

By the Committees on Criminal Justice; and Transportation; and
Senator Constantine

591-04462-09

20091998c2

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.; clarifying a definition; revising provisions
5 prohibiting certain speed competitions and
6 exhibitions; prohibiting driving in any race, drag
7 race, or exhibition of speed or acceleration;
8 prohibiting specified activities involving such races,
9 drag races, and exhibitions; providing criminal and
10 noncriminal penalties; providing for revocation of the
11 driver license upon conviction; providing penalties
12 for a second, third, or subsequent offense; requiring
13 that the driving record of a person charged be
14 provided to the court; providing criteria for arrest;
15 revising provisions for impounding a motor vehicle
16 used in a violation; providing for severability;
17 providing an effective date.

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

20
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.

591-04462-09

20091998c2

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) "Race Racing" means the use of one or more motor
39 vehicles in competition, arising from a challenge to demonstrate
40 superiority of a motor vehicle or driver and the acceptance or
41 competitive response to that challenge, either through a prior
42 arrangement or in immediate response, in which the competitor
43 attempts an attempt to outgain or outdistance another motor
44 vehicle, to prevent another motor vehicle from passing, to
45 arrive at a given destination ahead of another motor vehicle or
46 motor vehicles, or to test the physical stamina or endurance of
47 drivers over long-distance driving routes. A race may be
48 prearranged or may occur through a competitive response to
49 conduct on the part of one or more drivers which, under the
50 totality of the circumstances, can reasonably be interpreted as
51 a challenge to race.

52 (d) "Spectator" means any person who is knowingly present
53 at and views a drag race, when such presence is the result of an
54 affirmative choice to attend or participate in the race. For
55 purposes of determining whether or not an individual is a
56 spectator, finders of fact shall consider the relationship
57 between the racer and the individual, evidence of gambling or
58 betting on the outcome of the race, and any other factor that

591-04462-09

20091998c2

59 would tend to show knowing attendance or participation.

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

63 1. ~~Race; Drive any motor vehicle, including any motorcycle,~~
64 ~~in any race, speed competition or contest,~~

65 2. ~~Drag race; or acceleration contest, test of physical~~
66 ~~endurance, or~~

67 3. ~~Exhibition of speed or acceleration. or for the purpose~~
68 ~~of making a speed record on any highway, roadway, or parking~~
69 ~~lot;~~

70 (b) A person may not:

71 1.2. ~~In any manner participate in, coordinate, facilitate,~~
72 ~~or collect moneys at any location for any such race, drag race~~
73 ~~competition, contest, test, or exhibition prohibited under~~
74 ~~paragraph (a);~~

75 2.3. ~~Knowingly ride as a passenger in any such race, drag~~
76 ~~race competition, contest, test, or exhibition prohibited under~~
77 ~~paragraph (a); or~~

78 3.4. ~~Purposefully cause the movement of traffic to slow or~~
79 ~~stop for any such race, drag race competition, contest, test, or~~
80 ~~exhibition prohibited under paragraph (a).~~

81 (3) (a) Any person who violates any provision of subsection
82 (2) this paragraph commits a misdemeanor of the second first
83 degree, punishable as provided in s. 775.082 or s. 775.083. Any
84 person who violates any provision of subsection (2) this
85 paragraph shall pay a fine of not less than \$250 \$500 and not
86 more than \$500 \$1,000, and the department shall revoke the
87 driver license of a person so convicted for 2 years regardless

591-04462-09

20091998c2

88 of whether or not adjudication is withheld 1 year. A hearing may
89 be requested pursuant to s. 322.271.

90 (b) Any person who commits a second violation of any
91 provision of ~~violates~~ paragraph (2)(a) within 5 years after the
92 date of a prior violation that resulted in a conviction for a
93 violation of paragraph (2)(a) ~~this subsection~~ commits a
94 misdemeanor of the first degree, punishable as provided in s.
95 775.082 or s. 775.083, and shall pay a fine of not less than
96 \$500 and not more than \$1,000. The department shall also revoke
97 the driver license of that person for 3 2 years. A hearing may
98 be requested pursuant to s. 322.271.

99 (c) Any person who commits a third or subsequent violation
100 of any provision of paragraph (2)(a) within 5 years after a
101 prior conviction for a violation of paragraph (2)(a) commits a
102 felony of the third degree, punishable as provided in s.
103 775.082, s. 775.083, or s. 775.084, and shall pay a fine of not
104 less than \$2,000 and not more than \$5,000. The department shall
105 also revoke the driver's license of that person for 5 years. A
106 hearing may be requested pursuant to s. 322.271.

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

113 ~~(5)(3)~~(a) A person may not be a spectator at any drag race
114 prohibited under subsection (2).

115 (b) A person who violates the provisions of paragraph (a)
116 commits a noncriminal traffic infraction, punishable as a moving

591-04462-09

20091998c2

117 violation as provided in chapter 318.

118 (6)~~(4)~~ Whenever a law enforcement officer determines that a
119 person has committed a violation of subsection (2) ~~was engaged~~
120 ~~in a drag race or race, as described in subsection (1),~~ the
121 officer may immediately arrest and take such person into
122 custody. The court may enter an order of impoundment or
123 immobilization as a condition of incarceration or probation.
124 Within 7 business days after the date the court issues the order
125 of impoundment or immobilization, the clerk of the court must
126 send notice by certified mail, return receipt requested, to the
127 registered owner of the motor vehicle, if the registered owner
128 is a person other than the defendant, and to each person of
129 record claiming a lien against the motor vehicle.

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

135 (b) All costs and fees for the impoundment or
136 immobilization, including the cost of notification, must be paid
137 by the owner of the motor vehicle or, if the motor vehicle is
138 leased or rented, by the person leasing or renting the motor
139 vehicle, unless the impoundment or immobilization order is
140 dismissed. All provisions of s. 713.78 shall apply.

141 (c) Any motor vehicle used in violation of subsection (2)
142 may be impounded for a period of 30 ~~10~~ business days if a law
143 enforcement officer has arrested and taken a person into custody
144 pursuant to this subsection ~~and the person being arrested is the~~
145 ~~registered owner or coowner of the motor vehicle.~~ If the

591-04462-09

20091998c2

146 arresting officer finds that the criteria of this paragraph are
147 met, the officer may immediately impound the motor vehicle. The
148 law enforcement officer shall notify the Department of Highway
149 Safety and Motor Vehicles of any impoundment for violation of
150 this subsection in accordance with procedures established by the
151 department. The provisions of paragraphs (a) and (b) shall be
152 applicable to such impoundment.

153 (7)~~(5)~~ Any motor vehicle used in violation of subsection
154 (2) by any person within 5 years after the date of a prior
155 conviction of that person for a violation under subsection (2)
156 may be seized and forfeited as provided by the Florida
157 Contraband Forfeiture Act. This subsection shall only be
158 applicable if the owner of the motor vehicle is the person
159 charged with violation of subsection (2).

160 (8)~~(6)~~ This section does not apply to licensed or duly
161 authorized racetracks, drag strips, or other designated areas
162 set aside by proper authorities for such purposes.

163 (9) If any provision of this section is deemed
164 unconstitutional by any court, such unconstitutional provision
165 shall be deemed severable and such determination shall not
166 affect the enforceability of all remaining constitutional
167 provisions of this section.

168 Section 3. This act shall take effect October 1, 2009.