

By Representative Arza

1 A bill to be entitled
 2 An act relating to motor vehicle racing
 3 contests; amending s. 316.191, F.S.; revising
 4 provisions prohibiting specified contests and
 5 competitions in a motor vehicle; revising
 6 penalties for violation; providing for
 7 impounding vehicle; specifying penalties for
 8 violations by minors; providing an effective
 9 date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.191, Florida Statutes, is amended to read:

316.191 Racing on highways.--

(1) As used in this section:

(a)~~(2)~~ "Drag race" means ~~is defined as~~ the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

(b)~~(3)~~ "Racing" means ~~is defined as~~ the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes.

1 ~~(2)(a)(1)~~ No person shall drive any vehicle in any
2 race, speed competition or contest, drag race or acceleration
3 contest, test of physical endurance, exhibition of speed or
4 acceleration, or for the purpose of making a speed record on
5 any highway, roadway, or parking lot. A violation of this
6 paragraph constitutes a misdemeanor of the first degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.
8 775.084. Any person who violates this paragraph shall pay a
9 fine of not less than \$250 nor more than \$750, and the
10 department shall revoke the driver license of a person so
11 convicted for up to 1 year, and no person shall in any manner
12 participate in any such race, competition, contest, test, or
13 exhibition.

14 (b) Any person who violates paragraph (a) within 5
15 years after the date of a prior violation which resulted in a
16 conviction for a violation of this subsection commits a felony
17 of the third degree and shall pay a fine of not less than \$500
18 nor more than \$1,000. Additionally, the department shall
19 revoke the driver license of that person for 2 years.

20 1. In any case charging a violation of paragraph (a),
21 the court shall obtain from the department a copy of the
22 driving record of the person charged and may obtain any
23 records from any other source to determine whether one or more
24 prior convictions of the person for violation of paragraph (a)
25 have occurred within 5 years prior to the charged offense.

26 2. In any case charging a violation of this subsection
27 and when the offense occurs within 5 years after one or more
28 prior offenses which resulted in conviction of violation of
29 this subsection, the court shall not strike any prior
30 conviction of those offenses for purposes of sentencing in
31 order to avoid imposing, as part of the sentence or term of

1 the probation, the minimum time of imprisonment or for
2 purposes of avoiding revocation, suspension, or restriction of
3 the privilege to operate a motor vehicle, as provided in this
4 section.

5 (3) Whenever a law enforcement officer determines that
6 a person was engaged in a drag race or race, as described in
7 subsection (1), the law enforcement officer may immediately
8 arrest and take into custody such person, and shall cause the
9 vehicle used in the contest to be impounded for not less than
10 5 days in any police or towing company compound.

11 (a) Notwithstanding any provision of law to the
12 contrary, the impounding agency shall release or have made
13 released a motor vehicle to the registered owner or his or her
14 agent prior to the conclusion of the impoundment period
15 described in this subsection, under any of the following
16 circumstances:

17 1. If the vehicle is a stolen vehicle.

18 2. If the person alleged to have been engaged in the
19 motor vehicle speed contest, as described in this section, was
20 not authorized by the registered owner of the motor vehicle to
21 operate the motor vehicle at the time of the commission of the
22 offense.

23 3. If the legal owner or registered owner of the
24 vehicle is a rental car agency.

25 4. If, prior to the conclusion of the impoundment
26 period, a citation or notice is dismissed, criminal charges
27 are not filed by the state attorney because of a lack of
28 evidence, or the charges are otherwise dismissed by the court.

29 (b) A vehicle shall be released pursuant to this
30 subsection only if the registered owner or his or her agent
31 presents a currently valid driver license to operate the

1 vehicle and proof of current vehicle registration, or if
2 ordered by a court.

3 (c) If, pursuant to subparagraph (a)4., a motor
4 vehicle is released prior to the conclusion of the impoundment
5 period, neither the person charged with a violation of this
6 section nor the registered owner of the vehicle is responsible
7 for towing and storage charges, nor shall the motor vehicle be
8 sold to satisfy those charges.

9 (d) A vehicle seized and removed under this subsection
10 shall be released to the legal owner of the vehicle, or the
11 legal owner's agent, on or before the 30th day after
12 impoundment if all of the following conditions are met:

13 1. The legal owner is a motor vehicle dealer, bank,
14 credit union, acceptance corporation, or other licensed
15 financial institution legally operating in this state, or is
16 another person, not the registered owner, holding a security
17 interest in the vehicle.

18 2. The legal owner or the legal owner's agent pays all
19 towing and storage fees related to the impoundment of the
20 vehicle. No lien sale processing fees shall be charged to a
21 legal owner who redeems the vehicle on or before the 15th day
22 after impoundment.

23 3. The legal owner or the legal owner's agent presents
24 foreclosure documents or an affidavit of repossession for the
25 vehicle.

26 (e)1. The registered owner or his or her agent is
27 responsible for all towing and storage charges related to the
28 impoundment and for any administrative charges authorized
29 under this section.

30 2. Notwithstanding subparagraph 1., if the person
31 convicted of engaging in a motor vehicle speed contest was not

1 authorized by the registered owner of the motor vehicle to
2 operate the motor vehicle at the time of the commission of the
3 offense, the court shall order the convicted person to
4 reimburse the registered owner for any towing and storage
5 charges related to the impoundment and for any administrative
6 charges authorized under this section incurred by the
7 registered owner to obtain possession of the vehicle, unless
8 the court finds that the person convicted does not have the
9 ability to pay all or part of those charges.

10 3. If the vehicle is a rental vehicle, the rental car
11 agency may require the person to whom the vehicle was rented
12 to pay all towing and storage charges related to the
13 impoundment and any administrative charges authorized under
14 this section that were incurred by the rental car agency in
15 connection with obtaining possession of the vehicle.

16 4. The owner shall not be liable for any towing and
17 storage charges related to the impoundment if acquittal or
18 dismissal occurs.

19 5. The vehicle shall not be sold prior to the
20 defendant's conviction.

21 6. The impounding agency is responsible for the actual
22 costs incurred by the towing agency as a result of the
23 impoundment should the registered owner be absolved of
24 liability for those charges pursuant to paragraph (a).
25 However, nothing shall prohibit the impounding agency from
26 making prior payment arrangements to satisfy this requirement.

27 (f) Any period in which a vehicle is subjected to
28 storage under this section shall be included as part of the
29 period of impoundment ordered by the court.

30 (4)(a) No person shall in any manner facilitate, aid
31 or abet, or participate or be a spectator in any drag race,

1 race, competition, contest, test, or exhibition, nor shall
2 such person for the purpose of speed competition obstruct or
3 cause in any manner, or place a barricade or obstruction that
4 causes, the movement of traffic to slow or stop in any such
5 drag race, race, competition, contest, test, or exhibition.
6 Any person who violates this paragraph commits a misdemeanor
7 of the second degree, punishable as provided in s. 775.082 or
8 s. 775.083.

9 (b) When three or more people gather for the purpose
10 of violating paragraph (a), it shall constitute a "breach of
11 the peace" and shall be punishable as provided in s. 870.02.

12 (5) A minor who violates subsection (2) commits a
13 misdemeanor of the second degree and, for a first offense, may
14 serve detention of up to 3 days in a secure detention facility
15 and, in addition to any other penalty provided by law, shall
16 be required to perform 100 hours of community service.

17 (a) The court may further revoke, suspend, or withhold
18 issuance of a driver license of a person less than 18 years of
19 age who violates subsection (2) as an alternative to
20 sentencing the person to:

21 1. Probation as defined in s. 985.03 or commitment to
22 the Department of Juvenile Justice, if the person is
23 adjudicated delinquent for such violation and has not
24 previously been convicted of or adjudicated delinquent for any
25 criminal offense, regardless of whether adjudication was
26 withheld.

27 2. Probation as defined in s. 985.03, commitment to
28 the Department of Juvenile Justice, probation as defined in s.
29 948.001, community control, or incarceration, if the person is
30 convicted of such violation as an adult and has not previously
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1 been convicted of or adjudicated delinquent for any criminal
2 offense, regardless of whether adjudication was withheld.

3 (b) A court that revokes, suspends, or withholds
4 issuance of a driver license under paragraph (a) shall:

5 1. If the minor is eligible by reason of age for a
6 driver license or driving privilege, direct the department to
7 revoke or to withhold issuance of the minor's driver license
8 or privilege for up to 1 year.

9 2. If the minor's driver license or driving privilege
10 is under suspension or revocation for any reason, direct the
11 department to extend the period of suspension or revocation by
12 an additional period of up to 1 year.

13 3. If the minor is ineligible by reason of age for a
14 driver license or driving privilege, direct the department to
15 withhold issuance of the minor's driver license or driving
16 privilege for up to 1 year after the date on which the minor
17 would otherwise have become eligible.

18 (6) For a second or subsequent offense, a minor who
19 violates subsection (2) commits a misdemeanor of the first
20 degree and shall serve a period of detention of up to 15 days
21 in a secure detention facility and shall be required to
22 perform not less than 100 nor more than 250 hours of community
23 service.

24 (a) The court may further revoke, suspend, or withhold
25 issuance of a driver license of a person less than 18 years of
26 age who violates subsection (2) as an alternative to
27 sentencing the person to:

28 1. Probation as defined in s. 985.03 or commitment to
29 the Department of Juvenile Justice, if the person is
30 adjudicated delinquent for such violation and has not
31 previously been convicted of or adjudicated delinquent for any

1 criminal offense, regardless of whether adjudication was
2 withheld.

3 2. Probation as defined in s. 985.03, commitment to
4 the Department of Juvenile Justice, probation as defined in s.
5 948.001, community control, or incarceration, if the person is
6 convicted of such violation as an adult and has not previously
7 been convicted of or adjudicated delinquent for any criminal
8 offense, regardless of whether adjudication was withheld.

9 (b) A court that revokes, suspends, or withholds
10 issuance of a driver license under paragraph (a) shall:

11 1. If the minor is eligible by reason of age for a
12 driver license or driving privilege, direct the department to
13 revoke or to withhold issuance of the minor's driver license
14 or privilege for up to 2 years.

15 2. If the minor's driver license or driving privilege
16 is under suspension or revocation for any reason, direct the
17 department to extend the period of suspension or revocation by
18 an additional period of up to 2 years.

19 3. If the minor is ineligible by reason of age for a
20 driver license or driving privilege, direct the department to
21 withhold issuance of the minor's driver license or driving
22 privilege for up to 2 years after the date on which the minor
23 would otherwise have become eligible.

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25 For the purpose of this subsection, community service shall be
26 performed, if possible, in a manner involving a hospital
27 emergency room or other medical environment that deals on a
28 regular basis with trauma patients and gunshot wounds.

29 (7) A minor who violates subsection (4) shall be
30 punished for a first offense as provided in subsection (4),
31 except that, in lieu of being charged with the penalties

1 provided in such subsection, the court may impose a fine of
2 not less than \$100 nor more than \$500. In lieu of such fine,
3 the court may require the minor to perform public service as
4 designated by the court. In no event shall any minor be
5 required to perform fewer than the number of hours of public
6 service necessary to satisfy the fine assessed by the court,
7 as provided by this subsection, at the minimum wage prevailing
8 in the state at the time of sentencing.

9 (8) For a second or subsequent offense, a minor who
10 violates subsection (4) commits a misdemeanor of the second
11 degree and shall be required to perform not less than 50 nor
12 more than 150 hours of community service.

13 (a) The court may further revoke, suspend, or withhold
14 issuance of the driver license of a person less than 18 years
15 of age who violates subsection (4), as an alternative to
16 sentencing the person to:

17 1. Probation as defined in s. 985.03 or commitment to
18 the Department of Juvenile Justice, if the person is
19 adjudicated delinquent for such violation and has not
20 previously been convicted of or adjudicated delinquent for any
21 criminal offense, regardless of whether adjudication was
22 withheld.

23 2. Probation as defined in s. 985.03, commitment to
24 the Department of Juvenile Justice, probation as defined in s.
25 948.001, community control, or incarceration, if the person is
26 convicted of such violation as an adult and has not previously
27 been convicted of or adjudicated delinquent for any criminal
28 offense, regardless of whether adjudication was withheld.

29 (b) A court that revokes, suspends, or withholds
30 issuance of a driver license under paragraph (a) shall:
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1 1. If the minor is eligible by reason of age for a
2 driver license or driving privilege, direct the department to
3 revoke or to withhold issuance of the minor's driver license
4 or privilege for up to 6 months.

5 2. If the minor's driver license or driving privilege
6 is under suspension or revocation for any reason, direct the
7 department to extend the period of suspension or revocation by
8 an additional period of up to 6 months.

9 3. If the minor is ineligible by reason of age for a
10 driver license or driving privilege, direct the department to
11 withhold issuance of the minor's driver license or driving
12 privilege for up to 6 months after the date on which the minor
13 would otherwise have become eligible.

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15 For the purpose of this subsection, community service shall be
16 performed, if possible, in a manner involving a hospital
17 emergency room or other medical environment that deals on a
18 regular basis with trauma patients and gunshot wounds.

19 ~~(9)(4)~~ This section does not apply to licensed or duly
20 authorized racetracks, drag strips, or other designated areas
21 set aside by proper authorities for such purposes.

22 ~~(5) A violation of this section is a noncriminal~~
23 ~~traffic infraction, punishable pursuant to chapter 318 as~~
24 ~~either a pedestrian violation or, if the infraction resulted~~
25 ~~from the operation of a vehicle, as a moving violation.~~

26 Section 2. This act shall take effect October 1, 2002.
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HOUSE SUMMARY

Revises provisions prohibiting specified contests and competitions in a motor vehicle. Revises penalties for violation. Provides for impounding vehicle. Specifies penalties for violations by minors. See bill for details.