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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/10/2008	.	
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1 The Committee on Transportation and Economic Development  
2 Appropriations (Webster) recommended the following **substitute for**  
3 **amendment (263764)** :

4  
5 **Senate Amendment (with title amendment)**

6 Delete line(s) 303-651

7 and insert:

8  
9 Section 3. Effective July 1, 2006, subsection (6) of  
10 section 316.1895, Florida Statutes, is amended to read:

11 316.1895 Establishment of school speed zones, enforcement;  
12 designation.--

13 (6) Permanent signs designating school zones and school  
14 zone speed limits shall be uniform in size and color, and shall  
15 have the times during which the restrictive speed limit is  
16 enforced clearly designated thereon. Flashing beacons activated  
17 by a time clock, or other automatic device, or manually activated



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18 | may be used as an alternative to posting the times during which  
19 | the restrictive school speed limit is enforced. Beginning July 1,  
20 | 2008, for any newly established school zone or any school zone in  
21 | which the signing has been replaced, a sign stating "Speeding  
22 | Fines Doubled" shall be installed within the school zone. The  
23 | Department of Transportation shall establish adequate standards  
24 | for the signs and flashing beacons.

25 |       Section 4. Section 316.191, Florida Statutes, is amended to  
26 | read:

27 |       316.191 Racing on highways.--

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

29 |       (a) "Conviction" means a determination of guilt that is the  
30 | result of a plea or trial, regardless of whether or not  
31 | adjudication is withheld.

32 |       (b) "Drag race" means the operation of two or more motor  
33 | vehicles in competition, arising from a challenge to demonstrate  
34 | superiority of a motor vehicle or driver and the acceptance or  
35 | competitive response to that challenge, either through a prior  
36 | arrangement or in immediate response, from a point side by side  
37 | at accelerating speeds in a competitive attempt to outdistance  
38 | each other, or the operation of one or more motor vehicles over a  
39 | common selected course, from the same point to the same point,  
40 | for the purpose of comparing the relative speeds or power of  
41 | acceleration of such motor vehicle or motor vehicles within a  
42 | certain distance or time limit. A drag race may be prearranged or  
43 | may occur through a competitive response to conduct on the part  
44 | of one or more drivers which, under the totality of the  
45 | circumstances, can reasonably be interpreted as a challenge to  
46 | participate in a drag race.



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47        (c) "Exhibition of acceleration" means the use of a motor  
48 vehicle in a demonstration to another person or persons,  
49 including, but not limited to, any passenger of such motor  
50 vehicle or the driver or passenger of another motor vehicle, of  
51 the motor vehicle's ability to accelerate by a sudden increase in  
52 speed causing a tire to lose firm traction with, or burn, smoke,  
53 or squeal against, the road surface which results in the  
54 vehicle's continuous acceleration to a final speed that exceeds  
55 the posted or lawful speed limit.

56        (d) "Exhibition of speed" means the use of a motor vehicle  
57 in a demonstration to another person or persons, including, but  
58 not limited to, any passenger of such motor vehicle or the driver  
59 or passenger of another motor vehicle, of the motor vehicle's  
60 speed or handling capabilities at a speed of at least double the  
61 posted or lawful speed limit or 100 miles per hour, whichever is  
62 less.

63        (e) ~~(e)~~ "Race Racing" means the use of one or more motor  
64 vehicles in competition, arising from a challenge to demonstrate  
65 superiority of a motor vehicle or driver and the acceptance or  
66 competitive response to that challenge, either through a prior  
67 arrangement or in immediate response, in which the competitor  
68 attempts ~~an attempt~~ to outgain or outdistance another motor  
69 vehicle, to prevent another motor vehicle from passing, to arrive  
70 at a given destination ahead of another motor vehicle or motor  
71 vehicles, or to test the physical stamina or endurance of drivers  
72 over long-distance driving routes. A race may be prearranged or  
73 may occur through a competitive response to conduct on the part  
74 of one or more drivers which, under the totality of the  
75 circumstances, can reasonably be interpreted as a challenge to  
76 race.



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77        (f) "Spectator" means any person who is knowingly present  
78 at and views an illegal race, drag race, or exhibition when such  
79 presence is the result of an affirmative choice to attend or  
80 participate in the race or exhibition. For purposes of  
81 determining whether or not an individual is a spectator, finders  
82 of fact shall consider the relationship between the racer and the  
83 individual, evidence of gambling or betting on the outcome of the  
84 race, and any other factor that would tend to show knowing  
85 attendance or participation.

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

89            1. ~~Drive any motor vehicle, including any motorcycle, in~~  
90 ~~any race;~~

91            2. Drive in any ~~speed competition or contest, drag race; or~~  
92 ~~acceleration contest, test of physical endurance, or~~

93            3. Drive in any exhibition of speed; or

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

97        (b) A person may not:

98            ~~1.2.~~ In any manner knowingly participate in, coordinate,  
99 facilitate, or collect moneys at any location for any such race,  
100 drag race competition, contest, test, or exhibition prohibited  
101 under paragraph (a);

102            ~~2.3.~~ Knowingly ride as a passenger in any such race, drag  
103 race competition, contest, test, or exhibition prohibited under  
104 paragraph (a); or



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105        3.4. Knowingly Purposefully cause the movement of traffic  
106 to slow or stop for any such race, drag race competition,  
107 ~~contest, test,~~ or exhibition prohibited under paragraph (a).

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

110        (3) (a) Any person who violates any provision of this  
111 paragraph (2) (a) or paragraph (2) (b) commits a misdemeanor of the  
112 second ~~first~~ degree, punishable as provided in s. 775.082 or s.  
113 775.083. Any person who violates any provision of this paragraph  
114 (2) (a) or paragraph (2) (b) shall pay a fine of not less than \$250  
115 \$500 and not more than \$500 ~~\$1,000~~, and the court shall revoke  
116 the driver's license of a person so convicted for 2 years  
117 regardless of whether or not adjudication is withheld and the  
118 department shall revoke the driver license of a person so  
119 convicted for 1 year. A hearing may be requested pursuant to s.  
120 322.271.

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

124        (c) ~~(b)~~ Any person who violates any provision of paragraph  
125 (2) (a) or paragraph (2) (b) within 5 years after the date of a  
126 prior violation that resulted in a conviction for a violation of  
127 paragraph (2) (a) or paragraph (2) (b) this subsection commits a  
128 misdemeanor of the first degree, punishable as provided in s.  
129 775.082 or s. 775.083, and shall pay a fine of not less than \$500  
130 and not more than \$1,000. In any second or subsequent conviction,  
131 the court may not withhold adjudication of guilt and shall revoke  
132 the driver's license of that person for 5 years. The department  
133 shall also revoke the driver license of that person for 2 years.  
134 A hearing may be requested pursuant to s. 322.271.



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

144 (e) Any person who violates any provision of paragraph  
145 (2) (a) or paragraph (2) (b) and by reason of such violation causes  
146 or in any way contributes to causing serious bodily injury to  
147 another, as defined in s. 316.1933, commits a felony of the third  
148 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
149 775.084, and shall pay a fine of not less than \$1,000.

150 (f) Any person who violates any provision of paragraph  
151 (2) (a) or paragraph (2) (b) and by reason of such violation causes  
152 or in any way contributes to causing the death of any human being  
153 or unborn quick child commits the crime of manslaughter resulting  
154 from the operation of a motor vehicle. In any conviction under  
155 this paragraph, the court may not withhold adjudication of guilt  
156 and shall permanently revoke the driver's license of a person so  
157 convicted. A hearing may be requested pursuant to s. 322.271. A  
158 person so convicted commits:

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

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



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

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

169  
170 For purposes of this paragraph, the definition of the term  
171 "unborn quick child" shall be determined in accordance with the  
172 definition of viable fetus as set forth in s. 782.071. A person  
173 who is convicted of manslaughter resulting from the operation of  
174 a motor vehicle shall be sentenced to a mandatory minimum term of  
175 imprisonment of 4 years.

176 (4) ~~(e)~~ In any case charging a violation of paragraph (2) (a)  
177 or paragraph (2) (b), the court shall be provided a copy of the  
178 driving record of the person charged and may obtain any records  
179 from any other source to determine if one or more prior  
180 convictions of the person for violation of paragraph (2) (a) or  
181 paragraph (2) (b) have occurred within 5 years prior to the  
182 charged offense; however, at trial, proof of such prior  
183 conviction must be made by a certified copy of any prior judgment  
184 of conviction or judgment withholding adjudication of guilt.

185 (5) (a) ~~(3)~~ Whenever a law enforcement officer determines  
186 that a person has committed a violation of paragraph (2) (a) or  
187 paragraph (2) (b) was engaged in a drag race or race, as described  
188 in subsection (1), the officer may immediately arrest and take  
189 such person into custody, consistent with constitutional  
190 requirements, regardless of whether or not the offense was  
191 committed in the presence of the officer or whether the officer's  
192 determination is based upon information provided by anonymous  
193 tipsters, citizen informants, or any other source. The court may  
194 enter an order of impoundment or immobilization as a condition of



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195 incarceration or probation. Within 7 business days after the date  
196 the court issues the order of impoundment or immobilization, the  
197 clerk of the court must send notice by certified mail, return  
198 receipt requested, to the registered owner of the motor vehicle,  
199 if the registered owner is a person other than the defendant, and  
200 to each person of record claiming a lien against the motor  
201 vehicle.

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

207 (c) ~~(b)~~ All costs and fees for the impoundment or  
208 immobilization, including the cost of notification, must be paid  
209 by the owner of the motor vehicle or, if the motor vehicle is  
210 leased or rented, by the person leasing or renting the motor  
211 vehicle, unless the impoundment or immobilization order is  
212 dismissed. All provisions of s. 713.78 shall apply.

213 (d) ~~(e)~~ Any motor vehicle used in violation of subsection  
214 (2) may be impounded for a period of 30 ~~10~~ business days if a law  
215 enforcement officer has arrested and taken a person into custody  
216 pursuant to this subsection ~~and the person being arrested is the~~  
217 ~~registered owner or coowner of the motor vehicle.~~ If the  
218 arresting officer finds that the criteria of this paragraph are  
219 met, the officer may immediately impound the motor vehicle. The  
220 law enforcement officer shall notify the Department of Highway  
221 Safety and Motor Vehicles of any impoundment for violation of  
222 this subsection in accordance with procedures established by the  
223 department. The provisions of paragraphs (b) ~~(a)~~ and (c) ~~(b)~~  
224 shall be applicable to such impoundment.





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225 ~~(4) Any motor vehicle used in violation of subsection (2)~~  
226 ~~by any person within 5 years after the date of a prior conviction~~  
227 ~~of that person for a violation under subsection (2) may be seized~~  
228 ~~and forfeited as provided by the Florida Contraband Forfeiture~~  
229 ~~Act. This subsection shall only be applicable if the owner of the~~  
230 ~~motor vehicle is the person charged with violation of subsection~~  
231 ~~(2).~~

232 ~~(6)~~<sup>(5)</sup> This section does not apply to licensed or duly  
233 authorized racetracks, drag strips, or other designated areas set  
234 aside by proper authorities for such purposes.

235 (7) If any provision of this section is deemed  
236 unconstitutional by any court, such unconstitutional provision  
237 shall be deemed severable and such determination shall not affect  
238 the enforceability of all remaining constitutional provisions of  
239 this section.

240 Section 5. Whoever willfully displays on a vehicle an  
241 obscene word, image, or device, including, but not limited to,  
242 reproductive glands, commits a noncriminal traffic violation,  
243 punishable as a moving violation as provided in chapter 318.

244 Section 6. Subsection (4) of section 316.193, Florida  
245 Statutes, is amended to read:

246 316.193 Driving under the influence; penalties.--

247 (4) Any person who is convicted of a violation of  
248 subsection (1) and who has a blood-alcohol level or breath-  
249 alcohol level of 0.15 ~~0.20~~ or higher, or any person who is  
250 convicted of a violation of subsection (1) and who at the time of  
251 the offense was accompanied in the vehicle by a person under the  
252 age of 18 years, shall be punished:

253 (a) By a fine of:



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254 1. Not less than \$500 or more than \$1,000 for a first  
255 conviction.

256 2. Not less than \$1,000 or more than \$2,000 for a second  
257 conviction.

258 3. Not less than \$2,000 for a third or subsequent  
259 conviction.

260 (b) By imprisonment for:

261 1. Not more than 9 months for a first conviction.

262 2. Not more than 12 months for a second conviction.

263

264 For the purposes of this subsection, only the instant offense is  
265 required to be a violation of subsection (1) by a person who has  
266 a blood-alcohol level or breath-alcohol level of 0.15 ~~0.20~~ or  
267 higher.

268 (c) In addition to the penalties in paragraphs (a) and (b),  
269 the court shall order the mandatory placement, at the convicted  
270 person's sole expense, of an ignition interlock device approved  
271 by the department in accordance with s. 316.1938 upon all  
272 vehicles that are individually or jointly leased or owned and  
273 routinely operated by the convicted person for not less than ~~up~~  
274 ~~to~~ 6 continuous months for the first offense and for not less  
275 than ~~at least~~ 2 continuous years for a second offense, when the  
276 convicted person qualifies for a permanent or restricted license.  
277 ~~The installation of such device may not occur before July 1,~~  
278 ~~2003.~~

279 Section 7. Subsection (1) of section 316.1937, Florida  
280 Statutes, is amended to read:

281 316.1937 Ignition interlock devices, requiring; unlawful  
282 acts.--



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283 (1) In addition to any other authorized penalties, the  
284 court may require that any person who is convicted of driving  
285 under the influence in violation of s. 316.193 shall not operate  
286 a motor vehicle unless that vehicle is equipped with a  
287 functioning ignition interlock device certified by the department  
288 as provided in s. 316.1938, and installed in such a manner that  
289 the vehicle will not start if the operator's blood alcohol level  
290 is in excess of 0.05 percent or as otherwise specified by the  
291 court. The court may require the use of an approved ignition  
292 interlock device for a period of not less than 6 continuous  
293 months, if the person is permitted to operate a motor vehicle,  
294 whether or not the privilege to operate a motor vehicle is  
295 restricted, as determined by the court. The court, however, shall  
296 order placement of an ignition interlock device in those  
297 circumstances required by s. 316.193.

298 Section 8. Subsection (1), subsection (2) of section  
299 316.2397, Florida Statutes, are amended to read:

300 316.2397 Certain lights prohibited; exceptions.--

301 (1) A ~~No~~ person may not ~~shall~~ drive or move or cause to be  
302 moved any vehicle or equipment upon any highway within this state  
303 with any lamp or device thereon showing or displaying a red or  
304 blue light visible from directly in front thereof except for  
305 certain vehicles hereinafter provided.

306 (2) It is expressly prohibited for any vehicle or  
307 equipment, except police vehicles, to show or display blue  
308 lights. However, vehicles owned, operated, or leased by the  
309 Department of Corrections or any county correctional agency may  
310 show or display blue lights when responding to emergencies.

311 Section 9. Subsection (2) of section 316.251, Florida  
312 Statutes, is amended to read:



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313           316.251 Maximum bumper heights.--  
314           (2) "New motor vehicles" as defined in s. 319.001~~(9)~~<sup>(8)</sup>,  
315 "antique automobiles" as defined in s. 320.08, "horseless  
316 carriages" as defined in s. 320.086, and "street rods" as defined  
317 in s. 320.0863 shall be excluded from the requirements of this  
318 section.

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

330 And the title is amended as follows:

331           Delete line(s) 12-72

332 and insert:

333           a law enforcement officer; amending s. 316.1895, F.S.;  
334           requiring the placement of signs in certain school zones  
335           stating that speeding fines are doubled within the zone;  
336           amending s. 316.191, F.S.; revising provisions prohibiting  
337           certain speed competitions and exhibitions; revising the  
338           definition of the terms "conviction," "drag race," and  
339           "race"; defining the terms "exhibition of acceleration,"  
340           "exhibition of speed," and "spectator"; prohibiting  
341           driving in any race, drag race, exhibition of speed, or  
342           exhibition of acceleration; prohibiting certain acts in



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343 association with a race, drag race, exhibition of speed,  
344 or exhibition of acceleration; prohibiting being a  
345 spectator at any such race, drag race, or exhibition;  
346 providing criminal and noncriminal penalties; providing  
347 for revocation of the offender's driver's license upon  
348 conviction; providing for disposition of citation for  
349 being a spectator; providing penalties for a second or  
350 subsequent offense; providing that a violation that causes  
351 or contributes to causing serious bodily injury to another  
352 is a felony of the third degree; providing that a  
353 violation that causes or contributes to causing the death  
354 of any human being or unborn quick child is the crime of  
355 manslaughter resulting from the operation of a motor  
356 vehicle; providing penalties; providing for a  
357 determination of the definition of the term "unborn quick  
358 child"; requiring that the driving record of a person  
359 charged be provided to the court; providing criteria for  
360 arrest; providing procedures for impoundment or  
361 immobilization of a motor vehicle under a court order;  
362 providing for release from impoundment under specified  
363 exceptions; requiring that costs and fees of impoundment  
364 to be paid by the owner or lessee of the motor vehicle;  
365 providing procedures for an arresting officer to  
366 immediately impound a motor vehicle used in a violation;  
367 providing for the period of impoundment; removing a  
368 requirement for impoundment that the person being arrested  
369 is the registered owner or coowner of the motor vehicle;  
370 providing for satisfaction of the element of negligent  
371 entrustment; providing for severability; providing  
372 noncriminal penalties for the display of obscene words,



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373 images, or devices on a motor vehicle; amending s.  
374 316.193, F.S.; lowering the blood-alcohol or breath-  
375 alcohol level for which enhanced penalties are imposed  
376 against a person who was accompanied in the vehicle by a  
377 minor at the time of the offense; clarifying that an  
378 ignition interlock device is installed for a continuous  
379 period; amending s. 316.1937, F.S.; revising the  
380 conditions under which the court may require the use of an  
381 ignition interlock device; amending s. 316.2397, F.S.;  
382 authorizing specified agencies to display blue lights when  
383 responding to emergencies; amending s. 316.251, F.S.;  
384 conforming a cross-reference; amending