

34 Fla. L. Weekly Supp. 149a**Online Reference: FLWSUPP 3403CARD**

Traffic infractions -- Speeding -- Evidence -- School zone speed detection system -- Although legislature specifically exempted school zone speed detection systems from design criteria required for non-stationary radar and lidar devices, it did not exempt systems from requirement that speed measuring devices be approved by Department of Highway Safety and Motor Vehicles -- Speed evidence derived from school zone speed detection system that was not approved by department is not authorized for evidentiary use in any court in Florida -- Case is dismissed

STATE OF FLORIDA, v. RAFAEL D. CARDOZA, Defendant. County Court, 17th Judicial Circuit in and for Broward County. Case No. 25169380T120A. April 27, 2026. Thomas M. Wich, Traffic Hearing Officer. Counsel: Julian S. Geraci, Assistant City Attorney, City of Hollywood, Hollywood, for State. Mark Gold, The Ticket Clinic, Miami, for Defendant.

ORDER

THIS CAUSE came before the Court on Defendant's Motion in Limine to Exclude all Speed Evidence derived from School Zone Speed Detection System. Having reviewed the Motion, the City's Response, and the applicable law, and being fully advised in the premises, the Court finds as follows:

On April 15, 2025, at approximately 9:16 a.m., a 2016 Ford bearing Florida tag DH02AY, registered to ("Defendant"), was recorded via the City's speed detection system at the 3500 Block of Taft Street in Hollywood, Florida traveling at a rate of 42 miles per hour in a school zone where the speed limit is 30 miles per hour. On April 17, 2025, the Defendant was issued a Notice of Violation ("NOV") for unlawful speed in a school zone in violation of §318.1985(10), Florida Statutes, pursuant to §316.1896, Florida Statutes. The NOV specified available remedies, included photographic evidence, and notified Defendant of the consequences of non-payment, including issuance of a Uniform Traffic Citation ("UTC"). Defendant did not pay the violation; thus, a UTC was issued on October 29, 2025, and sent by certified mail. Defendant filed a written plea of not guilty on December 18, 2025, and subsequently filed the instant Motion on March 22, 2026.

II. ARGUMENTS AND APPLICABLE LAW

Florida Administrative Code Rule 15B-2.007(1) provides: "All speed measuring devices to be used in obtaining evidence of motor vehicle speeds for use in any court in the State of Florida shall be of a type approved by the Department of Highway Safety and Motor Vehicles prior to their use."

The defendant asserts that the requirement is mandatory and applies to all speed measuring devices used in any court proceeding. The City contends that Section 316.1906 eliminates the approval requirement for camera speed enforcement citations.

Section 316.1906(3), Florida Statutes, provides that school zone speed detection systems are not required to meet **certain design criteria** established by the Department (referring to DHSMV). "A speed detection system is exempt from the **design requirements** for radar or Lidar units established by the department. A speed detection system must have the ability to perform self-tests as to its detection accuracy. The system must perform a self-test at least once every 30 days. The law enforcement agency, or an agent acting on behalf of the law enforcement agency, operating a speed detection system must maintain a log of the results of the system's self-tests. The law enforcement agency, or an agent acting on behalf of the law enforcement agency, operating a speed detection system must also perform an independent calibration test on the speed detection system at least once every 12 months. The self-test logs, as well as the results of the annual

calibration test, are admissible in any court proceeding for a uniform traffic citation issued for a violation of s. 316.1895 or s. 316.183 enforced pursuant to s. 316.1896. Notwithstanding subsection (2), evidence of the speed of a motor vehicle detected by a speed detection system compliant with this subsection and the determination by a traffic enforcement officer that a motor vehicle is operating in excess of the applicable speed limit is admissible in any proceeding with respect to an alleged violation of law regulating the speed of motor vehicles in school zones.”

It is clear the tests for the camera devices are different from the other Radar and Lidar devices used by law enforcement in non camera enforcement, however, the actual approval for the devices with the different tests still clearly requires the approval of the actual device by the Department.

Florida courts consistently apply the canon “expressio unius est exclusio alterius”, the expression of one thing implies the exclusion of another. In *Thayer v. State*, 335 So. 2d 815,817 (Fla.1976), the Florida Supreme Court held, when considering a statute which would limit certain restaurant licenses.

“Under the doctrine of expressio uni us est exclusio alterius, the mention of one thing implies the exclusion of another.” Florida courts are equally clear that they may not rewrite statutes by inserting language the Legislature chose not to include. Likewise, in *Moonlit Waters Apartments, Inc. v. Cauley*, 666 So. 2d 898,900 (Fla. 1996) [21 Fla. L. Weekly S41b], the Court held that courts must give effect to statutory language as written and may not expand it beyond its plain terms. “Even where a court is convinced that the Legislature really meant and intended something not expressed in the phraseology of the act, it will not deem itself authorized to depart from the plain meaning of the language which is free from ambiguity” *Florida Department of Revenue v. Florida Municipal Power Agency*, 789 So 2d 320 (Fla. 2001) [26 Fla. L. Weekly S422a], citing *Forsythe v. Longboat Key Beach Erosion Control Dist.*, 604 So.2d 452,454 (Fla. 1992)

The Legislature expressly exempted school zone speed detection systems from The design criteria required of non-stationary Radar and Lidar devices used by law enforcement enforcing non camera speed detectors The Legislature **did not** exempt such systems from the requirement that speed measuring devices be approved by the Department.

Under *Thayer*, *Young*, and *Crescent Miami Center*, this omission must be treated as intentional. This Court is not permitted to add an exemption for approval that the Legislature did not include. Accordingly, the approval requirement in Fla. Admin. Code R. 15B-2.007(1) remains fully applicable in this case.

The State sought to introduce speed evidence derived from a school zone speed detection system and asked if it had the device approval from the Department and the response was in the negative. The State cannot establish that the device used is a type approved by the Department. Without such approval, the evidence derived from the device is not authorized for evidentiary use in any court in Florida.

III. CONCLUSION AND ORDER

Accordingly, the Court finds that without the approval of the speed detection device by the Department the actual speed of the defendant cannot be determined and all evidence concerning the speed and accompanying documentation cannot be admitted and the Defendants Motion granted and the case is dismissed.

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