

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 469 Move Over Act

**SPONSOR(S):** Transportation & Highway Safety Subcommittee; Raschein

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 478

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N, As CS	Thompson	Miller
2) Economic Affairs Committee	14 Y, 1 N	Thompson	Creamer

### SUMMARY ANALYSIS

CS/HB 469 amends the "Florida Move-Over Act" to add sanitation vehicles and utility service vehicles to the list of vehicles for which a driver must move over or slow down.

The act relates to the operation of motor vehicles when approaching a parked "authorized emergency vehicle" or wrecker, on the roadside. The act requires that, where there are two or more lanes traveling in the same direction, drivers must merge into the lane farthest from an emergency vehicle or wrecker parked on the roadside when the emergency vehicle is making use of visual signals or the wrecker is displaying amber rotating or flashing lights and performing a recovery or loading on the roadside. In instances where changing lanes is unsafe or the driver is traveling on a two-lane road, the driver must slow to a speed that is 20 miles per hour (mph) less than the posted speed limit, unless the posted limit is 20 mph or less. In that case, the driver is required to slow to a speed of 5 mph. These requirements are in addition to those requiring that a driver yield for a moving emergency vehicle.

A violation of the act is a non-criminal traffic infraction punishable as a moving violation. Violators are subject to a \$30 penalty, court costs of up to \$124 depending on the jurisdiction, and imposition of three points against the violator's driver's license.

The bill amends the act so that it also applies to a "sanitation vehicle" performing a task related to the provision of sanitation services on the roadside, or "utility service vehicle" performing a task related to the provision of utility services on the roadside.

The bill defines a sanitation vehicle as a motor vehicle that bears an emblem that is visible from the roadway and clearly identifies that the vehicle belongs to or is under contract with an entity that provides garbage, trash, refuse, or recycling collection.

The bill defines a utility service vehicle as a motor vehicle that bears an emblem that is visible from the roadway and clearly identifies that the vehicle belongs to or is under contract with an entity that provides electric, natural gas, water, wastewater, cable, telephone, or communications services.

The bill's fiscal impact is not expected to be significant.

The bill has an effective date of July 1, 2014.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

In 2002, the Legislature created the Florida Move-Over Act.<sup>1</sup> The act relates to the operation of motor vehicles when approaching a parked authorized emergency vehicle<sup>2</sup> or wrecker, on the roadside. Specifically, when approaching a parked emergency vehicle that is making use of visual signals, or a wrecker that is displaying amber rotating or flashing lights and performing a recovery or loading on the roadside, as soon as it is safe, unless otherwise directed by a law enforcement officer, drivers are required to:

- vacate the lane closest to the emergency vehicle or wrecker if driving on a highway with two or more lanes that travel in the direction of the emergency vehicle or wrecker.

If changing lanes cannot be safely accomplished or when travelling on a two lane road, drivers approaching an emergency vehicle or wrecker are required to:

- 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
- travel at 5 mph when the posted speed limit is 20 mph or less.<sup>3</sup>

Violations are a non-criminal traffic infraction punishable as a moving violation. Violators are subject to a \$30 penalty,<sup>4</sup> court costs of up to \$124 depending on the jurisdiction,<sup>5</sup> and imposition of three points against the violator's driver's license.<sup>6</sup>

DHSMV is required to provide an educational awareness campaign informing the motoring public about the act. Information must be provided in all newly printed driver's license educational materials after July 1, 2002.<sup>7</sup>

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.

In 2013, there were 17,118 citations issued by law enforcement in the State of Florida for Move Over Act violations.<sup>8</sup>

#### Proposed Changes

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<sup>1</sup> s. 1, chapter 2002-217, Laws of Florida; codified as s. 316.126(1)(b), F.S.

<sup>2</sup> For purposes of the Move Over Act, s. 316.003(1), F.S., defines "authorized emergency vehicles" as 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 Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the Department of Health, the Department of Transportation, and the Department of Corrections 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.

<sup>3</sup> s. 316.126(1)(b), F.S.

<sup>4</sup> s. 318.18(2)(d), F.S.

<sup>5</sup> The Florida Court Clerks & Comptrollers Distribution Schedule of Court Related Filing Fees, Service Charges, Costs and Fines, Including Recording Schedule, Effective July 2013. Page 14, lines 14 – 23, delineate optional additions of up to \$26, and page 31, lines 1257 – 1269 delineate additional court costs of up to \$98. See the Florida Court Clerks & Comptrollers website at [https://www.flclerks.com/public\\_info.html](https://www.flclerks.com/public_info.html) (Last viewed 2/25/14).

<sup>6</sup> s. 322.27(3)(d)(7), F.S.

<sup>7</sup> s. 316.126(2), F.S.

<sup>8</sup> This information was received from DHSMV via email on 1/24/14 and is on file with the Transportation and Highway Safety Subcommittee.

The bill amends the act to add sanitation vehicles and utility service vehicles to the list of vehicles for which a driver must move over or slow down.

Specifically, in addition to moving over or slowing down for emergency vehicles and wreckers, when approaching a sanitation vehicle that is performing a task related to the provision of sanitation services on the roadside or a utility service vehicle that is performing a task related to the provision of utility services on the roadside, unless otherwise directed by a law enforcement officer, drivers would be required to:

- vacate the lane closest to the utility service vehicle if driving on a highway with two or more lanes that travel in the direction of the utility service vehicle.

If changing lanes cannot be safely accomplished or when travelling on a two lane road, drivers approaching a utility service vehicle would be required to:

- 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
- travel at 5 mph when the posted speed limit is 20 mph or less.

The bill defines a sanitation vehicle as:

a motor vehicle that bears an emblem that is visible from the roadway and clearly identifies that the vehicle belongs to or is under contract with a person, entity, cooperative, board, commission, district, or unit of local government that provides garbage, trash, refuse, or recycling collection.

The bill defines a utility service vehicle as:

a motor vehicle that bears an emblem that is visible from the roadway and clearly identifies that the vehicle belongs to or is under contract with a person, entity, cooperative, board, commission, district, or unit of local government that provides electric, natural gas, water, wastewater, cable, telephone, or communications services.

The bill also makes several technical changes to superfluous and out of date language.

#### B. SECTION DIRECTORY:

Section 1: Amends s. 316.003, F.S., defining the terms sanitation vehicle and utility service vehicle.

Section 2: Amends s. 316.126, F.S., revising the Florida Move-Over Act to include sanitation vehicles and utility service vehicles to the list of motor vehicles for which a driver is required to move over or slow down.

Section 3: Provides an effective date of July 1, 2014.

## 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:

According to DHSMV, “[t]here is an increased probability for the motoring public to be cited and receive a fine if the Move Over Law is expanded to include utility vehicles.”<sup>9</sup> Violations are a civil traffic infraction punishable as a moving violation. A driver who fails to move over for either a sanitation vehicle or utility service vehicle is subject to a fine of \$30 plus up to \$124 in court costs, depending on the jurisdiction, and an assessment of 3 points against his or her driver license.

## D. FISCAL COMMENTS:

To the extent that this bill reduces crashes, and, thereby improves the safety of sanitation and utility workers and their vehicles, sanitation and utility service providers will benefit from reduced costs of worker injuries and fatalities, and of damages to their respective vehicles and equipment. The sanitation and utility service providers covered by the bill include both publically-owned and privately-owned providers.

According to DHSMV, it will not be directly impacted by the bill.<sup>10</sup>

DHSMV is currently required to provide an educational awareness campaign informing the motoring public about the act. DHSMV is required to provide information in all newly printed driver's license educational materials. The bill will require DHSMV to revise these materials to include Move-Over Act requirements concerning sanitation and utility service vehicles. The fiscal impact of the revision is unknown at this time, but should be minimal.

There were 17,118 citations issued for Move Over Act violations in 2013.<sup>11</sup> In addition, state and local governments may experience a positive fiscal impact from the fines that are generated by violations of the newly created requirement to move over or slow down for sanitation and utility service vehicles. However, because the number of violations that will occur pursuant to the bill cannot be ascertained, the fiscal 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

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<sup>9</sup> See DHSMV's agency bill analysis for HB 469. A copy of the agency bill analysis is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

<sup>10</sup> Id.

<sup>11</sup> This information was received from DHSMV via email on 1/24/14 and is on file with the Transportation and Highway Safety Subcommittee.

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**

On March 4, 2014, the Transportation and Highway Safety Subcommittee adopted a strike-all amendment to HB 469 before reporting it favorable as a committee substitute. The amendment made the Move Over Act applicable to sanitation vehicles.

This analysis is drafted to the committee substitute as reported favorably by the Transportation & Highway Safety Subcommittee.