

ENROLLED  
 HB 71, Engrossed 1

2005 Legislature

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

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1.   Section 316.191, Florida Statutes, is amended  
 15 to read:

16           316.191   Racing on highways.--

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

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

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

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

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

36            1. Drive any motor vehicle, including any motorcycle, in  
 37 any race, + speed competition or contest, + drag race or  
 38 acceleration contest, + test of physical endurance, or  
 39 exhibition of speed or acceleration, + or for the purpose of  
 40 making a speed record on any highway, roadway, or parking lot; +  
 41 ~~and a person may not~~

42            2. In any manner participate in, coordinate, facilitate,  
 43 or collect moneys at any location for any such race, +  
 44 competition, contest, test, or exhibition;

45            3. Knowingly ride as a passenger in any such race,  
 46 competition, contest, test, or exhibition; or

47            4. Purposefully cause the movement of traffic to slow or  
 48 stop for, + any such race, competition, contest, test, or  
 49 exhibition.

50  
 51 Any person who violates any provision of this paragraph commits  
 52 a misdemeanor of the first ~~second~~ degree, punishable as provided  
 53 in s. 775.082 or s. 775.083. Any person who violates any  
 54 provision of this paragraph shall pay a fine of not less than  
 55 \$500 ~~\$250~~ and not more than \$1,000 ~~\$500~~, and the department

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56 shall revoke the driver license of a person so convicted for 1  
57 year. A hearing may be requested pursuant to s. 322.271.

58 (b) Any person who violates paragraph (a) within 5 years  
59 after the date of a prior violation that resulted in a  
60 conviction for a violation of this subsection commits a  
61 misdemeanor of the first degree, punishable as provided in s.  
62 775.082 or s. 775.083, and shall pay a fine of not less than  
63 \$500 and not more than \$1,000. The department shall also revoke  
64 the driver license of that person for 2 years. A hearing may be  
65 requested pursuant to s. 322.271.

66 (c) In any case charging a violation of paragraph (a), the  
67 court shall be provided a copy of the driving record of the  
68 person charged and may obtain any records from any other source  
69 to determine if one or more prior convictions of the person for  
70 violation of paragraph (a) have occurred within 5 years prior to  
71 the charged offense.

72 (3) Whenever a law enforcement officer determines that a  
73 person was engaged in a drag race or race, as described in  
74 subsection (1), the officer may immediately arrest and take such  
75 person into custody. The court may enter an order of impoundment  
76 or immobilization as a condition of incarceration or probation.  
77 Within 7 business days after the date the court issues the order  
78 of impoundment or immobilization, the clerk of the court must  
79 send notice by certified mail, return receipt requested, to the  
80 registered owner of the motor vehicle, if the registered owner  
81 is a person other than the defendant, and to each person of  
82 record claiming a lien against the motor vehicle.

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

88 (b) All costs and fees for the impoundment or  
89 immobilization, including the cost of notification, must be paid  
90 by the owner of the motor vehicle or, if the motor vehicle is  
91 leased or rented, by the person leasing or renting the motor  
92 vehicle, unless the impoundment or immobilization order is  
93 dismissed. All provisions of s. 713.78 shall apply.

94 (c) Any motor vehicle used in violation of subsection (2)  
95 may be impounded for a period of 10 business days if a law  
96 enforcement officer has arrested and taken a person into custody  
97 pursuant to this subsection and the person being arrested is the  
98 registered owner or coowner of the motor vehicle. If the  
99 arresting officer finds that the criteria of this paragraph are  
100 met, the officer may immediately impound the motor vehicle. The  
101 law enforcement officer shall notify the Department of Highway  
102 Safety and Motor Vehicles of any impoundment for violation of  
103 this subsection in accordance with procedures established by the  
104 department. The provisions of paragraphs (a) and (b) shall be  
105 applicable to such impoundment.

106 (4) Any motor vehicle used in violation of subsection (2)  
107 by any person within 5 years after the date of a prior  
108 conviction of that person for a violation under subsection (2)  
109 may be seized and forfeited as provided by the Florida  
110 Contraband Forfeiture Act. This subsection shall only be

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111 applicable if the owner of the motor vehicle is the person  
112 charged with violation of subsection (2).

113 ~~(5)(4)~~ This section does not apply to licensed or duly  
114 authorized racetracks, drag strips, or other designated areas  
115 set aside by proper authorities for such purposes.

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