

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

16  
 17   Be It Enacted by the Legislature of the State of Florida:

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

21           Section 2. Section 316.191, Florida Statutes, is amended  
 22 to read:

23           316.191 Racing on highways.--

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

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

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

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

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

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

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

55           2. Drag race; or ~~acceleration contest, test of physical~~  
 56 ~~endurance, or~~

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

60           (b) A person may not:

61           1.2. In any manner participate in, coordinate, facilitate,  
 62 or collect moneys at any location for any ~~such~~ race, drag race  
 63 ~~competition, contest, test, or exhibition~~ prohibited under  
 64 paragraph (a);

65           2.3. Knowingly ride as a passenger in any ~~such~~ race, drag  
 66 race ~~competition, contest, test, or exhibition~~ prohibited under  
 67 paragraph (a); or

68           3.4. Purposefully cause the movement of traffic to slow or  
 69 stop for any ~~such~~ race, drag race ~~competition, contest, test, or~~  
 70 ~~exhibition~~ prohibited under paragraph (a).

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

80           (b) Any person who commits a second violation of any  
 81 provision of ~~violates~~ paragraph (2) (a) within 5 years after the  
 82 date of a prior violation that resulted in a conviction for a

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83 violation of paragraph (2) (a) ~~this subsection~~ commits a  
 84 misdemeanor of the first degree, punishable as provided in s.  
 85 775.082 or s. 775.083, and shall pay a fine of not less than  
 86 \$500 and not more than \$1,000. The department shall also revoke  
 87 the driver license of that person for 3 2 years. A hearing may  
 88 be requested pursuant to s. 322.271.

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

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

103 (5) (3) (a) A person may not be a spectator at any drag race  
 104 prohibited under subsection (2).

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

108 (6) (4) Whenever a law enforcement officer determines that  
 109 a person has committed a violation of subsection (2) ~~was engaged~~  
 110 ~~in a drag race or race, as described in subsection (1), the~~

111 officer may immediately arrest and take such person into  
 112 custody. The court may enter an order of impoundment or  
 113 immobilization as a condition of incarceration or probation.  
 114 Within 7 business days after the date the court issues the order  
 115 of impoundment or immobilization, the clerk of the court must  
 116 send notice by certified mail, return receipt requested, to the  
 117 registered owner of the motor vehicle, if the registered owner  
 118 is a person other than the defendant, and to each person of  
 119 record claiming a lien against the motor vehicle.

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

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

131 (c) Any motor vehicle used in violation of subsection (2)  
 132 may be impounded for a period of 30 ~~10~~ business days if a law  
 133 enforcement officer has arrested and taken a person into custody  
 134 pursuant to this subsection ~~and the person being arrested is the~~  
 135 ~~registered owner or coowner of the motor vehicle.~~ If the  
 136 arresting officer finds that the criteria of this paragraph are  
 137 met, the officer may immediately impound the motor vehicle. The  
 138 law enforcement officer shall notify the Department of Highway

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139 Safety and Motor Vehicles of any impoundment for violation of  
140 this subsection in accordance with procedures established by the  
141 department. The provisions of paragraphs (a) and (b) shall be  
142 applicable to such impoundment.

143 ~~(7)(5)~~ Any motor vehicle used in violation of subsection  
144 (2) by any person within 5 years after the date of a prior  
145 conviction of that person for a violation under subsection (2)  
146 may be seized and forfeited as provided by the Florida  
147 Contraband Forfeiture Act. This subsection shall only be  
148 applicable if the owner of the motor vehicle is the person  
149 charged with violation of subsection (2).

150 ~~(8)(6)~~ This section does not apply to licensed or duly  
151 authorized racetracks, drag strips, or other designated areas  
152 set aside by proper authorities for such purposes.

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

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