HSJ 02: RECLASSIFICATION OF MOVE OVER LAW PENALTIES
STAFF ANALYSIS

PROPOSAL INFORMATION			
SUBMITTING COUNTY:	Hendry County		
SPONSOR CONTACT:	Emory "Rowdy" Howard, Commissioner bocc2@hendryfla.net; 863.517.8006		
FAC COMMITTEE:	Health, Safety & Justice (HSJ)	**CROSS-CLAIMS:**	N/A
FAC STAFF:	T. Graham	**DATE:**	September 30, 2026

This staff analysis is based on the proposal as submitted and does not reflect an adopted position of the Florida Association of Counties.

POLICY PROPOSAL:

This legislative proposal calls for amendments to Florida Statute 316.126, known as the Move Over law, to strengthen protections for emergency responders and roadside service providers, including tow truck operators, by increasing penalties for violations and mandating mandatory jail time in the event of a fatality with aggravating circumstances. The proposal also seeks to fund public awareness initiatives through FDOT, including a new "Move Over Awareness Week."

I. SUMMARY:

Hendry County requests FAC support for stronger Move Over penalties, mandatory jail time when a violation causes a fatality with aggravating circumstances, and state funding for public awareness through the Florida Department of Transportation (FDOT). Current law already protects qualifying tow trucks, imposes higher civil penalties for violations causing death or serious bodily injury, and designates Move Over Awareness Week, effective July 1, 2026. The revised proposal removes the prior felony classifications; however, the jail provision still requires a defined criminal offense or sentencing enhancement, clear sentencing terms, and a fiscal review. The proposal preserves county authority, and its penalty provisions fall within the exemptions in Article VII, section 18, of the Florida Constitution, although county jail costs would increase if the final bill includes mandatory jail time.

II. PRESENT SITUATION:

The proposal honors Ken Sposato, owner and operator of Stonewall Towing, who was struck and killed on April 14, 2025, in Highlands County while securing a disabled vehicle. It seeks greater accountability for conduct that places emergency responders and roadside workers at risk.

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Existing Move Over Requirements
Section 316.126(1)(b), F.S., applies to specified roadside situations involving emergency vehicles, sanitation and utility vehicles, road work vehicles, and disabled vehicles, and expressly includes wreckers displaying amber rotating or flashing lights while performing roadside recovery or loading. On roads with two or more lanes in the same direction, drivers must vacate the lane closest to the stopped vehicle as soon as it is safe. When a lane change cannot be made safely, or on a two-lane road, drivers must slow to 20 miles per hour below the posted limit when the limit is 25 miles per hour or more, or to 5 miles per hour when the limit is 20 miles per hour or less.

Existing Civil and Criminal Penalties
Under s. 316.126(6), F.S., a violation of the roadside Move Over requirement is a noncriminal moving traffic infraction. The base civil penalty under s. 318.18(2)(d), F.S., is $30, unless otherwise specified; court costs and applicable fees or surcharges are added, so $30 is not the total amount assessed on a citation. Under s. 318.13(3), F.S., a noncriminal traffic infraction is not punishable by incarceration.

Under s. 318.19(1) and (2), F.S., violations resulting in death or serious bodily injury require a court hearing. If the infraction is proven, s. 318.14(5), F.S., imposes a $1,000 penalty and a six-month driver license suspension for a fatality, and a $500 penalty and a three-month suspension for serious bodily injury.

Higher penalties apply under s. 318.14(5), F.S., when the victim is a vulnerable road user: at least $5,000, a one-year license suspension, and a driver improvement course for a fatality, and at least $1,500, a three-month suspension, and the course for serious bodily injury. The definition in s. 316.027(1)(b), F.S., includes pedestrians working on a highway or providing emergency services within the right-of-way, so a tow truck operator working on foot can qualify, depending on the facts.

Separate criminal charges apply when the conduct meets the elements of reckless driving (s. 316.192, F.S.), vehicular homicide (s. 782.071, F.S.), DUI manslaughter (s. 316.193(3)(c)3., F.S.), or leaving the scene of a fatal crash (s. 316.027(2)(c), F.S.). A Move Over violation does not, by itself, establish any of those offenses, so the proposed jail requirement would need to be coordinated with existing criminal law.

Public Awareness
Under s. 316.126(1)(c), F.S., the Florida Department of Highway Safety and Motor Vehicles (FLHSMV) must already conduct a Move Over educational campaign and include Move Over information in newly printed driver license educational materials.

Section 683.337, F.S., created by section 12, chapter 2025-125, Laws of Florida, designates the week of April 14 as Move Over Awareness Week and encourages FLHSMV and local governments to sponsor events. The provision took effect July 1,

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2026, under section 13 of that act, and local participation is encouraged but not required. The remaining education issues are additional funding and the proposed role of FDOT.

County Responsibilities
Under s. 316.640(2) and (3), F.S., sheriffs enforce state traffic laws throughout their counties, and municipal police enforce them within their jurisdictions. County emergency responders and roadside employees are among those exposed to passing traffic during their work. Counties also fund local correctional operations; for example, s. 951.061(3), F.S., requires county correctional officer salaries to be paid from the county general revenue fund when the sheriff is designated chief correctional officer.

The Move Over duties and penalties themselves are set in state statute.

III. EFFECT OF THE PROPOSAL:

Section 316.126, F.S., is the primary statute the proposal would amend, with coordinating changes to chapter 318 and the applicable criminal penalty provisions. The awareness component could be carried out through state agency duties and an appropriation. The proposal does not specify penalty amounts, a jail term, aggravating circumstances, or a funding level. To increase the base civil penalty, legislation would need to amend s. 318.18(2)(d), F.S., and align the change with s. 316.126(6), F.S. Any new civil penalty for a fatality or injury would also need to account for the existing requirements in s. 318.14(5), F.S. The revised proposal does not set a new fine or a schedule for repeat violations.

A jail requirement would require either a new criminal offense in s. 316.126, F.S., or an enhancement to an appropriate existing offense. The bill would need to define the required mental state, the connection between the violation and the death, the aggravating circumstances, the offense classification, and the minimum and maximum sentence, and address its relationship to existing charges and any corresponding chapter 318 procedures.

Removing the prior felony classifications does not resolve the sentencing issue. If the intent is a misdemeanor, s. 775.082(4), F.S., caps the term at one year for a first-degree misdemeanor and 60 days for a second-degree misdemeanor, and those limits would constrain any mandatory minimum (see *Alleyne v. United States*, 570 U.S. 99, 103 (2013)).

A bill could provide additional funding for FDOT outreach and direct coordination with FLHSMV's existing campaign, identifying the funding source, amount, permitted uses, and agency responsibilities. Because Move Over Awareness Week is already in law, implementation would build on s. 683.337, F.S., and no new designation is needed for that portion of the request.

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These changes can be made through general law, although the criminal and funding provisions would need further definition before a bill is filed. The revised proposal does not carry forward the prior proposal's felony classifications or specified sentencing thresholds.

IV. COUNTY IMPACT:

The proposal would apply statewide and affect all 67 counties, as well as municipal law enforcement agencies and any municipal detention operations. The degree of impact would depend on enforcement activity, the number of qualifying fatality cases, and the final sentencing structure.

- State traffic law continues to be enforced through the appropriate agencies. If a new criminal offense is enacted, those agencies would apply its elements and procedures, and local detention facilities would receive and house individuals committed to their custody.
- Counties may participate in Move Over education and coordinate outreach with state agencies. The proposal does not require a local campaign, a county appropriation, or a local funding match.
- If the final bill creates a misdemeanor with mandatory jail time, counties would face additional costs for training, booking, inmate medical care, and custody.
- Additional considerations for counties include the sentencing structure, state funding, fine distribution, and preservation of trauma system revenue. The proposal does not grant counties authority to establish conflicting local traffic penalties, consistent with the uniformity of state traffic regulation under s. 316.002, F.S.

Protective of Home Rule: Neutral.

V. FISCAL IMPACT:

State Government

Additional FDOT outreach would require state resources unless funded within an existing appropriation, and FLHSMV would incur costs to update educational materials and coordinate the campaign. A criminal penalty change would also affect the courts, state attorneys, public defenders, and state correctional costs, depending on the offense and sentence adopted.

Local Government

County jail costs would increase if more individuals are booked or serve mandatory misdemeanor sentences. The added cost depends on the number of qualifying cases, custody days, local operating costs, and inmate medical needs.

Higher fines would change state and local collections, but fine revenue cannot be assumed to offset county jail costs. Ordinary traffic revenues are distributed under s.

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318.21, F.S., while mandatory death and serious bodily injury penalties under s. 318.14(5), F.S., are remitted to the Department of Revenue for the Department of Health Emergency Medical Services Trust Fund to support trauma centers. Any new distribution would need to be specified in legislation.

Municipal agencies would incur training and enforcement costs. Counties and municipalities that participate voluntarily in awareness activities control their own outreach spending unless the final bill adds a local requirement.

Private Sector
Drivers found in violation would face higher financial penalties and, in qualifying criminal cases, incarceration. Roadside service providers and their employees are the intended safety beneficiaries, although the record does not establish a measurable financial benefit or a specific reduction in fatalities.

Unfunded Mandate (Art. VII, s. 18, Fla. Const.): No.

VI. LEGISLATIVE & FAC HISTORY:

Enacted Legislation

- 2002: CS/SB 366 created the Move Over Act through chapter 2002-217, Laws of Florida, effective July 1, 2002.
- 2023: CS/CS/CS/HB 425 expanded the roadside requirement to specified disabled vehicle situations through section 1, chapter 2023-197, Laws of Florida, effective January 1, 2024. Companion SB 64 was laid on the table when the House bill was substituted.
- 2024: CS/CS/HB 1133 increased civil penalties for traffic infractions causing death or serious bodily injury to vulnerable road users. Section 1, chapter 2024-192, Laws of Florida, amended s. 318.14(5), F.S., effective July 1, 2024.
- 2025: CS/CS/HB 961 established Move Over Awareness Week through section 12, chapter 2025-125, Laws of Florida, effective July 1, 2026, under section 13. The awareness week requested in the proposal is therefore already in law.

Recent Unsuccessful Legislation
CS/CS/CS/SB 1220 (2026), Transportation, included a similar amendment to s. 316.126, F.S., addressing approaching emergency vehicles and visible cruise lights. The bill died in returning messages on March 13, 2026.

FAC Policy and Guiding Principles
2025: The HSJ-1 staff analysis, “Reclassification of Move Over Law Penalties,” discussed third-degree felony treatment for basic violations and second-degree felony treatment for fatal violations, with specified fine and sentencing thresholds. Those provisions are included here as historical context; HSJ 02 removes the felony approach and does not restate those thresholds.

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2026: FAC's published Legislative Action Plan, "Reclassification of Move Over Law Penalties" (p. 16), supports increased awareness and higher penalties for basic violations and violations resulting in death.

BoCC Action
Hendry County BoCC approval is pending.

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