

FIRST REGULAR SESSION

# HOUSE BILL NO. 518

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ST. ONGE (Sponsor), SUTHERLAND, MOORE,  
MUNZLINGER, STORCH, THRELKELD, WHORTON, MEADOWS, BROWN (30), DUSENBERG,  
YAEGER AND WILSON (119) (Co-sponsors).

Read 1<sup>st</sup> time February 10, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1262L.02I

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### AN ACT

To repeal section 304.580, RSMo, and to enact in lieu thereof four new sections relating to highway work zone protection, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 304.580, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 304.580, 304.582, 304.585, and 304.590, to read as follows:

304.580. [1.] As used in [this section] **sections 304.582 and 304.585**, the term "construction zone" or "work zone" means any area upon or around any highway as defined in section 302.010, RSMo, which is visibly marked by the department of transportation or a contractor **or subcontractor** performing work for the department of transportation as an area where construction, maintenance, **incident removal**, or other work is temporarily occurring. The term "work zone" or "construction zone" also includes the lanes of highway leading up to the area upon which an activity described in this subsection is being performed, beginning at the point where appropriate signs [directing motor vehicles to merge from one lane into another lane] are posted.

2. Upon a conviction or a plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone.

3. Upon a conviction or plea of guilty by any person for a speeding violation pursuant

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 to either section 304.009 or 304.010, or a passing violation pursuant to subsection 6 of this  
16 section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine  
17 authorized by law, if the offense occurred within a construction zone or a work zone and at the  
18 time the speeding or passing violation occurred there was any person in such zone who was there  
19 to perform duties related to the reason for which the area was designated a construction zone or  
20 work zone. However, no person assessed an additional fine pursuant to this subsection shall also  
21 be assessed an additional fine pursuant to subsection 2 of this section, and no person shall be  
22 assessed an additional fine pursuant to this subsection if no signs have been posted pursuant to  
23 subsection 4 of this section.

24 4. The penalty authorized by subsection 3 of this section shall only be assessed by the  
25 court if the department of transportation or contractor performing work for the department of  
26 transportation has erected signs upon or around a construction or work zone which are clearly  
27 visible from the highway and which state substantially the following message: "Warning: \$250  
28 fine for speeding or passing in this work zone".

29 5. During any day in which no person is present in a construction zone or work zone  
30 established pursuant to subsection 3 of this section to perform duties related to the purpose of  
31 the zone, the sign warning of additional penalties shall not be visible to motorists. During any  
32 period of two hours or more in which no person is present in such zone on a day in which  
33 persons have been or will be present to perform duties related to the reason for which the area  
34 was designated as a construction zone or work zone, the sign warning of additional penalties  
35 shall not be visible to motorists. The department of transportation or contractor performing work  
36 for the department of transportation shall be responsible for compliance with provisions of this  
37 subsection. Nothing in this subsection shall prohibit warning or traffic control signs necessary  
38 for public safety in the construction or work zone being visible to motorists at all times.

39 6. The driver of a motor vehicle may not overtake or pass another motor vehicle within  
40 a work zone or construction zone. This subsection applies to a construction zone or work zone  
41 located upon a highway divided into two or more marked lanes for traffic moving in the same  
42 direction and for which motor vehicles are instructed to merge from one lane into another lane  
43 by an appropriate sign erected by the department of transportation or a contractor performing  
44 work for the department of transportation. Violation of this subsection is a class C misdemeanor.

45 7. This section shall not be construed to enhance the assessment of court costs or the  
46 assessment of points pursuant to section 302.302, RSMo.] **or traffic control devices are posted**  
47 **or placed. The term "worker" or "highway worker" as used in sections 304.582 and**  
48 **304.585 shall mean any person who is working in a construction zone or work zone, or any**  
49 **employee of the department of transportation who is performing duties under the**  
50 **department's motorist assist program on a state highway or the right-of-way of a state**

51 highway.

304.582. 1. Upon the first conviction or plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone. A second or subsequent violation of this subsection shall result in the court assessing a fine of seventy-five dollars in addition to any other fine authorized to be imposed by law.

2. Upon the first conviction or plea of guilty by any person for a speeding violation under section 304.009 or 304.010, or a passing violation under subsection 4 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law, if the offense occurred within a construction zone or a work zone and at the time the speeding or passing violation occurred there was any highway worker in such work zone. A second or subsequent violation of this subsection shall result in the court assessing a fine of three hundred dollars in addition to any other fine authorized by law. However, no person assessed an additional fine under this subsection shall also be assessed an additional fine under subsection 1 of this section, and no person shall be assessed an additional fine under this subsection if no signs have been posted under subsection 3 of this section.

3. The penalty authorized by subsection 2 of this section shall only be assessed by the court if the department of transportation or contractor performing work for the department of transportation has erected signs upon or around a construction or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: Minimum \$250 fine for speeding or passing in this work zone when workers are present."

4. The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone as provided in this subsection. Violation of this subsection is a class C misdemeanor.

(1) This subsection applies to a construction zone or work zone located upon a highway divided into two or more marked lanes for traffic moving in the same direction and for which motor vehicles are instructed to merge from one lane into another lane and not pass by appropriate signs erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.

(2) This subsection also prohibits the operator of a motor vehicle from passing or attempting to pass another motor vehicle in a work zone or construction zone located upon a two-lane highway when highway workers or equipment are working and when

36 appropriate signs or traffic control devices have been erected by the department of  
37 transportation or a contractor or subcontractor performing work for the department of  
38 transportation.

39 5. The additional fines imposed by subsection 4 of this section shall not be  
40 construed to enhance the assessment of court costs or the assessment of points under  
41 section 302.302, RSMo.

304.585. 1. A person shall be deemed to commit the offense of endangerment of a  
2 highway worker upon conviction for any of the following when the offense occurs within  
3 a construction zone or work zone, as defined in section 304.580:

- 4 (1) Exceeding the posted speed limit by ten miles per hour or more;
- 5 (2) Failure to stop for a work zone flagman or failure to obey traffic control devices  
6 erected in the construction zone or work zone for purposes of controlling the flow of motor  
7 vehicles through the zone;
- 8 (3) Driving through or around a work zone by any lane not clearly designated to  
9 motorists for the flow of traffic through the work zone;
- 10 (4) Physically assaulting, attempting to assault, or threatening to assault a highway  
11 worker in a construction zone or work zone, with a motor vehicle or other deadly weapon  
12 or dangerous instrument;
- 13 (5) Negligently striking, moving, or altering barrels, barriers, signs, or other devices  
14 erected to control the flow of traffic to protect workers and motorists in the work zone; or
- 15 (6) Committing any of the following offenses for which points may be assessed  
16 under section 302.302, RSMo, including:
  - 17 (a) Leaving the scene of an accident in violation of section 577.060, RSMo;
  - 18 (b) Careless and imprudent driving in violation of subsection 4 of section 304.016;
  - 19 (c) Operating a vehicle without a valid license in violation of subdivision (1) or (2)  
20 of subsection 1 of section 302.020, RSMo;
  - 21 (d) Operating a motor vehicle with a suspended or revoked license;
  - 22 (e) Obtaining a drivers license by misrepresentation;
  - 23 (f) Driving while in an intoxicated condition, or under the influence of controlled  
24 substances or drugs, or driving with an excessive blood alcohol content;
  - 25 (g) Any felony involving the use of a motor vehicle; and
  - 26 (h) Knowingly permitting an unlicensed operator to operate a motor vehicle.

27 2. Upon conviction or a plea of guilty for committing the offense of endangerment  
28 of a highway worker under subsection 1 of this section, in addition to any other penalty  
29 authorized by law, the person shall be guilty of a class A misdemeanor if no injury or death  
30 to a highway worker resulted from the offense. If a highway worker is injured as a result

31 of the person committing the offense of endangerment of a highway worker, the person  
32 shall be guilty of a class D felony. If death of a highway worker results from the  
33 commission of the offense of endangerment of a highway worker, the person shall be guilty  
34 of a class C felony.

304.590. 1. There is hereby created in the state treasury for use by the highways  
2 and transportation commission a fund to be known as the "Work Zone Safety Trust  
3 Fund". All surcharges collected under this section, appropriations of the general assembly,  
4 federal grants, private donations, and any other moneys designated for the work zone  
5 safety trust fund established under this section shall be deposited in the fund. Moneys  
6 deposited in the fund shall be expended under the direction of the commission for the  
7 purpose of funding enforcement of all traffic laws of the state, including sections 304.582  
8 and 304.585, by law enforcement personnel in construction zones or work zones on the  
9 highway system. Any funds determined by the commission not to be needed for  
10 enforcement in such construction zones or work zones may be expended for promotion of  
11 safety in construction zones or work zones through education, advertising, and other  
12 efforts to promote safety in construction zones or work zones to the general public. Such  
13 funds shall not be expended for salaries or administrative expenses of the department of  
14 transportation. Notwithstanding the provisions of section 33.080, RSMo, any unexpended  
15 balance in the work zone safety trust fund at the end of any biennium shall not be  
16 transferred to the general revenue fund. All interest earned from moneys in the work zone  
17 safety trust fund shall be credited to such fund.

18 2. In all violations of the traffic laws of this state, including infractions, there shall  
19 be assessed as court costs a surcharge in the amount of five dollars. No such surcharge  
20 shall be collected in any proceeding involving a violation of an ordinance or state law when  
21 the proceeding or defendant has been dismissed by the court except when the dismissal is  
22 conditioned upon an agreement to pay costs. Such surcharge shall be collected and  
23 distributed to the clerk of the court as provided in sections 488.010 to 488.020, RSMo. The  
24 surcharge collected under this section shall be paid to the state treasury to the credit of the  
25 work zone safety trust fund established in this section.