

By the Committee on Judiciary; and Senator Haridopolos

590-2040-05

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

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

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

18 316.191 Racing on highways.--

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

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

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

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

8 (2)(a) A person may not:

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

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

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

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

23
24 Any person who violates any provision of this paragraph
25 commits a misdemeanor of the first ~~second~~ degree, punishable
26 as provided in s. 775.082 or s. 775.083. Any person who
27 violates any provision of this paragraph shall pay a fine of
28 not less than ~~\$500~~ \$250 and not more than ~~\$1,000~~ \$500, and the
29 department shall revoke the driver license of a person so
30 convicted for 1 year. A hearing may be requested under
31 ~~pursuant to~~ s. 322.271.

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

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

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

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

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

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

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

26 ~~(5)~~(4) This section does not apply to licensed or duly
27 authorized racetracks, drag strips, or other designated areas
28 set aside by proper authorities for such purposes.

29 Section 2. This act shall take effect October 1, 2005.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1428

This committee substitute:

- Removes the enhanced criminal classification and increased penalties for repeat offenders;
- Authorizes a law enforcement officer to impound a motor vehicle in certain circumstances and requires the Department of Highway Safety and Motor Vehicles to be notified; and
- Clarifies that the Florida Contraband Forfeiture Act only applies where the vehicle owner is also the person charged with the offense.