

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1738

SPONSOR: Appropriations Subcommittee on Public Safety and Judiciary, Transportation Committee and Senator Smith

SUBJECT: Motor Vehicle Racing Contests

DATE: March 11, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Meyer	TR	Favorable/CS
2.	Mannelli	Beck	APJ	Favorable/CS
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill substantially revises s. 316.191, F.S., relating to the offense of racing on highways. The bill increases the penalty associated with this offense from a moving violation to a second-degree misdemeanor and imposes enhanced sanctions for repeat violations. The bill also establishes additional driver license sanctions for persons found in violation of this section. Finally, the bill authorizes the court to order the impoundment of motor vehicles involved in racing on highways.

This bill substantially amends section 316.191 of the Florida Statutes.

**II. Present Situation:**

Section 316.191, F.S., provides that no person shall drive any vehicle in any race or speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record. Similarly, this section prohibits participation in any manner in any such race, competition, contest, test or exhibition. Licensed or duly authorized race tracks, drag strips and certain designated areas are presently exempt from this section. A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation (\$30, plus court costs) or, if the infraction resulted from the operation of a vehicle, as a moving violation (\$60, plus court costs, and 3 points on the operator’s driving record).

This section defines “drag race” 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. The term, “racing”, 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.

### III. Effect of Proposed Changes:

This bill substantially revises s. 316.191, F.S. First, the bill increases the penalty for the offense of racing on highways from a moving violation to a second-degree misdemeanor, and imposes additional sanctions for repeat violations. Second, the bill establishes additional driver license sanctions for violations. Finally, the bill provides for the impoundment of motor vehicles involved in racing on highways. Provisions governing the impoundment of a motor vehicle are similar to those currently in effect for DUI arrests.

***Increased Sanctions*** - The bill amends s. 316.191, F.S., to include greater specificity by prohibiting the racing of vehicles or motorcycles on any highway, roadway, or parking lot. In addition, the bill extends the application of this section to persons who “coordinate, facilitate, or collect moneys at any location for any such race, or ride as a passenger in, or purposefully cause the movement or traffic to slow or stop for any such race, competition, contest, test or exhibition.” The bill increases the penalty for this offense from a moving violation to a second-degree misdemeanor. The bill also requires the imposition of a fine of not less than \$250 nor more than \$500 and the revocation of the offender’s driver’s license for up to 1 year. The offender is eligible to petition DHSMV for restoration of the driving privilege on a restricted basis under s. 322.271, F.S.

A person who violates this section within 5 years of a prior violation commits a first-degree misdemeanor. In such instances, the bill provides for the imposition of a fine of not less than \$500 nor more than \$1,000 and the revocation of the offender’s driver’s license for two years. The bill also requires the court to obtain from the Department of Highway Safety and Motor Vehicles (DHSMV) a copy of the offender’s driving record upon a violation of the section in order to determine if the offender has a prior violation of the section.

***Impoundment of Motor Vehicles*** - The bill provides that when an officer determines a person was engaged in a drag race or race, the officer may arrest and take the offender in custody. In addition, the court may order the impoundment or immobilization of the vehicle as a condition of incarceration or probation. Within 7 days after the date the court orders the impoundment or immobilization, the clerk of court must provide notice by certified mail to the registered owner of the vehicle and each person claiming a lien against the motor vehicle. The impounding agency is directed to release the vehicle if the conditions specified in s. 316.193(6), F.S., are applicable<sup>1</sup>. All costs and fees for the impoundment and immobilization must be paid for by the owner of the vehicle.

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<sup>1</sup> Section 316.193, F.S., provides for the impoundment of motor vehicles in instances of DUI. This section provides for the release of such motor vehicles under specified circumstances. For example, if the family of the owner of the vehicle has no other private or public means of transportation, the court is instructed to dismiss the order of impoundment or immobilization.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The bill increases the civil penalties associated with violation of s. 316.191, F.S. It increases the penalty for a first offense from a moving violation (\$60, plus court costs), to a second-degree misdemeanor punishable by a fine of not less than \$250, nor more than \$500. A second violation within 5 years would constitute a first-degree misdemeanor punishable by a fine of not less than \$500, nor more than \$1,000.

The bill authorizes the court to direct DHSMV to revoke the driver's license of a person convicted under this section for 1 year for a first violation and 2 two years for a second violation within 5 years of the first. The bill also authorizes the court to order the impoundment of the vehicle of a person convicted under this section.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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