

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 Infrastructure and Security

BILL: SB 116

INTRODUCER: Senator Stewart

SUBJECT: Motor Vehicle Racing

DATE: February 19, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Favorable
2.			CJ	
3.			JU	
4.			RC	

I. Summary:

SB 116 modifies the type and degree of violation, from a misdemeanor of the first degree to a felony of the third degree, for a third or subsequent violation of the racing on highways statute within 5 years after the date of a prior violation that resulted in a conviction of the same statute.

II. Present Situation:

Drag racing is a type of illegal street racing and originated in California's Mojave Desert in the early 1930s.¹ Unlike racetracks, illegal street racing is often done on public roads and results in spectators standing very close to vehicles involved in the race. Because of the dangers involved in street racing, many states have enacted laws regulating or prohibiting it.

¹ National Hot Rod Association, NHRA History: Drag Racing's Fast Start, <http://nhra.org/nhra101/history.aspx> (last visited February 8, 2019).

Florida enacted its street racing law in 1971, now codified in s. 316.191, F.S., titled “Racing on highways.”² Section 316.191(2), F.S., provides that a person may not:

- Drive any motor vehicle, including any motorcycle, in any race,³ speed competition or contest, drag race⁴ 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;
- In any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race, competition, contest, test, or exhibition;
- Knowingly ride as a passenger in any such race, competition, contest, test, or exhibition; or
- Purposefully cause the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.

The offense for violating one of the above provisions is a first-degree misdemeanor.⁵ The statute also requires the imposition of a fine of not less than \$500 and not more than \$1,000, and the Department of Highway Safety and Motor Vehicles (HSMV) may revoke the violator’s driver’s license for one year, although a “hardship” hearing may be requested pursuant to s. 322.271, F.S.⁶

If the violator commits the unlawful racing violation within five years after the date of a prior unlawful racing violation that resulted in a conviction, the violator still commits a first-degree misdemeanor and must pay a fine of not less than \$1000 and not more than \$3,000. However, the violator’s driver’s license is revoked for two years, and a “hardship” hearing may be requested pursuant to s. 322.271, F.S.⁷

If the violator commits a third or subsequent unlawful racing violation within five years after the date of a prior unlawful racing violation that resulted in a conviction, the violator still commits a first-degree misdemeanor and must pay a fine of not less than \$2000 and not more than \$5,000.

² Chapter 71-135, s. 1, Laws of Fla. When the statute was first enacted, it was codified in s. 316.186, F.S. The initial statute provided that “[n]o person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test, or exhibition.”

³ “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.

⁴ “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.

⁵ Sections 775.082 and 775.083, F.S., provide that a first-degree misdemeanor is punishable by a term of imprisonment not to exceed one year, a \$1,000 fine, or both.

⁶ Section 322.271, F.S., provides the HSMV with the authority to modify a revocation, cancellation, or suspension order. During a hearing, the person whose license has been revoked may show the revocation causes a serious hardship and precludes the person from carrying out his or her normal business occupation.

⁷ Section 316.191(3)(b), F.S.

However, the violator's driver's license is revoked for four years, and a "hardship" hearing may be requested pursuant to s. 322.271, F.S.⁸

Also, the court must be provided with a copy of the violator's driving record in any case charging a person with a violation of the statute. The statute authorizes a law enforcement officer to immediately arrest violators and take them into custody, and authorizes the court to enter an order of impoundment or immobilization of the motor vehicle as a condition of incarceration or probation.⁹ The statute requires the impounding agency to release the motor vehicle under certain conditions related to: stolen vehicles; vehicles purchased after an offense; situations where the family of the violator has no other means of transportation; and vehicles operated solely by the employees of a violator or any business owned by the violator.¹⁰

The statute requires the owner or person leasing or renting the vehicle to pay costs and fees for the impoundment or immobilization, unless the impoundment or immobilization order is dismissed.¹¹

The statute provides that any motor vehicle that was used in unlawful racing may be impounded for 30 business days, if the person who is arrested and taken into custody for the unlawful racing is the registered owner or co-owner of the vehicle. The law enforcement officer shall notify the HSMV of the impoundment.¹² Additionally, any motor vehicle used for unlawful racing by a person within five years after the date of a prior conviction of that person for unlawful racing may be seized and forfeited as provided by the Florida Contraband Forfeiture Act, if the owner of the vehicle is the person charged with unlawful racing.¹³

The statute specifies that it does not apply to licensed or duly authorized racetracks, drag strips, or other designated areas set aside by proper authorities for such purposes.¹⁴

III. Effect of Proposed Changes:

The bill modifies the type and degree of violation, from a misdemeanor of the first degree to a felony of the third degree¹⁵, for a third or subsequent violation of the racing on highways statute within five years after the date of a prior violation that resulted in a conviction of the same statute.

The bill also provides that this conviction for a felony of the third degree is to be punishable pursuant to s. 775.084, F.S., in addition to being punishable under ss. 775.082, and 775.083, F.S. Under s. 775.084, F.S., if the court determines that the defendant is:

- a habitual felony offender, the court may impose a sentence for a term not exceeding ten years;

⁸ Section 316.191(3)(c), F.S.

⁹ Section 316.191(5), F.S.

¹⁰ Id.

¹¹ Id.

¹² Section 316.191(5)(c), F.S.

¹³ Section 316.191(6), F.S.

¹⁴ Section 316.191(7), F.S.

¹⁵ A third-degree felony is punishable by a term of imprisonment not to exceed 5 years and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

- a habitual violent felony offender, the court may impose a sentence for a term not exceeding ten years, and such offender shall not be eligible for release for five years;
- a three-time violent felony offender, the court must impose a sentence for a term not exceeding fifteen years; and
- a violent career criminal, the court must impose a sentence for a term not exceeding fifteen years, with a mandatory minimum term of ten years.

The bill takes effect 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will have a fiscal impact on persons who violate s. 316.191, F.S., for a third or subsequent time within 5 years after the date of a prior violation that resulted in a conviction of the same statute, by increasing fines for violations.

C. Government Sector Impact:

The bill increases the minimum and maximum fine amounts for third, and subsequent convictions under s. 316.191, F.S. This may generate additional revenues for local and state governments as a result of the penalties paid.

According to the HSMV, there were a total of 764 citations from both state and local law enforcement agencies for violation of s. 316.191, F.S. in calendar year 2017.¹⁶

The Criminal Justice Impact Conference, which provides the official estimate of the prison bed impact of criminal legislation, has not reviewed this bill to determine if it will have a prison bed impact

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.

B. Amendments:

None.

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

¹⁶ Department of Highway Safety and Motor Vehicles Annual Uniform Traffic Citation Report, available at <https://services.flhsmv.gov/specialtyplates/uniformtrafficcitationreport> (last visited February 8, 2019).