

By the Committee on Judiciary; and Senator Constantine

590-03773-10

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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 penalties for violating provisions
5 prohibiting certain speed competitions and
6 exhibitions; providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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

12 Section 2. Section 316.191, Florida Statutes, is amended to
13 read:

14 316.191 Racing on highways.—

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

16 (a) "Conviction" means a determination of guilt that is the
17 result of a plea or trial, regardless of whether adjudication is
18 withheld.

19 (b) "Drag race" means the operation of two or more motor
20 vehicles from a point side by side at accelerating speeds in a
21 competitive attempt to outdistance each other, or the operation
22 of one or more motor vehicles over a common selected course,
23 from the same point to the same point, for the purpose of
24 comparing the relative speeds or power of acceleration of such
25 motor vehicle or motor vehicles within a certain distance or
26 time limit.

27 (c) "Race" means the use of one or more motor vehicles in
28 competition, arising from a challenge to demonstrate superiority
29 of a motor vehicle or driver and the acceptance or competitive

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30 response to that challenge, either through a prior arrangement
31 or in immediate response, in which the competitor attempts to
32 outgain or outdistance another motor vehicle, to prevent another
33 motor vehicle from passing, to arrive at a given destination
34 ahead of another motor vehicle or motor vehicles, or to test the
35 physical stamina or endurance of drivers over long-distance
36 driving routes. A race may be prearranged or may occur through a
37 competitive response to conduct on the part of one or more
38 drivers which, under the totality of the circumstances, can
39 reasonably be interpreted as a challenge to race.

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

48 (2)~~(a)~~ A person may not:

49 (a)1- Drive any motor vehicle, including any motorcycle, in
50 any race, speed competition or contest, drag race or
51 acceleration contest, test of physical endurance, or exhibition
52 of speed or acceleration or for the purpose of making a speed
53 record on any highway, roadway, or parking lot;

54 (b)2- In any manner participate in, coordinate, facilitate,
55 or collect moneys at any location for any such race,
56 competition, contest, test, or exhibition;

57 (c)3- Knowingly ride as a passenger in any such race,
58 competition, contest, test, or exhibition; or

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59 (d)4. Purposefully cause the movement of traffic to slow or
60 stop for any such race, competition, contest, test, or
61 exhibition.

62 (3) (a) Any person who violates subsection (2) ~~any provision~~
63 ~~of this paragraph~~ commits a misdemeanor of the first degree,
64 punishable as provided in s. 775.082 or s. 775.083. Any person
65 who violates subsection (2) ~~any provision of this paragraph~~
66 shall pay a fine of not less than \$500 and not more than \$1,000,
67 and the department shall revoke the driver license of a person
68 so convicted for 1 year. A hearing may be requested pursuant to
69 s. 322.271.

70 (b) Any person who commits a second violation of subsection
71 (2) ~~violates paragraph (a)~~ within 5 years after the date of a
72 prior violation that resulted in a conviction for a violation of
73 subsection (2) ~~this subsection~~ commits a misdemeanor of the
74 first degree, punishable as provided in s. 775.082 or s.
75 775.083, and shall pay a fine of not less than \$1,000 ~~\$500~~ and
76 not more than \$3,000 ~~\$1,000~~. The department shall also revoke
77 the driver license of that person for 2 years. A hearing may be
78 requested pursuant to s. 322.271.

79 (c) Any person who commits a third or subsequent violation
80 of subsection (2) within 5 years after the date of a prior
81 violation that resulted in a conviction for a violation of
82 subsection (2) commits a misdemeanor of the first degree,
83 punishable as provided in s. 775.082 or s. 775.083, and shall
84 pay a fine of not less than \$2,000 and not more than \$5,000. The
85 department shall also revoke the driver license of that person
86 for 4 years. A hearing may be requested pursuant to s. 322.271.

87 (d)(e) In any case charging a violation of subsection (2)

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88 ~~paragraph (a)~~, the court shall be provided a copy of the driving
89 record of the person charged and may obtain any records from any
90 other source to determine if one or more prior convictions of
91 the person for a violation of subsection (2) ~~paragraph (a)~~ have
92 occurred within 5 years prior to the charged offense.

93 (4)~~(3)~~ (a) A person may not be a spectator at any drag race
94 prohibited under subsection (2).

95 (b) A person who violates ~~the provisions of~~ paragraph (a)
96 commits a noncriminal traffic infraction, punishable as a moving
97 violation as provided in chapter 318.

98 (5)~~(4)~~ Whenever a law enforcement officer determines that a
99 person was engaged in a drag race or race, as described in
100 subsection (1), the officer may immediately arrest and take such
101 person into custody. The court may enter an order of impoundment
102 or immobilization as a condition of incarceration or probation.
103 Within 7 business days after the date the court issues the order
104 of impoundment or immobilization, the clerk of the court must
105 send notice by certified mail, return receipt requested, to the
106 registered owner of the motor vehicle, if the registered owner
107 is a person other than the defendant, and to each person of
108 record claiming a lien against the motor vehicle.

109 (a) Notwithstanding any provision of law to the contrary,
110 the impounding agency shall release a motor vehicle under the
111 conditions provided in s. 316.193(6)(e), (f), (g), and (h), if
112 the owner or agent presents a valid driver license at the time
113 of pickup of the motor vehicle.

114 (b) All costs and fees for the impoundment or
115 immobilization, including the cost of notification, must be paid
116 by the owner of the motor vehicle or, if the motor vehicle is

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117 leased or rented, by the person leasing or renting the motor
118 vehicle, unless the impoundment or immobilization order is
119 dismissed. All provisions of s. 713.78 shall apply.

120 (c) Any motor vehicle used in violation of subsection (2)
121 may be impounded for a period of 30 business days if a law
122 enforcement officer has arrested and taken a person into custody
123 pursuant to this subsection and the person being arrested is the
124 registered owner or coowner of the motor vehicle. If the
125 arresting officer finds that the criteria of this paragraph are
126 met, the officer may immediately impound the motor vehicle. The
127 law enforcement officer shall notify the Department of Highway
128 Safety and Motor Vehicles of any impoundment for violation of
129 this subsection in accordance with procedures established by the
130 department. ~~The provisions of Paragraphs (a) and (b) shall be~~
131 applicable to such impoundment.

132 (6)~~(5)~~ Any motor vehicle used in violation of subsection
133 (2) by any person within 5 years after the date of a prior
134 conviction of that person for a violation under subsection (2)
135 may be seized and forfeited as provided by the Florida
136 Contraband Forfeiture Act. This subsection shall only be
137 applicable if the owner of the motor vehicle is the person
138 charged with violating ~~violation of~~ subsection (2).

139 (7)~~(6)~~ This section does not apply to licensed or duly
140 authorized racetracks, drag strips, or other designated areas
141 set aside by proper authorities for such purposes.

142 Section 3. This act shall take effect October 1, 2010.