

**STORAGE NAME:** h0221s1.ric.doc

**DATE:** February 13, 2002

## HOUSE OF REPRESENTATIVES

### COUNCIL FOR READY INFRASTRUCTURE ANALYSIS

**BILL #:** CS/HB 221

**RELATING TO:** Traffic Control/Move Over Act

**SPONSOR(S):** Committee on Health Regulation and Representative(s) Flanagan & others

**TIED BILL(S):** None.

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TRANSPORTATION YEAS 11 NAYS 1
- (2) HEALTH REGULATION YEAS 8 NAYS 0
- (3) COUNCIL FOR READY INFRASTRUCTURE
- (4)
- (5)

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**I. SUMMARY:**

Current law requires motorists and pedestrians to yield to an emergency vehicle en route to an emergency when the operator of the emergency vehicle has activated either audible or visible emergency warning devices. Motorists are required to move as close as possible to the nearest curb edge. However, motorists are not required to yield for an emergency vehicle parked at the roadside, even if the vehicle is parked at the shoulder to attend to an emergency or to ticket traffic violators. CS/HB 221:

- Requires that when a motorist is traveling on a two-lane road, he or she must slow to a speed that is 20 mph less than the posted speed limit when the posted speed limit is 25 mph or greater; or slow to a speed of 5 mph if the posted speed limit is 20 mph or less.
- Establishes a fine for "move over act" at \$30 and the deposition of the fines will be paid to the Crime Victims Services office in the Office of the Attorney General, which shall be distributed annually to the surviving minor children of officers killed as a result of the violation of the Move Over Act.
- Requires that the Department of Highway Safety and Motor Vehicles (DHSMV) will provide an educational awareness campaign to inform motorists about the new law. DHSMV must publish information about the new law in all newly printed driver's license educational materials, as of July 1, 2002.
- Includes among the vehicles authorized to operate red lights and sirens in an emergency: fire department, fire patrol, police, ambulances, and other emergency vehicles of municipal and county departments, public service corporations operated by private corporations, the Department of Environmental Protection, Department of Agriculture and the Department of Transportation. Such vehicles that operate red lights or sirens must first be designated or authorized by their respective department or the chief of police or sheriff.
- Authorizes a wrecker to use amber lights while performing recoveries and loading on the roadside day or night, and while towing a vehicle, unless the vehicle is hauled on a flatbed, car carrier, or rollback without objects protruding.

The fiscal impact on state or local government is indeterminate at this time.

This bill provides for an effective date of July 1, 2002.

**On December 18, 2001, the Committee on Transportation adopted a "strike-all" amendment. On January 24, 2002, the Committee on Health Regulation adopted a substitute amendment to the strike-all and the bill was reported favorably as a committee substitute. Please refer to Amendments Or Committee Substitute Changes.**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

Less Government and Individual Freedom: The bill increases regulation of motorists by requiring that they yield or reduce speed when approaching a parked emergency vehicle displaying visual signals. Under current law, no such requirement exists.

Lower Taxes: The bill creates a new traffic offense punishable by a fine.

B. PRESENT SITUATION:

Current law requires motorists and pedestrians to yield to an emergency vehicle en route to an emergency when the operator of the emergency vehicle has activated either audible or visible emergency warning devices. Motorists are required to move as close as possible to the nearest curb edge. However, motorists are not required to yield for an emergency vehicle parked at the roadside, even if the vehicle is parked at the shoulder to attend to an emergency or to ticket traffic violators.

For the purposes of the State Uniform Traffic Control laws, “authorized emergency vehicles” include “vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Department of Environmental Protection, and the Department of Transportation as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties.”

In Florida, *six troopers* have died after being struck by motor vehicles during roadside stops – three in the past ten years. In addition, since 1990, at *least five deputies, police officers, and special agents* have been killed by motor vehicles in Florida while conducting roadside stops or assistance. Since 1990, *eight Florida law enforcement officers* have died in this manner. The Florida Highway Patrol has addressed this issue by altering the signal configuration on patrol cars. According to the Florida Highway Patrol, anecdotal evidence indicates that the addition of amber lights to the light bars and rear windows of the patrol cars have improved motorists awareness of a safety hazard, and have reduced the tendency of motorists to be drawn closer to emergency sites where only blue flashing signals are used.

In addition, current law provides that “wreckers ... may show or display amber lights when in actual operation or when a hazard exists provided they are not used going to and from the scene of operation or hazard without specific authorization of a law enforcement officer or law enforcement agency.” According to proponents of the bill, this language is ambiguous and lends itself to uneven enforcement from county to county. Proponents say that a wrecker operator performing a task may

be forbidden in one county from using amber signals, but may be required to do so in a different county while performing the same task.

**C. EFFECT OF PROPOSED CHANGES:**

This bill requires that where there are two or more lanes traveling in the same direction, motorists merge into the lane farthest from an emergency vehicle parked at the roadside when the emergency vehicle is making use of its visual signals. In instances where the motorist is traveling on a two-lane road, he or she must slow to a speed that is 20 mph less than the posted speed limit, when the posted speed limit is 25 mph or greater or slow to a speed of 5 mph if the posted speed limit is 20 mph or less. These requirements are in addition to those requiring that a motorist yield for a moving emergency vehicle. The bill also provides that the new motorist's responsibilities do not relieve a driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

The bill establishes a fine for the violation of the "move over act" at \$30 and the deposition of the fines will be paid to the Crime Victims Services office in the Office of the Attorney General, which shall be distributed annually to the surviving minor children of officers killed because of the violation of the Move Over Act.

The bill provides that the Department of Highway Safety and Motor Vehicles (DHSMV) will provide an educational awareness campaign to inform motorists about the new law. DHSMV must publish information about the new law in all newly printed driver's license educational materials, as of July 1, 2002.

The bill includes among the vehicles authorized to operate red lights and sirens in an emergency: fire department, fire patrol, police, ambulances, and other emergency vehicles of municipal and county departments, public service corporations operated by private corporations, the Department of Environmental Protection (DEP), Department of Agriculture and Consumer Services (DACS), and the Department of Transportation (DOT). Such vehicles that operate red lights or sirens must first be designated or authorized by their respective department or the chief of police or sheriff.

The bill authorizes a wrecker to use amber lights while performing recoveries and loading on the roadside day or night, and while towing a vehicle, unless the vehicle is hauled on a flatbed, car carrier, or rollback without objects protruding.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Provides a short title – the "Move Over Act."

**Section 2.** Amends s. 316.126(1), F.S. Conforms statutory structure with substantive change in statute. Requires that motorists approaching a parked emergency vehicle displaying visual signals either move to the farthest possible lane traveling in the same direction, or, if no such lane is available, slow to a speed 20 mph less than the posted speed limit when the posted speed limit is 25 mph or greater or slow to a speed of 5 mph when the posted speed limited is 20 mph or less; unless otherwise instructed by a law enforcement officer. Provides that drivers of emergency vehicles are not relieved from driving with due regard for the safety of those using the highway. Provides that the DHSMV shall provide an educational awareness campaign informing the motoring public about the Move Over Act and requires the department to provide information in newly printed driver's license educational materials after July 1, 2002. Provides that a violation is a noncriminal traffic infraction, punishable under chapter 318.

**Section 3.** Amends s. 316.2397(3), F.S. Authorizes that vehicles of fire departments, fire patrol, and police, and such ambulances and emergency vehicles of municipalities and county

departments, public service corporations operated by private corporations, the DEP, the DOT, and the DACS as are designated or authorized by their respective department or chief of police of an incorporated city or any sheriff are authorized to operate emergency lights and sirens in an emergency. Authorizes a wrecker to use amber lights while performing recoveries and loading on the roadside day or night, and while towing a vehicle, unless the vehicle is hauled on a flatbed, car carrier, or rollback without objects protruding.

**Section 4.** Amends s. 318.18(2), F.S., Provides a penalty of \$30 for the violation of the Move Over Act.

**Section 5.** Creates s. 318.21(13), F.S. Provides that fines relating to the Move Over Act shall be paid to the Crime Victims Services Office in the Attorney General's Office. The Crime Victims Services Office shall allocate such funds in equal distribution to the minor surviving children of officers killed because of a violation of s. 316.126 (1) (b), F.S.

**Section 6.** Provides an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate at this time.

2. Expenditures:

Indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with a county or city.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

**On December 18, 2001**, the Committee on Transportation adopted a “strike everything” amendment that:

- Requires motorists to vacate the lane closest to a parked emergency vehicle that is displaying its visual signals when driving on an interstate highway or other highway with two or more lanes traveling in the direction of the emergency vehicle. If the highway has only two lanes, a motorist is required to slow to a speed of 20 mph less than the posted speed limit.
- Punishes violation of the “move over” requirements by a fine of not less than \$25 but not more than \$50. Until July 1, 2004, the fine proceeds must be used by DHSMV to provide for an educational awareness campaign to inform motorists about the new law. DHSMV must publish information about the new law in all newly printed driver’s license educational materials. After July 1, 2004, the proceeds from the fine will be allocated in an equal distribution annually to the minor children of any law enforcement officer killed because of a violation of the new “move over” provisions.
- Includes among the vehicles authorized to operate red lights and sirens, fire department, fire patrol, police, ambulances, and other emergency vehicles of municipal and county departments, public service corporations operated by private corporations, the Department of Environmental Protection, and the Department of Transportation. Such vehicles that operate red lights or sirens must first be designated or authorized by their respective department or the chief of police or sheriff.
- Authorizes a wrecker to use amber lights while performing recoveries and loading on the roadside day or night, and while towing a vehicle, unless the vehicle is hauled on a flatbed, car carrier, or rollback without objects protruding.

The bill was then reported favorably with the amendment traveling with the bill.

**On January 24, 2002**, the Committee on Health Regulation adopted a substitute amendment to the strike-all amendment that was traveling with the bill to correct technical deficiencies. The bill passed as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

William C. Garner

Staff Director:

Phillip B. Miller

AS REVISED BY THE COMMITTEE ON HEALTH REGULATION:

Prepared by:

Lisa Rawlins Maurer, Legislative Analyst

Staff Director:

Lucretia Shaw Collins

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

Randy L. Havlicak

Council Director:

Thomas J. Randle