

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 116

INTRODUCER: Senator Stewart

SUBJECT: Motor Vehicle Racing

DATE: March 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	Favorable
2.	<u>Storch</u>	<u>Jones</u>	<u>CJ</u>	Favorable
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 116 increases the penalty from a first degree misdemeanor to a third degree felony for a third or subsequent violation of s. 316.191(2), F.S., which prohibits any form of participation in motor vehicle racing, if such violation occurs within 5 years of a prior violation of the statute.

The Criminal Justice Impact Conference has not yet determined the fiscal impact for this bill. However, the Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill would result in a positive insignificant fiscal impact to prisons (i.e. an increase in prison beds). See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2019.

II. Present Situation:

Motor vehicle racing is a professional and amateur automobile sport practiced throughout the world, which includes drag racing.¹ A drag race is an acceleration contest from a standing start between two vehicles over a measured distance.² Drag racing began in the California deserts, with the first organized event dating back to 1949.³ Legal drag races take place on monitored drag strips or racetracks.⁴

¹ Encyclopedia Britannica, *Automobile Racing*, available at <https://www.britannica.com/sports/automobile-racing> (last visited February 21, 2019).

² National Hot Rod Association, *NHRA 101*, available at <https://www.nhra.com/nhra-101> (last visited February 21, 2019).

³ PBS, *Drag Racing*, available at <http://www.pbs.org/opb/historydetectives/feature/drag-racing/> (last visited February 21, 2019).

⁴ Driving Line, *Drag Racing 101: Understanding the Basics of 1320 Racing*, (July 24, 2015), available at <https://www.drivingline.com/articles/drag-racing-101-understanding-the-basics-of-1320-racing/> (last visited February 21, 2019).

In contrast, illegal drag racing takes place on highways. Videos of such racing depict drivers either taking off from a rolling start or coming to a complete stop on the highway and then taking off. Specifically, in Broward County, dragsters make their way to “The Spot,” a stretch of highway US-27, to race their cars up to speeds of 140 mph or better. Racers use cameras with microphones and drones to get footage of the races to post to websites. The dangers of such racing is apparent from the videos – there is no concrete median separating the lanes and a flat tire or debris in the road could have fatal consequences.⁵

Drag racing encourages cars to reach unsafe speeds, which has prompted the adoption of laws regulating or prohibiting it. Specifically, s. 316.191(2), F.S., prohibits a person from doing any of the following:

- Driving any motor vehicle, including any motorcycle, in any race,⁶ speed competition or contest, drag race⁷ or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot;
- Participating in, coordinating, facilitating, or collecting money at any location for any such race, competition, contest, test, or exhibition;
- Knowingly riding as a passenger in any such race, competition, contest, test, or exhibition; or
- Purposefully causing the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.⁸

Any person who violates s. 316.191(2), F.S., commits a first degree misdemeanor.⁹ However, additional fines and penalties increase for subsequent violations. For example:

- A first-time violation is punishable with a fine of not less than \$500 and not more than \$1,000, and a revocation of one’s driver’s license for 1 year.
- A second violation within 5 years of a prior violation is punishable with a fine of not less than \$1,000 and not more than \$3,000, and a revocation of one’s driver’s license for 2 years.

⁵ Jim DeFede, CBS Miami, *An Inside Look at Broward County’s Illegal Drag Racing*, (May 1, 2018), available at <https://miami.cbslocal.com/2018/05/01/broward-illegal-drag-racing/> (last visited February 21, 2019).

⁶ “Race” means the use of one or more motor vehicles in competition, arising from a challenge to demonstrate superiority of a motor vehicle or driver and the acceptance or competitive response to that challenge, either through a prior arrangement or in immediate response, in which the competitor attempts to outgain or outdistance another motor vehicle, to prevent another motor vehicle from passing, to arrive at a given destination ahead of another motor vehicle or motor vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes. A race may be prearranged or may occur through a competitive response to conduct on the part of one or more drivers which, under the totality of the circumstances, can reasonably be interpreted as a challenge to race. Section 316.191(1)(c), F.S.

⁷ “Drag race” means the operation of two or more motor vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such motor vehicle or motor vehicles within a certain distance or time limit. Section 316.191(1)(b), F.S.

⁸ Section 316.191(2)(a)-(d), F.S. Section 316.191, F.S., does not apply to licensed or duly authorized racetracks, drag strips, or other designated areas set aside by proper authorities for such purposes. Section 316.191(7), F.S.

⁹ A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year, a fine of \$1,000, or both. Sections 775.082 and 775.083, F.S.

- A third or subsequent violation within 5 years of a prior violation is punishable with a fine of not less than \$2,000 and not more than \$5,000, and a revocation of one's driver's license for 4 years.¹⁰

A law enforcement officer may immediately arrest a person who has engaged in a race.¹¹ Any motor vehicle that was used in unlawful racing may be impounded for 30 days, if the person who is arrested and taken into custody for such unlawful racing is the registered owner or co-owner of the vehicle.¹²

III. Effect of Proposed Changes:

The bill increases the penalty from a first degree misdemeanor to a third degree felony¹³ for a third or subsequent violation of s. 316.191(2), F.S., which prohibits any form of participation in motor vehicle racing, if such violation occurs within 5 years of a prior violation of the statute.

The bill is effective October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

¹⁰ Section 316.191(3)(a)-(c), F.S. In all instances of a violation that results in the subsequent revocation of a person's driver's license, he or she may request a hearing pursuant to s. 322.271, F.S.

¹¹ Section 316.191(5), F.S.

¹² Section 316.191(5)(c), F.S.

¹³ A third degree felony is punishable by a term of imprisonment not exceeding 5 years, a fine of \$5,000, or both. Sections 775.082 and 775.083, F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not yet determined the fiscal impact for this bill. However, the Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill would result in a positive insignificant fiscal impact to prisons (i.e. an increase in prison beds).¹⁴

There were a total of 764 violations of s. 316.191, F.S., in 2017.¹⁵ However, the Florida Department of Law Enforcement indicated that there were no arrests, convictions, or adjudications withheld for a third or subsequent violation of s. 316.191, F.S., during FY 2017-18.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.191 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹⁴ Information provided by EDR staff (on file with the Senate Criminal Justice Committee).

¹⁵ Florida Department of Highway Safety and Motor Vehicles, *Annual Uniform Traffic Citation Report*, (Select 2017, all counties, all agencies, criminal violation, racing on highway violation to generate data) available at <https://services.flhsmv.gov/specialtyplates/uniformtrafficcitationreport> (last visited February 21, 2019).

¹⁶ *Supra* n. 14.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
