control of a person who did not have the permission of the owner
 341 to use the vehicle.

342
 343 Upon receipt of the affidavit, the person designated as having
 344 been responsible for the care, custody, or control of the motor

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345 vehicle at the time of the violation may be issued a citation.

346 The affidavit raises the rebuttable presumption that the person
 347 identified in the affidavit is responsible for payment of the
 348 cited violation and is admissible in a proceeding pursuant to
 349 this subsection for the purpose of proving that the motor
 350 vehicle was in the actual care, custody, or control of the
 351 person identified in the affidavit.

352 (d) A person may elect to contest the determination that
 353 he or she exceeded the posted speed limits within a designated
 354 active construction work zone as evidenced by a photo speed
 355 detection system by electing to appear before any judge
 356 authorized by law to preside over a court or hearing that
 357 adjudicates traffic infractions. Any person who elects to appear
 358 before the court to present evidence shall be deemed to have
 359 waived the limitation of civil penalties imposed for the
 360 violation. The court, after hearing, shall determine whether the
 361 violation was committed and may impose a civil penalty of \$100
 362 plus court costs. The court may take appropriate measures to
 363 enforce collection of any penalty not paid within the time
 364 permitted by the court.

365 Section 10. Subsection (3) of section 318.18, Florida
 366 Statutes, as amended by section 99 of chapter 2003-402, Laws of
 367 Florida, is amended to read:

368 318.18 Amount of civil penalties.--The penalties required
 369 for a noncriminal disposition pursuant to s. 318.14 are as
 370 follows:

371 (3)(a) Except as otherwise provided in this section, \$60
 372 for all moving violations not requiring a mandatory appearance.

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373 (b) For moving violations involving unlawful speed, the
 374 fines are as follows:

375

For speed exceeding the limit by:	Fine:
376 1-5 m.p.h.....	Warning
377 6-9 m.p.h.....	\$ 25
378 10-14 m.p.h.....	\$100
379 15-19 m.p.h.....	\$125
380 20-29 m.p.h.....	\$150
381 30 m.p.h. and above.....	\$250

382

383

384 (c) Notwithstanding paragraph (b), a person cited for
 385 exceeding the speed limit by up to 5 m.p.h. in a legally posted
 386 school zone will be fined \$50. A person exceeding the speed
 387 limit in a school zone will be assessed a fine double the amount
 388 listed in paragraph (b).

389 (d)1. A person cited by a means other than a photo speed
 390 detection system for exceeding the speed limit in a posted
 391 construction zone shall pay a fine double the amount listed in
 392 paragraph (b). The fine shall be doubled for construction zone
 393 violations only if construction personnel are present or
 394 operating equipment on the road or immediately adjacent to the
 395 road under construction.

396 2. Notwithstanding paragraph (b), a person cited under s.
 397 316.0795 for exceeding the speed limit in an active construction
 398 work zone shall be assessed a fine of \$100. This amount shall be
 399 distributed pursuant to s. 318.21.

400 (e) If a violation of s. 316.1301 or s. 316.1303 results
 401 in an injury to the pedestrian or damage to the property of the

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402 pedestrian, an additional fine of up to \$250 shall be paid. This
 403 amount must be distributed pursuant to s. 318.21.

404 (f) A person cited for exceeding the speed limit within a
 405 zone posted for any electronic or manual toll collection
 406 facility shall pay a fine double the amount listed in paragraph
 407 (b). However, no person cited for exceeding the speed limit in
 408 any toll collection zone shall be subject to a doubled fine
 409 unless the governmental entity or authority controlling the toll
 410 collection zone first installs a traffic control device
 411 providing warning that speeding fines are doubled. Any such
 412 traffic control device must meet the requirements of the uniform
 413 system of traffic control devices.

414 Section 11. Subsection (13) is added to section 318.21,
 415 Florida Statutes, to read:

416 318.21 Disposition of civil penalties by county
 417 courts.--All civil penalties received by a county court pursuant
 418 to the provisions of this chapter shall be distributed and paid
 419 monthly as follows:

420 (13) For the fine assessed under s. 318.18(3)(d)2. for a
 421 violation of s. 316.0795(1), 25 percent shall be remitted to the
 422 county in which the fine originated, and 75 percent shall be
 423 remitted to the Department of Transportation for deposit to the
 424 State Transportation Trust Fund. Any amount accruing to the
 425 Department of Transportation which is not required to carry out
 426 the provisions of s. 316.0795 shall be used for any valid
 427 transportation purpose.

428 Section 12. This act shall take effect July 1, 2004.