

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Soto offered the following:

2
3 **Amendment to Amendment (615905) (with title amendment)**

4 Between lines 119 and 120, insert:

5 Section 4. Section 316.191, Florida Statutes, is amended
6 to read:

7 316.191 Racing on highways.--

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

9 (a) "Conviction" means a determination of guilt that is
10 the result of a plea or trial, regardless of whether or not
11 adjudication is withheld.

12 (b) "Drag race" means the operation of two or more motor
13 vehicles in competition, arising from a challenge to demonstrate
14 superiority of a motor vehicle or driver and the acceptance or
15 competitive response to that challenge, either through a prior
16 arrangement or in immediate response, from a point side by side

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17 at accelerating speeds in a competitive attempt to outdistance
18 each other, or the operation of one or more motor vehicles over
19 a common selected course, from the same point to the same point,
20 for the purpose of comparing the relative speeds or power of
21 acceleration of such motor vehicle or motor vehicles within a
22 certain distance or time limit. A drag race may be prearranged
23 or may occur through a competitive response to conduct on the
24 part of one or more drivers which, under the totality of the
25 circumstances, can reasonably be interpreted as a challenge to
26 participate in a drag race.

27 (c) "Exhibition of acceleration" means the use of a motor
28 vehicle in a demonstration to another person or persons,
29 including, but not limited to, any passenger of such motor
30 vehicle or the driver or passenger of another motor vehicle, of
31 the motor vehicle's ability to accelerate by a sudden increase
32 in speed causing a tire to lose firm traction with, or burn,
33 smoke, or squeal against, the road surface which results in the
34 vehicle's continuous acceleration to a final speed that exceeds
35 the posted or lawful speed limit.

36 (d) "Exhibition of speed" means the use of a motor vehicle
37 in a demonstration to another person or persons, including, but
38 not limited to, any passenger of such motor vehicle or the
39 driver or passenger of another motor vehicle, of the motor
40 vehicle's speed or handling capabilities at a speed of at least
41 double the posted or lawful speed limit or 100 miles per hour,
42 whichever is less.

43 (e)-(e) "Race Racing" means the use of one or more motor
44 vehicles in competition, arising from a challenge to demonstrate

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45 superiority of a motor vehicle or driver and the acceptance or
46 competitive response to that challenge, either through a prior
47 arrangement or in immediate response, in which the competitor
48 attempts an attempt to outgain or outdistance another motor
49 vehicle, to prevent another motor vehicle from passing, to
50 arrive at a given destination ahead of another motor vehicle or
51 motor vehicles, or to test the physical stamina or endurance of
52 drivers over long-distance driving routes. A race may be
53 prearranged or may occur through a competitive response to
54 conduct on the part of one or more drivers which, under the
55 totality of the circumstances, can reasonably be interpreted as
56 a challenge to race.

57 (f) "Spectator" means any person who is knowingly present
58 at and views an illegal race, drag race, or exhibition when such
59 presence is the result of an affirmative choice to attend or
60 participate in the race or exhibition. For purposes of
61 determining whether or not an individual is a spectator, finders
62 of fact shall consider the relationship between the racer and
63 the individual, evidence of gambling or betting on the outcome
64 of the race, and any other factor that would tend to show
65 knowing attendance or participation.

66 (2) (a) A person operating or in actual physical control of
67 a motor vehicle, including any motorcycle, on any street or
68 highway or publicly accessible parking lot may not:

69 1. Drive any motor vehicle, including any motorcycle, in
70 any race;

71 2. Drive in any speed competition or contest, drag race;
72 or acceleration contest, test of physical endurance, or

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73 3. Drive in any exhibition of speed; or

74 4. Drive in any exhibition of acceleration. ~~or for the~~
75 ~~purpose of making a speed record on any highway, roadway, or~~
76 ~~parking lot;~~

77 (b) A person may not:

78 1.2- In any manner knowingly participate in, coordinate,
79 facilitate, or collect moneys at any location for any such race,
80 drag race competition, contest, test, or exhibition prohibited
81 under paragraph (a);

82 2.3- Knowingly ride as a passenger in any such race, drag
83 race competition, contest, test, or exhibition prohibited under
84 paragraph (a); or

85 3.4- Knowingly Purposefully cause the movement of traffic
86 to slow or stop for any such race, drag race competition,
87 contest, test, or exhibition prohibited under paragraph (a).

88 (c) A person may not be a spectator at any such race, drag
89 race, or exhibition prohibited under paragraph (a).

90 (3) (a) Any person who violates any provision of this
91 paragraph (2) (a) or paragraph (2) (b) commits a misdemeanor of
92 the second ~~first~~ degree, punishable as provided in s. 775.082 or
93 s. 775.083. Any person who violates any provision of this
94 paragraph (2) (a) or paragraph (2) (b) shall pay a fine of not
95 less than \$250 ~~\$500~~ and not more than \$500 ~~\$1,000~~, and the court
96 shall revoke the driver's license of a person so convicted for 2
97 years regardless of whether or not adjudication is withheld and
98 ~~the department shall revoke the driver license of a person so~~
99 ~~convicted for 1 year. A hearing may be requested pursuant to s.~~
100 322.271.

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101 (b) Any person who violates the provisions of paragraph
102 (2) (c) commits a noncriminal traffic violation, punishable as a
103 moving violation as provided in chapter 318.

104 (c) ~~(b)~~ Any person who violates any provision of paragraph
105 (2) (a) or paragraph (2) (b) within 5 years after the date of a
106 prior violation that resulted in a conviction for a violation of
107 paragraph (2) (a) or paragraph (2) (b) this subsection commits a
108 misdemeanor of the first degree, punishable as provided in s.
109 775.082 or s. 775.083, and shall pay a fine of not less than
110 \$500 and not more than \$1,000. In any second or subsequent
111 conviction, the court may not withhold adjudication of guilt and
112 shall revoke the driver's license of that person for 5 years.
113 ~~The department shall also revoke the driver license of that~~
114 ~~person for 2 years.~~ A hearing may be requested pursuant to s.
115 322.271.

116 (d) Any person who violates any provision of paragraph
117 (2) (a) or paragraph (2) (b) and by reason of such violation
118 causes or in any way contributes to causing damage to the
119 property or person of another commits a misdemeanor of the first
120 degree, punishable as provided in s. 775.082 or s. 775.083, and
121 shall pay a fine of not less than \$500 and not more than \$1,000,
122 and the court shall revoke the driver's license of a person so
123 convicted for 2 years regardless of whether or not adjudication
124 is withheld. A hearing may be requested pursuant to s. 322.271.

125 (e) Any person who violates any provision of paragraph
126 (2) (a) or paragraph (2) (b) and by reason of such violation
127 causes or in any way contributes to causing serious bodily
128 injury to another, as defined in s. 316.1933, commits a felony

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129 of the third degree, punishable as provided in s. 775.082, s.
130 775.083, or s. 775.084, and shall pay a fine of not less than
131 \$1,000.

132 (f) Any person who violates any provision of paragraph
133 (2) (a) or paragraph (2) (b) and by reason of such violation
134 causes or in any way contributes to causing the death of any
135 human being or unborn quick child commits the crime of
136 manslaughter resulting from the operation of a motor vehicle. In
137 any conviction under this paragraph, the court may not withhold
138 adjudication of guilt and shall permanently revoke the driver's
139 license of a person so convicted. A hearing may be requested
140 pursuant to s. 322.271. A person so convicted commits:

141 1. A felony of the second degree, punishable as provided
142 in s. 775.082, s. 775.083, or s. 775.084, and shall pay a fine
143 of not less than \$5,000; or

144 2. A felony of the first degree, punishable as provided in
145 s. 775.082, s. 775.083, or s. 775.084, and shall pay a fine of
146 not less than \$5,000, if:

147 a. At the time of the crash, the person knew, or should
148 have known, that the crash occurred; and

149 b. The person failed to give information and render aid as
150 required by s. 316.062.

151
152 For purposes of this paragraph, the definition of the term
153 "unborn quick child" shall be determined in accordance with the
154 definition of viable fetus as set forth in s. 782.071. A person
155 who is convicted of manslaughter resulting from the operation of

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156 a motor vehicle shall be sentenced to a mandatory minimum term
157 of imprisonment of 4 years.

158 ~~(4)(e)~~ In any case charging a violation of paragraph
159 (2)(a) or paragraph (2)(b), the court shall be provided a copy
160 of the driving record of the person charged and may obtain any
161 records from any other source to determine if one or more prior
162 convictions of the person for violation of paragraph (2)(a) or
163 paragraph (2)(b) have occurred within 5 years prior to the
164 charged offense; however, at trial, proof of such prior
165 conviction must be made by a certified copy of any prior
166 judgment of conviction or judgment withholding adjudication of
167 guilt.

168 ~~(5)(a)(3)~~ Whenever a law enforcement officer determines
169 that a person has committed a violation of paragraph (2)(a) or
170 paragraph (2)(b) was engaged in a drag race or race, as
171 ~~described in subsection (1)~~, the officer may immediately arrest
172 and take such person into custody, consistent with
173 constitutional requirements, regardless of whether or not the
174 offense was committed in the presence of the officer or whether
175 the officer's determination is based upon information provided
176 by anonymous tipsters, citizen informants, or any other source.
177 The court may enter an order of impoundment or immobilization as
178 a condition of incarceration or probation. Within 7 business
179 days after the date the court issues the order of impoundment or
180 immobilization, the clerk of the court must send notice by
181 certified mail, return receipt requested, to the registered
182 owner of the motor vehicle, if the registered owner is a person

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183 other than the defendant, and to each person of record claiming
184 a lien against the motor vehicle.

185 (b)~~(a)~~ Notwithstanding any provision of law to the
186 contrary, the impounding agency shall release a motor vehicle
187 under the conditions provided in s. 316.193(6)(e) and~~(f)~~~~(g)~~~~(h)~~,
188 if the owner or agent presents a valid driver license
189 at the time of pickup of the motor vehicle.

190 (c)~~(b)~~ All costs and fees for the impoundment or
191 immobilization, including the cost of notification, must be paid
192 by the owner of the motor vehicle or, if the motor vehicle is
193 leased or rented, by the person leasing or renting the motor
194 vehicle, unless the impoundment or immobilization order is
195 dismissed. All provisions of s. 713.78 shall apply.

196 (d)~~(e)~~ Any motor vehicle used in violation of subsection
197 (2) may be impounded for a period of 30~~10~~ business days if a
198 law enforcement officer has arrested and taken a person into
199 custody pursuant to this subsection ~~and the person being~~
200 ~~arrested is the registered owner or coowner of the motor~~
201 ~~vehicle~~. If the arresting officer finds that the criteria of
202 this paragraph are met, the officer may immediately impound the
203 motor vehicle. The law enforcement officer shall notify the
204 Department of Highway Safety and Motor Vehicles of any
205 impoundment for violation of this subsection in accordance with
206 procedures established by the department. The provisions of
207 paragraphs (b)~~(a)~~ and (c)~~(b)~~ shall be applicable to such
208 impoundment.

209 ~~(4) Any motor vehicle used in violation of subsection (2)~~
210 ~~by any person within 5 years after the date of a prior~~

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211 ~~conviction of that person for a violation under subsection (2)~~
212 ~~may be seized and forfeited as provided by the Florida~~
213 ~~Contraband Forfeiture Act. This subsection shall only be~~
214 ~~applicable if the owner of the motor vehicle is the person~~
215 ~~charged with violation of subsection (2).~~

216 (6)~~(5)~~ This section does not apply to licensed or duly
217 authorized racetracks, drag strips, or other designated areas
218 set aside by proper authorities for such purposes.

219 (7) If any provision of this section is deemed
220 unconstitutional by any court, such unconstitutional provision
221 shall be deemed severable and such determination shall not
222 affect the enforceability of all remaining constitutional
223 provisions of this section.

224

225

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

226
227 Remove line 2014 and insert:
228 zone; amending s. 316.191, F.S.; revising provisions prohibiting
229 certain speed competitions and exhibitions; revising the
230 definition of the terms "conviction," "drag race," and "race";
231 defining the terms "exhibition of acceleration," "exhibition of
232 speed," and "spectator"; prohibiting driving in any race, drag
233 race, exhibition of speed, or exhibition of acceleration;
234 prohibiting certain acts in association with a race, drag race,
235 exhibition of speed, or exhibition of acceleration; prohibiting
236 being a spectator at any such race, drag race, or exhibition;
237 providing criminal and noncriminal penalties; providing for
238 revocation of the offender's driver's license upon conviction;

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HOUSE AMENDMENT

Bill No. CS/CS/CS/SB 1992

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239 providing for disposition of citation for being a spectator;
240 providing penalties for a second or subsequent offense;
241 providing that a violation that causes or contributes to causing
242 serious bodily injury to another is a felony of the third
243 degree; providing that a violation that causes or contributes to
244 causing the death of any human being or unborn quick child is
245 the crime of manslaughter resulting from the operation of a
246 motor vehicle; providing penalties; providing for a
247 determination of the definition of the term "unborn quick
248 child"; requiring that the driving record of a person charged be
249 provided to the court; providing criteria for arrest; providing
250 procedures for impoundment or immobilization of a motor vehicle
251 under a court order; providing for release from impoundment
252 under specified exceptions; requiring that costs and fees of
253 impoundment to be paid by the owner or lessee of the motor
254 vehicle; providing procedures for an arresting officer to
255 immediately impound a motor vehicle used in a violation;
256 providing for the period of impoundment; removing a requirement
257 for impoundment that the person being arrested is the registered
258 owner or coowner of the motor vehicle; providing for
259 satisfaction of the element of negligent entrustment; providing
260 for severability; amending s. 316.193, F.S.; lowering the blood-

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