

Bill No. SB 1428

Barcode 880726

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Haridopolos) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

316.191 Racing on highways.--

(1) As used in this section, the term:

(a) "Conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

(b)(a) "Drag race" means is defined as the operation of two or more motor 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 motor 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 the such motor vehicle or motor

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1 vehicles within a certain distance or time limit.

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

9       (2)(a) A person may not:

10       1. Drive any motor vehicle, including any motorcycle,  
11 in any race, + speed competition or contest, + drag race or  
12 acceleration contest, + test of physical endurance, or  
13 exhibition of speed or acceleration + or for the purpose of  
14 making a speed record on any highway, roadway, or parking lot;  
15 ~~, and a person may not~~

16       2. In any manner participate in, coordinate,  
17 facilitate, or collect moneys at any location for any ~~such~~  
18 race, competition, contest, test, or exhibition;

19       3. Ride as a passenger in any race, competition,  
20 contest, test, or exhibition; or

21       4. Purposefully cause the movement of traffic to slow  
22 or stop for, any ~~such~~ race, competition, contest, test, or  
23 exhibition.

24  
25 Any person who violates any provision of this paragraph  
26 commits a misdemeanor of the first ~~second~~ degree, punishable  
27 as provided in s. 775.082 or s. 775.083. Any person who  
28 violates any provision of this paragraph shall pay a fine of  
29 not less than ~~\$500~~ \$250 and not more than ~~\$1,000~~ \$500, and the  
30 department shall revoke the driver license of a person so  
31 convicted for 1 year. A hearing may be requested under

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1 ~~pursuant to~~ s. 322.271.

2 (b) Any person who violates paragraph (a) within 5  
3 years after the date of a prior violation that resulted in a  
4 conviction for a violation of this subsection commits a  
5 misdemeanor of the first degree, punishable as provided in s.  
6 775.082 or s. 775.083, and shall pay a fine of not less than  
7 \$500 and not more than \$1,000. The department shall also  
8 revoke the driver license of that person for 2 years. A  
9 hearing may be requested under ~~pursuant to~~ s. 322.271.

10 (c) In any case charging a violation of paragraph (a),  
11 the court shall be provided a copy of the driving record of  
12 the person charged and may obtain any records from any other  
13 source to determine if one or more prior convictions of the  
14 person for violation of paragraph (a) have occurred within 5  
15 years prior to the charged offense.

16 (3) Whenever a law enforcement officer determines that  
17 a person was engaged in a drag race or race, as described in  
18 subsection (1), the officer may immediately arrest and take  
19 such person into custody. The court may enter an order of  
20 impoundment or immobilization as a condition of incarceration  
21 or probation. Within 7 business days after the date the court  
22 issues the order of impoundment or immobilization, the clerk  
23 of the court must send notice by certified mail, return  
24 receipt requested, to the registered owner of the motor  
25 vehicle, if the registered owner is a person other than the  
26 defendant, and to each person of record claiming a lien  
27 against the motor vehicle.

28 (a) Notwithstanding any provision of law to the  
29 contrary, the impounding agency shall release a motor vehicle  
30 under the conditions provided in s. 316.193(6)(e), (f), (g),  
31 and (h), if the owner or agent presents a valid driver license

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1 at the time of pickup of the motor vehicle.

2 (b) All costs and fees for the impoundment or  
3 immobilization, including the cost of notification, must be  
4 paid by the owner of the motor vehicle or, if the motor  
5 vehicle is leased or rented, by the person leasing or renting  
6 the motor vehicle, unless the impoundment or immobilization  
7 order is dismissed. All provisions of s. 713.78 shall apply.

8 (c) Any motor vehicle used in violation of subsection  
9 (2) may be impounded for a period of 10 business days if a law  
10 enforcement officer has arrested and taken a person into  
11 custody under this subsection and the person being arrested is  
12 the registered owner or coowner of the motor vehicle. If the  
13 arresting officer finds that the criteria of this paragraph  
14 are met, the officer may immediately impound the motor  
15 vehicle. The law enforcement officer shall notify the  
16 Department of Highway Safety and Motor Vehicles of any  
17 impoundment for violation of this subsection in accordance  
18 with procedures established by the department. Paragraphs (a)  
19 and (b) shall be applicable to the impoundment.

20 (4) Any motor vehicle used in violation of subsection  
21 (2) by any person within 5 years after the date of a prior  
22 conviction of that person for a violation under subsection (2)  
23 may be seized and forfeited as provided by the Florida  
24 Contraband Forfeiture Act. This subsection applies only if the  
25 owner of the motor vehicle is the person charged with  
26 violation of subsection (2).

27 (5)(4) This section does not apply to licensed or duly  
28 authorized racetracks, drag strips, or other designated areas  
29 set aside by proper authorities for such purposes.

30 Section 2. This act shall take effect October 1, 2005.

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3                   A bill to be entitled

4           An act relating to motor vehicle speed  
5           competitions; amending s. 316.191, F.S.;  
6           defining the term "conviction"; specifying that  
7           the section applies to motor vehicles; revising  
8           penalties for violation of prohibitions against  
9           described motor vehicle speed competitions;  
10          providing for impoundment of vehicles used in  
11          violation of motor vehicle speed competition  
12          provisions; providing for application of the  
13          Florida Contraband Forfeiture Act; providing an  
14          effective date.

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