

By Senator Smith

5-1712-02

See HB

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

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)~~ (2)(a) 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.

14  
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.