

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

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

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

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

215 (6)~~(5)~~ This section does not apply to licensed or duly  
216 authorized racetracks, drag strips, or other designated areas  
217 set aside by proper authorities for such purposes.

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

224 -----

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

226 Remove line 2014 and insert:

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

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HOUSE AMENDMENT

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

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