

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the  
2 following:

3  
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to uniform traffic control; providing a  
8 popular name, the "Active Construction Work Zone Safety  
9 Act of 2004"; providing legislative findings and  
10 declarations; amending s. 316.003, F.S.; defining the  
11 terms "active construction work zone" and "photo speed  
12 detection system"; amending s. 316.0745, F.S.; providing  
13 that photo speed detection system requirements and testing  
14 procedures be reviewed and approved by the Department of  
15 Highway Safety and Motor Vehicles; requiring testing of  
16 such systems; creating s. 316.0795, F.S.; requiring  
17 obedience to posted speed limit in an active construction  
18 work zone; providing for use of a photo speed detection  
19 system to enforce speed limits in an active construction  
20 work zone; requiring advance warning signs to notify  
21 drivers of the photo speed detection system; requiring the  
22 signs to meet requirements established by the Department  
23 of Transportation; providing for designation of photo

24 speed detection enforcement officers by the Department of  
25 Transportation in conjunction with the Department of  
26 Highway Safety and Motor Vehicles; providing procedures  
27 for processing citations; specifying liability for payment  
28 of fines; providing for contest of citations in court;  
29 authorizing the Department of Transportation, in  
30 conjunction with the Department of Highway Safety and  
31 Motor Vehicles, to adopt rules and procedures; providing  
32 that enforcement by photo speed detection systems is  
33 supplemental to enforcement by law enforcement officers;  
34 providing penalties; requiring annual reports by the  
35 Department of Transportation, in coordination with the  
36 Department of Highway Safety and Motor Vehicles, to the  
37 Governor and the Legislature; amending s. 316.183, F.S.;  
38 prohibiting exceeding the posted maximum speed limit in an  
39 active construction work zone; providing penalties;  
40 amending s. 316.640, F.S.; providing for training and  
41 qualifications of photo speed detection enforcement  
42 officers; authorizing the Department of Transportation,  
43 the Department of Highway Safety and Motor Vehicles, and  
44 expressway authorities to employ independent contractors  
45 or designate employees as photo speed detection  
46 enforcement officers; authorizing the officers to enforce  
47 speed limits in active construction work zones; amending  
48 s. 318.14, F.S.; revising procedures for issuance and  
49 acceptance of citations for traffic infractions; providing  
50 for civil penalties when a person cited for violation of  
51 the speed limit in an active construction work zone elects

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52 | to appear in court; providing requirements and procedures  
 53 | for citations issued under s. 316.0795, F.S.; providing  
 54 | for effect of the violation; providing circumstances under  
 55 | which a person other than the owner of the vehicle shall  
 56 | be responsible and liable for payment of fine; providing  
 57 | for civil penalties when a person cited under s. 316.0795,  
 58 | F.S., for violation of the speed limit in an active  
 59 | construction work zone elects to appear in court; amending  
 60 | s. 318.18, F.S.; providing civil penalties for violation  
 61 | of the speed limit in an active construction work zone;  
 62 | amending s. 318.21, F.S.; providing for disposition of  
 63 | civil penalties collected for violations cited under s.  
 64 | 316.0795, F.S.; providing an effective date.

65 |  
 66 | Be It Enacted by the Legislature of the State of Florida:

67 |  
 68 | Section 1. Popular name.--This act shall be known by the  
 69 | popular name the "Active Construction Work Zone Safety Act of  
 70 | 2004."

71 | Section 2. Legislative findings and declarations.--The  
 72 | Legislature finds that safe work conditions at active  
 73 | construction work zones are vital to protecting the citizens of  
 74 | this state and are a primary requirement to be observed on all  
 75 | Department of Transportation construction work. The  
 76 | transportation construction industry is experiencing dangerous  
 77 | work conditions in areas designated as active construction work  
 78 | zones. Existing law allows violators of posted speed limits in  
 79 | construction work zones to be assessed fines of double the

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80 amount set in law. The ability to double regular speeding fines  
 81 provides only a small deterrent to speeders. The Legislature  
 82 further finds that increased traffic enforcement measures are  
 83 necessary in order to ensure the safety of transportation  
 84 construction workers and the motoring public. It is in the  
 85 public interest and necessary for public safety to enforce  
 86 traffic speed limits and reduce the number of violations that  
 87 occur at active construction work zones through issuing  
 88 citations using photo speed detection systems.

89 Section 3. Subsections (84) and (85) are added to section  
 90 316.003, Florida Statutes, to read:

91 316.003 Definitions.--The following words and phrases,  
 92 when used in this chapter, shall have the meanings respectively  
 93 ascribed to them in this section, except where the context  
 94 otherwise requires:

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

106 (85) PHOTO SPEED DETECTION SYSTEM.--A device or system  
 107 installed to automatically record one or more sequenced

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108 | photographs, microphotographs, or electronic images of only the  
 109 | rear of the motor vehicle at the time the vehicle violates  
 110 | traffic speed in an active construction work zone.

111 | Section 4. Subsection (6) of section 316.0745, Florida  
 112 | Statutes, is amended to read:

113 | 316.0745 Uniform signals and devices.--

114 | (6)(a) Any system of traffic control devices controlled  
 115 | and operated from a remote location by electronic computers or  
 116 | similar devices shall meet all requirements established for the  
 117 | uniform system, and, if any ~~where~~ such system affects ~~systems~~  
 118 | ~~affect~~ the movement of traffic on state roads, the design of  
 119 | that ~~the~~ system shall be reviewed and approved by the Department  
 120 | of Transportation.

121 | (b) Any photo speed detection system deployed on the  
 122 | streets and highways of the state must meet requirements  
 123 | reviewed and approved by the Department of Highway Safety and  
 124 | Motor Vehicles and must be tested according to procedures and at  
 125 | regular intervals as reviewed and approved by the Department of  
 126 | Highway Safety and Motor Vehicles.

127 | Section 5. Section 316.0795, Florida Statutes, is created  
 128 | to read:

129 | 316.0795 Obedience to posted speed limit in active  
 130 | construction work zones.--

131 | (1) Unless otherwise directed by a law enforcement  
 132 | officer, the driver of any vehicle, except the driver of an  
 133 | authorized emergency vehicle in accordance with s. 316.072(5),  
 134 | shall comply with instructions of any photo speed detection  
 135 | system placed in accordance with the provisions of this chapter

136 and shall not exceed the speed limit posted in an active  
 137 construction work zone. A violation of this subsection is a  
 138 noncriminal traffic infraction, punishable as provided in s.  
 139 318.18.

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

147 (3) The Department of Transportation, in conjunction with  
 148 the Department of Highway Safety and Motor Vehicles, may  
 149 designate photo speed detection enforcement officers pursuant to  
 150 s. 316.640(1).

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

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

162 (b) Any person who is issued a citation by a photo speed  
 163 detection enforcement officer for a violation of subsection (1)

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164 is deemed to be charged with a noncriminal violation and shall  
165 comply with the directions on the citation. If payment is not  
166 received or a response to the citation is not made within the  
167 time period specified thereon, the county court or its traffic  
168 violations bureau shall notify the registered owner of the  
169 vehicle that was cited, by mail to the address given on the  
170 motor vehicle registration, of the citation. Mailing the notice  
171 to this address constitutes notification. Upon notification, the  
172 registered owner shall comply with the court's directive.

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

175 (d) Any person who elects to appear before a designated  
176 official to present evidence waives his or her right to pay the  
177 civil penalty provided in the citation. The official, after a  
178 hearing, shall make a determination as to whether a violation of  
179 subsection (1) has been committed and may impose a civil penalty  
180 not to exceed \$100 plus court costs. Any person who fails to pay  
181 the civil penalty within the time allowed by the court is deemed  
182 to have been convicted of a violation of subsection (1), and the  
183 court shall take appropriate measures to enforce collection of  
184 the fine.

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

189 (6) This section supplements the enforcement of the posted  
190 speed limit in an active construction work zone under s.  
191 316.183(6) by law enforcement officers and does not prohibit a

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192 law enforcement officer from issuing a citation for a violation  
 193 of s. 316.183(6) in accordance with normal traffic enforcement  
 194 techniques; however, no more than one citation for a violation  
 195 of s. 316.183(6) arising from the same incident shall be  
 196 enforceable.

197 Section 6. The Department of Transportation, in  
 198 coordination with the Department of Highway Safety and Motor  
 199 Vehicles, shall submit an annual report to the Governor, the  
 200 President of the Senate, and the Speaker of the House of  
 201 Representatives regarding the use and operation of photo speed  
 202 detection systems to enforce s. 316.0795, Florida Statutes, and  
 203 the procedures used for enforcement. The report shall include a  
 204 review of the information by the Department of Transportation  
 205 and describe the potential for enhancement of traffic safety and  
 206 enforcement programs. The Department of Transportation shall  
 207 report its recommendations on or before December 1, 2006, to the  
 208 Governor, the President of the Senate, and the Speaker of the  
 209 House of Representatives, including recommendations for any  
 210 necessary legislation that would be beneficial to enhance the  
 211 use and operation of photo speed detection systems on a  
 212 statewide basis.

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

215 316.183 Unlawful speed.--

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



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219 (7) A violation of this section is a noncriminal traffic  
220 infraction, punishable as a moving violation as provided in  
221 chapter 318.

222 Section 8. Paragraph (b) of subsection (1) of section  
223 316.640, Florida Statutes, is amended to read:

224 316.640 Enforcement.--The enforcement of the traffic laws  
225 of this state is vested as follows:

226 (1) STATE.--

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

230 2.a. The Department of Transportation shall develop  
231 training and qualifications standards for toll enforcement  
232 officers whose sole authority is to enforce the payment of tolls  
233 pursuant to s. 316.1001. Nothing in this subparagraph shall be  
234 construed to permit the carrying of firearms or other weapons,  
235 nor shall a toll enforcement officer have arrest authority.

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

243 3.a. The Department of Transportation and the Department  
244 of Highway Safety and Motor Vehicles shall develop training and  
245 qualifications standards for photo speed detection enforcement  
246 officers whose sole authority is to enforce the provisions of s.

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247 316.0795. Nothing in this subparagraph shall be construed to  
 248 permit the carrying of firearms or other weapons, nor shall a  
 249 photo speed detection enforcement officer have arrest authority.

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

261 (8) TRAFFIC ENFORCEMENT AGENCY.--Any agency or  
 262 governmental entity designated in subsection (1), subsection  
 263 (2), or subsection (3), including a university, a community  
 264 college, a school board, or an airport authority, is a traffic  
 265 enforcement agency for purposes of s. 316.650.

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

269 318.14 Noncriminal traffic infractions; exception;  
 270 procedures.--

271 (2) Except as provided in ss. 316.0795 and ~~s.~~ 316.1001(2),  
 272 any person cited for an infraction under this section must sign  
 273 and accept a citation indicating a promise to appear. The  
 274 officer may indicate on the traffic citation the time and

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275 | location of the scheduled hearing and must indicate the  
276 | applicable civil penalty established in s. 318.18.

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

291 |       (13)(a) Citations issued pursuant to s. 316.0795 shall  
292 | contain the following information:

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

301 |       2. A photograph showing the offending vehicle at the time  
302 | of the speeding violation, with a data bar within the photograph

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303 depicting the speed of the vehicle, the posted speed limit, the  
 304 date and time of the offense, and the location code, which shall  
 305 be described in the narrative in the body of the citation.

306 3. The registration number of the vehicle.

307 4. An enlarged photograph of the license plate of the  
 308 offending vehicle at the time of the violation.

309 5. Information that identifies the photo speed detection  
 310 system that recorded the violation.

311 6. The amount of the fine.

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

313 8. The procedure for contesting the violation alleged in  
 314 the citation.

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

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

319 1. Be a conviction of the operator or registered owner of  
 320 the motor vehicle;

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

323 3. Be used for the purposes of setting motor vehicle  
 324 insurance rates; or

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

327 (c) The registered owner of the motor vehicle that was  
 328 involved in a violation shall be responsible and liable for  
 329 payment of the fine assessed in accordance with this subsection  
 330 unless the owner can establish that the motor vehicle was, at

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331 the time of the violation, in the care, custody, or control of  
 332 another person. In order to establish such facts, the registered  
 333 owner shall, within 20 days after receipt of notification of the  
 334 alleged violation, furnish to the court, as appropriate, an  
 335 affidavit that sets forth:

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

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

347  
 348 Upon receipt of the affidavit, the person designated as having  
 349 been responsible for the care, custody, or control of the motor  
 350 vehicle at the time of the violation may be issued a citation.  
 351 The affidavit raises the rebuttable presumption that the person  
 352 identified in the affidavit is responsible for payment of the  
 353 cited violation and is admissible in a proceeding pursuant to  
 354 this subsection for the purpose of proving that the motor  
 355 vehicle was in the actual care, custody, or control of the  
 356 person identified in the affidavit.

357 (d) A person may elect to contest the determination that  
 358 he or she exceeded the posted speed limits within a designated

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359 active construction work zone as evidenced by a photo speed  
360 detection system by electing to appear before any judge  
361 authorized by law to preside over a court or hearing that  
362 adjudicates traffic infractions. Any person who elects to appear  
363 before the court to present evidence shall be deemed to have  
364 waived the limitation of civil penalties imposed for the  
365 violation. The court, after hearing, shall determine whether the  
366 violation was committed and may impose a civil penalty of \$100  
367 plus court costs. The court may take appropriate measures to  
368 enforce collection of any penalty not paid within the time  
369 permitted by the court.

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

373 318.18 Amount of civil penalties.--The penalties required  
374 for a noncriminal disposition pursuant to s. 318.14 are as  
375 follows:

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

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

380

381	For speed exceeding the limit by:.....	Fine:
382	1-5 m.p.h.....	Warning
383	6-9 m.p.h.....	\$ 25
384	10-14 m.p.h.....	\$100
385	15-19 m.p.h.....	\$125
386	20-29 m.p.h.....	\$150

387 30 m.p.h. and above ..... \$250

388

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

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

401 2. Notwithstanding paragraph (b), a person cited under s.  
 402 316.0795 for exceeding the speed limit in an active construction  
 403 work zone shall be assessed a fine of \$100. This amount shall be  
 404 distributed pursuant to s. 318.21.

405 (e) If a violation of s. 316.1301 or s. 316.1303 results  
 406 in an injury to the pedestrian or damage to the property of the  
 407 pedestrian, an additional fine of up to \$250 shall be paid. This  
 408 amount must be distributed pursuant to s. 318.21.

409 (f) A person cited for exceeding the speed limit within a  
 410 zone posted for any electronic or manual toll collection  
 411 facility shall pay a fine double the amount listed in paragraph  
 412 (b). However, no person cited for exceeding the speed limit in  
 413 any toll collection zone shall be subject to a doubled fine  
 414 unless the governmental entity or authority controlling the toll

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415 collection zone first installs a traffic control device  
 416 providing warning that speeding fines are doubled. Any such  
 417 traffic control device must meet the requirements of the uniform  
 418 system of traffic control devices.

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

421 318.21 Disposition of civil penalties by county  
 422 courts.--All civil penalties received by a county court pursuant  
 423 to the provisions of this chapter shall be distributed and paid  
 424 monthly as follows:

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

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