

By Senator Sebesta

16-1456-04

See HB 1103

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

1 Department of Highway Safety and Motor  
2 Vehicles, to adopt rules and procedures;  
3 providing that enforcement by photo speed  
4 detection systems is supplemental to  
5 enforcement by law enforcement officers;  
6 providing penalties; requiring annual reports  
7 by the Department of Transportation, in  
8 coordination with the Department of Highway  
9 Safety and Motor Vehicles, to the Governor and  
10 the Legislature; amending s. 316.183, F.S.;  
11 prohibiting exceeding the posted maximum speed  
12 limit in an active construction work zone;  
13 providing penalties; amending s. 316.640, F.S.;  
14 providing for training and qualifications of  
15 photo speed detection enforcement officers;  
16 authorizing the Department of Transportation,  
17 the Department of Highway Safety and Motor  
18 Vehicles, and expressway authorities to employ  
19 independent contractors or designate employees  
20 as photo speed detection enforcement officers;  
21 authorizing the officers to enforce speed  
22 limits in active construction work zones;  
23 amending s. 318.14, F.S.; revising procedures  
24 for issuance and acceptance of citations for  
25 traffic infractions; providing for civil  
26 penalties when a person cited for violation of  
27 the speed limit in an active construction work  
28 zone elects to appear in court; providing  
29 requirements and procedures for citations  
30 issued under s. 316.0795, F.S.; providing for  
31 effect of the violation; providing

1           circumstances under which a person other than  
2           the owner of the vehicle shall be responsible  
3           and liable for payment of fine; providing for  
4           civil penalties when a person cited under s.  
5           316.0795, F.S., for violation of the speed  
6           limit in an active construction work zone  
7           elects to appear in court; amending s. 318.18,  
8           F.S.; providing civil penalties for violation  
9           of the speed limit in an active construction  
10          work zone; amending s. 318.21, F.S.; providing  
11          for disposition of civil penalties collected  
12          for violations cited under s. 316.0795, F.S.;  
13          providing an effective date.

14  
15       Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Popular name.--This act shall be known by  
18           the popular name the "Active Construction Work Zone Safety Act  
19           of 2004."

20           Section 2. Legislative findings and declarations.--The  
21           Legislature finds that safe work conditions at active  
22           construction work zones are vital to protecting the citizens  
23           of this state and are a primary requirement to be observed on  
24           all Department of Transportation construction work. The  
25           transportation construction industry is experiencing dangerous  
26           work conditions in areas designated as active construction  
27           work zones. Existing law allows violators of posted speed  
28           limits in construction work zones to be assessed fines of  
29           double the amount set in law. The ability to double regular  
30           speeding fines provides only a small deterrent to speeders.  
31           The Legislature further finds that increased traffic

1 enforcement measures are necessary in order to ensure the  
2 safety of transportation construction workers and the motoring  
3 public. It is in the public interest and necessary for public  
4 safety to enforce traffic speed limits and reduce the number  
5 of violations that occur at active construction work zones  
6 through issuing citations using photo speed detection systems.

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

9 316.003 Definitions.--The following words and phrases,  
10 when used in this chapter, shall have the meanings  
11 respectively ascribed to them in this section, except where  
12 the context otherwise requires:

13 (84) ACTIVE CONSTRUCTION WORK ZONE.--The area and its  
14 approaches on any state-maintained highway or a highway  
15 included in an expressway system as part of an expressway  
16 authority established pursuant to chapter 348, in which area  
17 construction, repair, maintenance, or other street-related,  
18 highway-related, or expressway authority-related work is being  
19 performed, if construction personnel are present or operating  
20 equipment on the road or immediately adjacent to the road  
21 under construction, or if site conditions warrant such an  
22 active construction work zone designation. The active  
23 construction work zone must be designated by mounted signs and  
24 early warning systems.

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

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

1           316.0745 Uniform signals and devices.--

2           (6)(a) Any system of traffic control devices  
3 controlled and operated from a remote location by electronic  
4 computers or similar devices shall meet all requirements  
5 established for the uniform system, and, if any ~~where~~ such  
6 system affects ~~systems affect~~ the movement of traffic on state  
7 roads, the design of that ~~the~~ system shall be reviewed and  
8 approved by the Department of Transportation.

9           (b) Any photo speed detection system deployed on the  
10 streets and highways of the state must meet requirements  
11 reviewed and approved by the Department of Highway Safety and  
12 Motor Vehicles and must be tested according to procedures and  
13 at regular intervals as reviewed and approved by the  
14 Department of Highway Safety and Motor Vehicles.

15           Section 5. Section 316.0795, Florida Statutes, is  
16 created to read:

17           316.0795 Obedience to posted speed limit in active  
18 construction work zones.--

19           (1) Unless otherwise directed by a law enforcement  
20 officer, the driver of any vehicle, except the driver of an  
21 authorized emergency vehicle in accordance with s. 316.072(5),  
22 shall comply with instructions of any photo speed detection  
23 system placed in accordance with the provisions of this  
24 chapter and shall not exceed the speed limit posted in an  
25 active construction work zone. A violation of this subsection  
26 is a noncriminal traffic infraction, punishable as a moving  
27 violation as provided in s. 318.18.

28           (2) A photo speed detection system shall not be used  
29 unless advance warning signs have been posted ahead of the  
30 photo speed detection system within the active construction  
31 work zone to notify motorists that a photo speed detection

1 system is being used to enforce speed limits. The advance  
2 warning signs must conform to the standards and requirements  
3 established by the Department of Transportation.

4 (3) The Department of Transportation, in conjunction  
5 with the Department of Highway Safety and Motor Vehicles, may  
6 designate photo speed detection enforcement officers pursuant  
7 to s. 316.640(1).

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

13 (a) The registered owner of a vehicle is responsible  
14 and liable for payment of any citation for violation unless  
15 the owner can furnish evidence that the vehicle was, at the  
16 time of the violation, in the care, custody, or control of  
17 another person. In such instances, the provisions of s.  
18 318.14(13)(c) shall apply.

19 (b) Any person who is issued a citation by a photo  
20 speed detection enforcement officer for a violation of  
21 subsection (1) is deemed to be charged with a noncriminal  
22 violation and shall comply with the directions on the  
23 citation. If payment is not received or a response to the  
24 citation is not made within the time period specified thereon,  
25 the county court or its traffic violations bureau shall notify  
26 the registered owner of the vehicle that was cited, by mail to  
27 the address given on the motor vehicle registration, of the  
28 citation. Mailing the notice to this address constitutes  
29 notification. Upon notification, the registered owner shall  
30 comply with the court's directive.

31

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

4           (d) Any person who elects to appear before a  
5 designated official to present evidence waives his or her  
6 right to pay the civil penalty provided in the citation. The  
7 official, after a hearing, shall make a determination as to  
8 whether a violation of subsection (1) has been committed and  
9 may impose a civil penalty not to exceed \$100 plus court  
10 costs. Any person who fails to pay the civil penalty within  
11 the time allowed by the court is deemed to have been convicted  
12 of a violation of subsection (1), and the court shall take  
13 appropriate measures to enforce collection of the fine.

14           (5) The Department of Transportation, in conjunction  
15 with the Department of Highway Safety and Motor Vehicles, may  
16 adopt procedures and rules pursuant to ss. 120.536(1) and  
17 120.54 to carry out the provisions of this section.

18           (6) This section supplements the enforcement of the  
19 posted speed limit in an active construction work zone under  
20 s. 316.183(6) by law enforcement officers and does not  
21 prohibit a law enforcement officer from issuing a citation for  
22 a violation of s. 316.183(6) in accordance with normal traffic  
23 enforcement techniques; however, no more than one citation for  
24 a violation of s. 316.183(6) arising from the same incident  
25 shall be enforceable.

26           Section 6. The Department of Transportation, in  
27 coordination with the Department of Highway Safety and Motor  
28 Vehicles, shall submit an annual report to the Governor, the  
29 President of the Senate, and the Speaker of the House of  
30 Representatives regarding the use and operation of photo speed  
31 detection systems to enforce section 316.0795, Florida

1 Statutes, and the procedures used for enforcement. The report  
2 shall include a review of the information by the Department of  
3 Transportation and describe the potential for enhancement of  
4 traffic safety and enforcement programs. The Department of  
5 Transportation shall report its recommendations on or before  
6 December 1, 2006, to the Governor, the President of the  
7 Senate, and the Speaker of the House of Representatives,  
8 including recommendations for any necessary legislation that  
9 would be beneficial to enhance the use and operation of photo  
10 speed detection systems on a statewide basis.

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

13 316.183 Unlawful speed.--

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

17 (7) A violation of this section is a noncriminal  
18 traffic infraction, punishable as a moving violation as  
19 provided in chapter 318.

20 Section 8. Paragraph (b) of subsection (1) of section  
21 316.640, Florida Statutes, is amended to read:

22 316.640 Enforcement.--The enforcement of the traffic  
23 laws of this state is vested as follows:

24 (1) STATE.--

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

28 2.a. The Department of Transportation shall develop  
29 training and qualifications standards for toll enforcement  
30 officers whose sole authority is to enforce the payment of  
31 tolls pursuant to s. 316.1001. Nothing in this subparagraph



1 shall be construed to permit the carrying of firearms or other  
2 weapons, nor shall a toll enforcement officer have arrest  
3 authority.

4       b. For the purpose of enforcing s. 316.1001,  
5 governmental entities, as defined in s. 334.03, which own or  
6 operate a toll facility may employ independent contractors or  
7 designate employees as toll enforcement officers; however, any  
8 such toll enforcement officer must successfully meet the  
9 training and qualifications standards for toll enforcement  
10 officers established by the Department of Transportation.

11       3.a. The Department of Transportation and the  
12 Department of Highway Safety and Motor Vehicles shall develop  
13 training and qualifications standards for photo speed  
14 detection enforcement officers whose sole authority is to  
15 enforce the provisions of s. 316.0795. Nothing in this  
16 subparagraph shall be construed to permit the carrying of  
17 firearms or other weapons, nor shall a photo speed detection  
18 enforcement officer have arrest authority.

19       b. For the purposes of processing and enforcing  
20 citations for violations of s. 316.0795(1), the Department of  
21 Transportation, the Department of Highway Safety and Motor  
22 Vehicles, and expressway authorities established pursuant to  
23 chapter 348 may employ independent contractors or designate  
24 employees as photo speed detection enforcement officers;  
25 however, any such photo speed detection enforcement officer  
26 must successfully meet the training and qualifications  
27 standards for photo speed detection enforcement officers  
28 established by the Department of Transportation and the  
29 Department of Highway Safety and Motor Vehicles.

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

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

4 Section 9. Subsections (2) and (5) of section 318.14,  
5 Florida Statutes, are amended, and subsection (13) is added to  
6 that section, to read:

7 318.14 Noncriminal traffic infractions; exception;  
8 procedures.--

9 (2) Except as provided in ss. 316.0795 and ~~s.~~  
10 316.1001(2), any person cited for an infraction under this  
11 section must sign and accept a citation indicating a promise  
12 to appear. The officer may indicate on the traffic citation  
13 the time and location of the scheduled hearing and must  
14 indicate the applicable civil penalty established in s.  
15 318.18.

16 (5) Any person electing to appear before the  
17 designated official or who is required so to appear shall be  
18 deemed to have waived his or her right to the civil penalty  
19 provisions of s. 318.18. The official, after a hearing, shall  
20 make a determination as to whether an infraction has been  
21 committed. If the commission of an infraction has been proven,  
22 the official may impose a civil penalty not to exceed \$500,  
23 except that in cases involving unlawful speed in a school  
24 zone, involving unlawful speed in a construction zone or an  
25 active construction work zone, or involving a death, the civil  
26 penalty may not exceed \$1,000; or require attendance at a  
27 driver improvement school, or both. If the official determines  
28 that no infraction has been committed, no costs or penalties  
29 shall be imposed and any costs or penalties that have been  
30 paid shall be returned.

31

1           (13)(a) Citations issued pursuant to s. 316.0795 shall  
2 contain the following information:

3           1. The name and address of the person alleged to be  
4 liable as the operator or registered owner of the motor  
5 vehicle involved in the violation. In the case of joint  
6 ownership of a motor vehicle, the traffic citation shall be  
7 mailed to the first name appearing on the registration, unless  
8 the first name appearing on the registration is a business  
9 organization, in which case the second name appearing on the  
10 registration may be used.

11           2. A photograph showing the offending vehicle at the  
12 time of the speeding violation, with a data bar within the  
13 photograph depicting the speed of the vehicle, the posted  
14 speed limit, the date and time of the offense, and the  
15 location code, which shall be described in the narrative in  
16 the body of the citation.

17           3. The registration number of the vehicle.

18           4. An enlarged photograph of the license plate of the  
19 offending vehicle at the time of the violation.

20           5. Information that identifies the photo speed  
21 detection system that recorded the violation.

22           6. The amount of the fine.

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

24           8. The procedure for contesting the violation alleged  
25 in the citation.

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

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

30           1. Be a conviction of the operator or registered owner  
31 of the motor vehicle;

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

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

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

7           (c) The registered owner of the motor vehicle that was  
8 involved in a violation shall be responsible and liable for  
9 payment of the fine assessed in accordance with this  
10 subsection unless the owner can establish that the motor  
11 vehicle was, at the time of the violation, in the care,  
12 custody, or control of another person. In order to establish  
13 such facts, the registered owner shall, within 20 days after  
14 receipt of notification of the alleged violation, furnish to  
15 the court, as appropriate, an affidavit that sets forth:

16           1. The name, address, and, if known, driver's license  
17 number of the person who leased, rented, or was otherwise  
18 responsible for the care, custody, or control of the motor  
19 vehicle at the time of the alleged violation; or

20           2. That the vehicle was stolen, with a copy of the  
21 police report attached indicating that the vehicle was stolen  
22 at the time of the alleged violation. The owner of a vehicle  
23 shall not be responsible for a violation if the vehicle  
24 involved was, at the time of the violation, stolen or in the  
25 care, custody, or control of a person who did not have the  
26 permission of the owner to use the vehicle.

27  
28 Upon receipt of the affidavit, the person designated as having  
29 been responsible for the care, custody, or control of the  
30 motor vehicle at the time of the violation may be issued a  
31 citation. The affidavit raises the rebuttable presumption that

1 the person identified in the affidavit is responsible for  
2 payment of the cited violation and is admissible in a  
3 proceeding pursuant to this subsection for the purpose of  
4 proving that the motor vehicle was in the actual care,  
5 custody, or control of the person identified in the affidavit.

6 (d) A person may elect to contest the determination  
7 that he or she exceeded the posted speed limits within a  
8 designated active construction work zone as evidenced by a  
9 photo speed detection system by electing to appear before any  
10 judge authorized by law to preside over a court or hearing  
11 that adjudicates traffic infractions. Any person who elects to  
12 appear before the court to present evidence shall be deemed to  
13 have waived the limitation of civil penalties imposed for the  
14 violation. The court, after hearing, shall determine whether  
15 the violation was committed and may impose a civil penalty of  
16 \$100 plus court costs. The court may take appropriate measures  
17 to enforce collection of any penalty not paid within the time  
18 permitted by the court.

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

22 318.18 Amount of civil penalties.--The penalties  
23 required for a noncriminal disposition pursuant to s. 318.14  
24 are as follows:

25 (3)(a) Except as otherwise provided in this section,  
26 \$60 for all moving violations not requiring a mandatory  
27 appearance.

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

30

31 For speed exceeding the limit by:

Fine:

1	1-5 m.p.h.....	Warning
2	6-9 m.p.h.....	\$ 25
3	10-14 m.p.h.....	\$100
4	15-19 m.p.h.....	\$125
5	20-29 m.p.h.....	\$150
6	30 m.p.h. and above.....	\$250

7  
8           (c) Notwithstanding paragraph (b), a person cited for  
9 exceeding the speed limit by up to 5 m.p.h. in a legally  
10 posted school zone will be fined \$50. A person exceeding the  
11 speed limit in a school zone will be assessed a fine double  
12 the amount listed in paragraph (b).

13           (d)1. A person cited by a means other than a photo  
14 speed detection system for exceeding the speed limit in a  
15 posted construction zone shall pay a fine double the amount  
16 listed in paragraph (b). The fine shall be doubled for  
17 construction zone violations only if construction personnel  
18 are present or operating equipment on the road or immediately  
19 adjacent to the road under construction.

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

24           (e) If a violation of s. 316.1301 or s. 316.1303  
25 results in an injury to the pedestrian or damage to the  
26 property of the pedestrian, an additional fine of up to \$250  
27 shall be paid. This amount must be distributed pursuant to s.  
28 318.21.

29           (f) A person cited for exceeding the speed limit  
30 within a zone posted for any electronic or manual toll  
31 collection facility shall pay a fine double the amount listed

1 in paragraph (b). However, no person cited for exceeding the  
2 speed limit in any toll collection zone shall be subject to a  
3 doubled fine unless the governmental entity or authority  
4 controlling the toll collection zone first installs a traffic  
5 control device providing warning that speeding fines are  
6 doubled. Any such traffic control device must meet the  
7 requirements of the uniform system of traffic control devices.

8 Section 11. Subsection (13) is added to section  
9 318.21, Florida Statutes, to read:

10 318.21 Disposition of civil penalties by county  
11 courts.--All civil penalties received by a county court  
12 pursuant to the provisions of this chapter shall be  
13 distributed and paid monthly as follows:

14 (13) For the fine assessed under s. 318.18(3)(d)2. for  
15 a violation of s. 316.0795(1), 25 percent shall be remitted to  
16 the county in which the fine originated, and 75 percent shall  
17 be remitted to the Department of Transportation for deposit to  
18 the State Transportation Trust Fund. Any amount accruing to  
19 the Department of Transportation which is not required to  
20 carry out the provisions of s. 316.0795 shall be used for any  
21 valid transportation purpose.

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