

By Senator Constantine

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1 A bill to be entitled
2 An act relating to street racing; creating the "Luis
3 Rivera Ortega Street Racing Act"; amending s. 316.191,
4 F.S.; revising provisions prohibiting certain speed
5 competitions and exhibitions; prohibiting driving in
6 any race, drag race, or exhibition of speed or
7 acceleration; prohibiting specified activities
8 involving such races, drag races, and exhibitions;
9 providing criminal and noncriminal penalties;
10 providing for revocation of the driver license upon
11 conviction; providing penalties for a second or
12 subsequent offense; requiring that the driving record
13 of a person charged be provided to the court;
14 providing criteria for arrest; revising provisions for
15 impounding a motor vehicle used in a violation;
16 providing for severability; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. This act may be cited as the "Luis Rivera Ortega
22 Street Racing Act."

23 Section 2. Section 316.191, Florida Statutes, is amended to
24 read:

25 316.191 Racing on highways.—

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

27 (a) "Conviction" means a determination of guilt that is the
28 result of a plea or trial, regardless of whether adjudication is
29 withheld.

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30 (b) "Drag race" means the operation of two or more motor
31 vehicles from a point side by side at accelerating speeds in a
32 competitive attempt to outdistance each other, or the operation
33 of one or more motor vehicles over a common selected course,
34 from the same point to the same point, for the purpose of
35 comparing the relative speeds or power of acceleration of such
36 motor vehicle or motor vehicles within a certain distance or
37 time limit.

38 (c) "Racing" means the use of one or more motor vehicles in
39 an attempt to outgain or outdistance another motor vehicle, to
40 prevent another motor vehicle from passing, to arrive at a given
41 destination ahead of another motor vehicle or motor vehicles, or
42 to test the physical stamina or endurance of drivers over long-
43 distance driving routes.

44 (d) "Spectator" means any person who is knowingly present
45 at and views a drag race, when such presence is the result of an
46 affirmative choice to attend or participate in the race. For
47 purposes of determining whether or not an individual is a
48 spectator, finders of fact shall consider the relationship
49 between the racer and the individual, evidence of gambling or
50 betting on the outcome of the race, and any other factor that
51 would tend to show knowing attendance or participation.

52 (2) (a) A person operating or in actual physical control of
53 a motor vehicle, including any motorcycle, on any street or
54 highway or public parking lot may not drive in any:

- 55 1. Race; ~~Drive any motor vehicle, including any motorcycle,~~
56 ~~in any race, speed competition or contest,~~
57 2. Drag race; ~~or acceleration contest, test of physical~~
58 ~~endurance, or~~

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59 3. Exhibition of speed or acceleration. ~~or for the purpose~~
60 ~~of making a speed record on any highway, roadway, or parking~~
61 ~~lot.~~

62 (b) A person may not:

63 1.2. In any manner participate in, coordinate, facilitate,
64 or collect moneys at any location for any ~~such~~ race, drag race
65 ~~competition, contest, test,~~ or exhibition prohibited under
66 paragraph (a);

67 2.3. Knowingly ride as a passenger in any ~~such~~ race, drag
68 race competition, contest, test, or exhibition prohibited under
69 paragraph (a); or

70 3.4. Purposefully cause the movement of traffic to slow or
71 stop for any ~~such~~ race, drag race competition, contest, test, or
72 exhibition prohibited under paragraph (a).

73 (3) (a) Any person who violates any provision of subsection
74 (2) ~~this paragraph~~ commits a misdemeanor of the second ~~first~~
75 degree, punishable as provided in s. 775.082 or s. 775.083. Any
76 person who violates any provision of subsection (2) ~~this~~
77 ~~paragraph~~ shall pay a fine of not less than \$250 ~~\$500~~ and not
78 more than \$500 ~~\$1,000~~, and the department shall revoke the
79 driver license of a person so convicted for 2 years ~~regardless~~
80 ~~of whether or not adjudication is withheld~~ 1 year. A hearing may
81 be requested pursuant to s. 322.271.

82 (b) Any person who commits a second violation of any
83 provision of ~~violates~~ paragraph (2) (a) within 5 years after the
84 date of a prior violation that resulted in a conviction for a
85 violation of paragraph (2) (a) ~~this subsection~~ commits a
86 misdemeanor of the first degree, punishable as provided in s.
87 775.082 or s. 775.083, and shall pay a fine of not less than

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88 \$500 and not more than \$1,000. The department shall also revoke
89 the driver license of that person for 3 ~~2~~ years. A hearing may
90 be requested pursuant to s. 322.271.

91 (c) Any person who commits a third violation of any
92 provision of paragraph (2) (a) within 10 years after a prior
93 conviction for a violation of paragraph (2) (a) commits a felony
94 of the third degree, punishable as provided in s. 775.082, s.
95 775.083, or s. 775.084, and shall pay a fine of not less than
96 \$2,000 and not more than \$5,000. The department shall also
97 revoke the driver's license of that person for 5 years. A
98 hearing may be requested pursuant to s. 322.271.

99 (4) ~~(e)~~ In any case charging a violation of paragraph
100 (2) (a), the court shall be provided a copy of the driving record
101 of the person charged and may obtain any records from any other
102 source to determine if one or more prior convictions of the
103 person for violation of paragraph (2) (a) have occurred within 5
104 years prior to the charged offense.

105 (5) ~~(3)~~ (a) A person may not be a spectator at any drag race
106 prohibited under subsection (2).

107 (b) A person who violates the provisions of paragraph (a)
108 commits a noncriminal traffic infraction, punishable as a moving
109 violation as provided in chapter 318.

110 (6) ~~(4)~~ Whenever a law enforcement officer determines that a
111 person has committed a violation of subsection (2) ~~was engaged~~
112 ~~in a drag race or race, as described in subsection (1)~~, the
113 officer may immediately arrest and take such person into
114 custody. The court may enter an order of impoundment or
115 immobilization as a condition of incarceration or probation.
116 Within 7 business days after the date the court issues the order

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117 of impoundment or immobilization, the clerk of the court must
118 send notice by certified mail, return receipt requested, to the
119 registered owner of the motor vehicle, if the registered owner
120 is a person other than the defendant, and to each person of
121 record claiming a lien against the motor vehicle.

122 (a) Notwithstanding any provision of law to the contrary,
123 the impounding agency shall release a motor vehicle under the
124 conditions provided in s. 316.193(6) (e) and, (f), ~~(g), and (h)~~,
125 if the owner or agent presents a valid driver license at the
126 time of pickup of the motor vehicle.

127 (b) All costs and fees for the impoundment or
128 immobilization, including the cost of notification, must be paid
129 by the owner of the motor vehicle or, if the motor vehicle is
130 leased or rented, by the person leasing or renting the motor
131 vehicle, unless the impoundment or immobilization order is
132 dismissed. All provisions of s. 713.78 shall apply.

133 (c) Any motor vehicle used in violation of subsection (2)
134 may be impounded for a period of 30 ~~10~~ business days if a law
135 enforcement officer has arrested and taken a person into custody
136 pursuant to this subsection ~~and the person being arrested is the~~
137 ~~registered owner or coowner of the motor vehicle~~. If the
138 arresting officer finds that the criteria of this paragraph are
139 met, the officer may immediately impound the motor vehicle. The
140 law enforcement officer shall notify the Department of Highway
141 Safety and Motor Vehicles of any impoundment for violation of
142 this subsection in accordance with procedures established by the
143 department. The provisions of paragraphs (a) and (b) shall be
144 applicable to such impoundment.

145 (7) ~~(5)~~ Any motor vehicle used in violation of subsection

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146 (2) by any person within 5 years after the date of a prior
147 conviction of that person for a violation under subsection (2)
148 may be seized and forfeited as provided by the Florida
149 Contraband Forfeiture Act. This subsection shall only be
150 applicable if the owner of the motor vehicle is the person
151 charged with violation of subsection (2).

152 (8)~~(6)~~ This section does not apply to licensed or duly
153 authorized racetracks, drag strips, or other designated areas
154 set aside by proper authorities for such purposes.

155 (9) If any provision of this section is deemed
156 unconstitutional by any court, such unconstitutional provision
157 shall be deemed severable and such determination shall not
158 affect the enforceability of all remaining constitutional
159 provisions of this section.

160 Section 3. This act shall take effect July 1, 2009.