

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

Reduce Government?

To the extent that the state is regulating previously unregulated behavior by prohibiting the operation of wreckers at the roadside without the use of amber lights and by prohibiting the use of certain lanes at posted speed limits, the bill does not appear to reduce the scope of government.

Expand Individual Freedom?

To the extent that the state is regulating previously unregulated behavior by prohibiting the operation of wreckers at the roadside without the use of amber lights and by prohibiting the use of certain lanes at posted speed limits, the bill appears to restrict individual freedom.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Current law authorizes wrecker operators to use amber rotating or flashing lights while performing recoveries and loading on the roadside, day or night. Use of these lights under such circumstances is allowed, but it is not mandatory. If he or she deems it necessary, a wrecker operator may use amber lights while towing a vehicle in a variety of ways, including on wheel lifts, slings, or by under-reach. However, such lights may not be used when an operator is hauling a vehicle on a flatbed, car carrier, or rollback unless protruding objects create a hazard to other motorists. Violation of these provisions is non-criminal traffic infraction punishable as a nonmoving violation. Violators are subject to a \$30 penalty and imposition of court costs of up to \$30.

The Florida Move-Over Act requires that, where there are two or more lanes traveling in the same direction, motorists must merge into the lane farthest from an emergency vehicle parked at the roadside when the emergency vehicle is making use of its visual signals. For the purposes of the act, emergency vehicles include vehicles of the fire department, police vehicles, ambulances, and certain other vehicles of municipalities, the Florida Department of Environmental Protection, the Florida Department of Health, and the Florida Department of Transportation. 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, unless the posted limit is 20 mph or less. In that case, the motorist is required to slow to a speed of 5 mph. Violation of the Move-Over Act is a non-criminal traffic infraction punishable as a moving violation. Violators are subject to a \$60 penalty, court costs of up to \$30, and imposition of 3 points against the violator's driver's license.

These requirements are in addition to those requiring that a motorist yield for a moving emergency vehicle. These requirements 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.

Effect of Proposed Changes

HB 1335 amends the law so that use of amber rotating or flashing lights by a wrecker is mandatory when it is performing a recovery and loading on the roadside, whether it is day or night. It is common industry practice for wrecker operators to use amber lights while loading at the roadside. However, under the provisions of the bill, failure to do so is a civil traffic infraction punishable as a non-moving violation. Those wrecker operators who do not use amber lights will be subject to a \$30 fine plus up to \$30 in court costs, depending on the jurisdiction.

In addition, HB 1335 amends the Move-Over Act so that it applies to wreckers displaying amber rotating or flashing lights while performing a recovery or loading on the roadside. Under the bill, where there are two or more lanes traveling in the same direction, motorists must merge into the lane farthest from a wrecker at the roadside when it is making use of its visual signals while performing a recovery or loading. 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, unless the posted limit is 20 mph or less. In that case, the motorist is required to slow to a speed of 5 mph.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.2397, F.S., to require wreckers performing recoveries or loading at the roadside to use amber rotating or flashing lights.

Section 2. Amends s. 316.126, F.S., to apply the Move-Over Act to wreckers loading at the roadside.

Section 3. Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

See FISCAL COMMENTS section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

See FISCAL COMMENTS section, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Violation of the Move-Over Act is a civil traffic infraction punishable as a moving violation. Persons failing to "move over" for wreckers loading on the roadside are subject to a fine of \$60 plus up to \$30 in court costs, depending on the jurisdiction, and an assessment of 3 points against the driver license.

It is common industry practice for wrecker operators to use amber lights while loading at the roadside. However, under the provisions of the bill, failure to do so is a civil traffic infraction punishable as a non-

moving violation. Those wrecker operators who do not use amber lights will be subject to a \$30 fine plus up to \$30 in court costs, depending on the jurisdiction.

D. FISCAL COMMENTS:

The Department of Highway Safety and Motor Vehicles is currently required to provide an educational awareness campaign informing the motoring public about the Move-Over Act. The department is required to provide information in all printed driver's license educational materials. The bill will require the department to revise these materials to include Move-Over Act requirements concerning wreckers. The fiscal impact of these revisions is unknown at this time.

In addition, state and local governments will experience a positive fiscal impact from the fines that are generated by violations of the newly created Move-Over Act provisions and the wrecker light display requirements. However, because the number of violations that will occur pursuant to the bill cannot be ascertained, the impact is indeterminate. These impacts are not expected to be significant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No exercise of rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES