

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: CS/HB 611 Motor Vehicle Racing
SPONSOR(S): Criminal Justice Subcommittee, Mercado and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 116

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Bruno	Hall
2) Judiciary Committee	17 Y, 0 N	Bruno	Poche
FINAL HOUSE FLOOR ACTION: 114 Y's 1 N's			
GOVERNOR'S ACTION: Approved			

SUMMARY ANALYSIS

CS/HB 611 passed the House on April 17, 2019, and subsequently passed the Senate on April 26, 2019.

Street-racing involves cars, motorcycles, and other motor vehicles engaging in prearranged or spontaneous competitions on the roadways. The practice endangers participants, bystanders, and property. Florida law prohibits the following unsanctioned racing activities on a highway, roadway, or parking lot:

- Driving a motor vehicle, including a motorcycle, in a race or other competition;
- Participating in, coordinating, facilitating, or collecting money at a race or other competition location;
- Knowingly riding as a passenger in a race or other competition; or
- Purposefully stopping or slowing traffic movement for a race or other competition.

A racing violation is a first degree misdemeanor, punishable by up to one year in county jail and specified mandatory fines. An officer may warrantlessly arrest a person for a misdemeanor committed in his or her presence if the officer arrests the person immediately or in fresh pursuit after viewing the offense. In the case of a traffic offense, a fellow officer who did not personally witness the offense may also arrest a person based on the witnessing officer's observations. Thus, to arrest for a racing offense, an officer must:

- Witness the offense and arrest either immediately or in fresh pursuit;
- Arrest pursuant to a fellow officer's observations and arrest either immediately or in fresh pursuit; or
- Secure an arrest warrant.

The exception only for offenses occurring in the presence of an officer prohibits a warrantless arrest based solely on a civilian witness's report. For example, if a witness calls police about a spontaneous street race, the race may likely end before police respond; however, obtaining an arrest warrant to timely address the complaint is often impractical.

The bill allows an officer to warrantlessly arrest a person if the officer has probable cause to believe he or she committed a racing offense. The bill removes the requirement that an officer either witness the offense and arrest immediately or in fresh pursuit, or secure an arrest warrant.

The bill may have a positive insignificant impact on the number jail beds.

The bill was approved by the Governor on June 24, 2019, ch. 2019-125, L.O.F., and will become effective on July 1, 2019.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Street-racing involves cars, motorcycles, and other motor vehicles engaging in prearranged or spontaneous competitions on the roadways. The practice endangers participants, bystanders, and property. In 2018, street-racers struck and killed a 24-year-old woman and her toddler daughter as they were walking with a stroller along Bayshore Boulevard in Tampa.¹ Safer alternatives to illegal street-racing, such as sanctioned racing events at the Central Florida Racing Complex in south Orlando and the Countyline Dragway in Medley, once successfully curbed street-racing,² but the raceways have since closed.³ In recent years, Orlando has seen an increase in illegal street-racing, prompting the sheriff to create an anti-street-racing detail in March 2018.⁴ Orange County sheriff's deputies made the following numbers of arrests relating to illegal street racing:

- 152 in 2016.
- 226 in 2017.
- 199 in 2018.⁵

Florida Law

Racing Offenses

Under Florida law, a “race” involves one or more motor vehicles in competition to demonstrate the superiority of a vehicle or driver by:

- Attempting to outgain or outdistance another motor vehicle;
- Preventing another motor vehicle from passing;
- Arriving at a given destination before another motor vehicle; or
- Testing the physical stamina or endurance of drivers over a long-distance.⁶

Participants may prearrange or engage spontaneously in a race.⁷ The race consists of a challenge and acceptance or competitive response to the challenge.⁸ A “drag race” is a specific type of race in which participants compare relative speeds or power of acceleration over a specific distance;⁹ drag racing usually involves two motor vehicles operating side-by-side.¹⁰

¹ Tim Fanning, *Bayshore race claims two lives: child dies day after mother's death*, Tampa Bay Times (May 24, 2018), https://www.tampabay.com/news/publicsafety/accidents/Bayshore-race-claims-two-lives-child-dies-day-after-mother-s-death_168532289 (last visited May 7, 2019).

² Steven Cole Smith, *Drag-strip owner is driving force for safer streets*, Orlando Sentinel (Mar. 8, 2010), <http://www.orlandosentinel.com/news/os-xpm-2010-03-08-os-street-racing-course-owner-20100308-story.html> (last visited May 7, 2019).

³ WSVN News Miami, *Need for Speed* (Sep. 27, 2016), <https://wsvn.com/news/investigations/need-for-speed/> (last visited May 7, 2019).

⁴ Joe Mario Pedersen, *As street racing in Orange County revs up, leaders push to strengthen laws, offer alternatives*, Orlando Sentinel (Feb. 11, 2019), <http://www.orlandosentinel.com/news/os-xpm-2010-03-08-os-street-racing-course-owner-20100308-story.html> (last visited May 7, 2019).

⁵ *Id.*

⁶ S. 316.191(1)(c), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ S. 316.191(1)(b), F.S.

¹⁰ National Hot Rod Association, *Basics of Drag Racing*, <http://www.nhra.com/nhra101/basics.aspx> (last visited May 7, 2019).

Florida law prohibits the following racing activities on any highway, roadway, or parking lot, unless sanctioned by the proper authorities:¹¹

- Driving a motor vehicle, including a motorcycle, in a:
 - Race;
 - Speed competition or contest;
 - Drag race;
 - Test of physical endurance;
 - Exhibition of speed or acceleration; or
 - Exhibition for making a speed record;¹²
- Participating in, coordinating, facilitating, or collecting money at a race, competition, test, or exhibition location;
- Knowingly riding as a passenger in a race, competition, test, or exhibition; or
- Purposefully stopping or slowing traffic movement for a race, competition, test, or exhibition.¹³

A racing violation is a first degree misdemeanor,¹⁴ punishable by up to one year in county jail.¹⁵ A court must impose the following penalties for a:

- Violation with no prior convictions in the preceding five years, a fine of \$500 to \$1,000 and one year driver license suspension.
- Second violation within five years of a prior violation resulting in a conviction, a fine of \$1,000 to \$3,000 and a two year driver license suspension.
- Third or subsequent violation within five years of a prior violation resulting in a conviction, a fine of \$2,000 to \$5,000 and a four year driver license suspension.¹⁶

Warrantless Arrest

A judge may issue a warrant authorizing a person's arrest upon finding probable cause that he or she committed a crime in the judge's jurisdiction.¹⁷ The United States Supreme Court has held that the Fourth Amendment to the United States Constitution does not forbid warrantless arrest, however, even for a misdemeanor offense.¹⁸

In Florida, a law enforcement officer may arrest a person without a warrant under statutorily enumerated circumstances,¹⁹ such as when:

- An officer reasonably believes a person committed a felony.
- A person commits a misdemeanor in an officer's presence.
 - In this circumstance, the officer must arrest the person immediately or in fresh pursuit after observing the offense.
- There is probable cause to believe a person has committed certain enumerated misdemeanor offenses, such as a battery, criminal mischief or graffiti, an act of domestic violence, an injunction violation, or sexual cyberharassment.

An officer may warrantlessly arrest a person who violates the Florida Uniform Traffic Control Law²⁰ in the presence of the officer.²¹ As with other warrantless misdemeanor arrests, the officer must arrest the

¹¹ S. 316.191(7), F.S.

¹² S. 316.191(2), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ S. 775.082, F.S.

¹⁶ S. 316.191(3), F.S.

¹⁷ S. 901.02, F.S.

¹⁸ *Atwater v. City of Lago Vista*, 532 U.S. 318 (2001).

¹⁹ S. 901.15, F.S.

²⁰ Ch. 316, F.S.

²¹ S. 901.15(5), F.S.

person immediately or in fresh pursuit after viewing the offense.²² A fellow officer who did not personally witness the offense may also arrest a person based on the witnessing officer's observations.²³ Thus, to arrest for a racing offense, an officer must:

- Witness the offense and arrest either immediately or in fresh pursuit;
- Arrest pursuant to a fellow officer's observations and arrest either immediately or in fresh pursuit; or
- Secure an arrest warrant.

The exception only for offenses occurring in the presence of an officer prohibits a warrantless arrest based only on a civilian witness's report. For example, if a witness calls police about a spontaneous street race, the race may likely end before police respond; however, obtaining an arrest warrant to timely address the complaint is often impractical.

Effect of the Bill

CS/HB 611 allows an officer to warrantlessly arrest a person if the officer has probable cause to believe he or she committed a racing offense. The bill lifts the requirement that an officer either:

- Witness the offense and arrest immediately or in fresh pursuit; or
- Secure an arrest warrant.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive insignificant impact on the number of jail beds by enabling officers to more efficiently arrest racing offenders.

²² *Id.*

²³ *Id.*

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.