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Beth Allman
Florida Association of Court Clerks
3544 Maclay Boulevard
Tallahassee, FL 32312

Re: Fines for violations with motorcycles and mopeds, their license tags, and excessive speed; Chapter 2008-117, Laws of Florida

Dear Beth:

You have asked our opinion as to what the appropriate fines would be for violations of Section 316.1926, Florida Statutes, as enacted pursuant to Chapter 2008-117.

Chapter 2008-117 created Section 316.1926, Florida Statutes, which provides as follows:

- (1) A person who violates the provisions of s. 316.2085(2) or (3) shall be cited for a moving violation, punishable as provided in chapter 318.
- (2) A person who exceeds the speed limit in excess of 50 miles per hour or more in violation of s. 316.183(2), s. 316.187, or s. 316.189 shall be cited for a moving violation, punishable as provided in chapter 318.

Chapter 2008-117 also amended section 316.2085(2), and created section 316.2085(3), which now provide:

- 2) A person shall ride upon a motorcycle or moped only while sitting astride the seat, with both wheels on the ground at all times, facing forward, and with one leg on each side of the motorcycle or moped. However, it is not a violation of this subsection if the wheels of a motorcycle or moped lose contact with the ground briefly due to the condition of the road surface or other circumstances beyond the control of the operator.
- (3) The license tag of a motorcycle or moped must be permanently affixed horizontally to the ground and may not be adjusted or capable of being flipped up.

Finally, Chapter 2008-117 added subsection (13) to section 318.14:

- (13)(a) A person cited for a violation of s. 316.1926 shall, in addition to any other requirements provided in this section, pay a fine of \$1,000. This fine is in lieu of

the fine required under s. 318.18(3)(b), if the person was cited for violation of s. 316.1926(2).

(b) A person cited for a second violation of s. 316.1926 shall, in addition to any other requirements provided in this section, pay a fine of \$2,500. This fine is in lieu of the fine required under s. 318.18(3)(b), if the person was cited for violation of s. 316.1926(2). In addition, the court shall revoke the person's authorization and privilege to operate a motor vehicle for a period of 1 year and order the person to surrender his or her driver's license.

(c) A person cited for a third violation of s. 316.1926 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 Upon conviction, the court shall impose a fine of \$5,000, revoke the person's authorization and privilege to operate a motor vehicle for a period of 10 years, and order the person to surrender his or her driver's license.

Relative to determining the amount of penalty to be assessed, your attention is also directed to Section 318.18, establishing penalties required for a noncriminal disposition pursuant to Section 318.14 or criminal offense listed in Section 318.17, and particularly to subsection (3) for moving violations. Subsection (a) concerns non-speeding moving violations, while subsection (b) sets forth the penalties for speeding violations.

When construing statutes the rules of construction require us to look as closely as possible to the statutory language. When a statute is clear and unambiguous, the courts will not look behind the statute's plain language. Further, the statute must be read to give effect to the entire statute. If a statute concerns fines or penalties such statutes must be strictly construed.

Section 316.1926 has two provisions, both of which are deemed moving violations: (1) the violation of the way a motorcycle or moped is ridden and the requirements concerning the license tag, and (2) speeding in excess of 50 mph. The language is clear in Section 318.14(13)(a) that a person cited for a violation of section 316.1926 shall, in addition to any other requirements provided in Section 318.14, pay a fine of \$1,000. Further, Section 318.14(13)(a) specifically provides that if the violation concerns the speeding provision, the speeding fines assessed in Section 318.18(3)(b) is not to be paid. Under the rules of statutory construction the entirety of Section 318.14(13)(a) must be read together. The second line of the subsection specifically differentiates the treatment given if the violation is speeding of subsection (2). To give full effect to the entire section it is clear the \$1,000 fine will apply to both violations of Section 316.1926. Because Section 316.1926(1) specifically incorporates the violations of Section 316.2085(2) and (3), a person cited for either of these sections shall, in addition to any other requirements provided in section 318.14, pay a fine of \$1,000.

Therefore, we are of the opinion that pursuant to Chapter 2008-117, if a person is cited for a violation of Section 316.2085(2) or (3), by virtue of Section 316.1926(1) that person is subject

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to a \$1,000 fine plus any other requirement of Section 318.14; if a person is cited for a violation of Section 316.1926(2), that person is subject to a \$1,000 fine.¹

Sincerely,



Robert R. McDonald
RRM

¹ Section 318.14(b) and (c) increase the amount of the fines and provides for revocation of the license to operate the vehicle, and subsection (c) further provides for a third violation a felony is committed.