

**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.)

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

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BILL: CS/SB 876

INTRODUCER: Transportation Committee and Senators Pizzo and Rodrigues

SUBJECT: Stunt Driving on Highways

DATE: January 31, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	<u>Pre-meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 876 defines various terms, including street takeover and stunt driving. A “street takeover” is defined as the taking over of a portion of a highway or roadway by blocking or impeding the regular flow of traffic to perform burnouts, doughnuts, drifting, wheelies, or other stunt driving. “Stunt driving” means to perform or engage in any burnouts, doughnuts, drifting, wheelies, or other activity on a roadway or highway which is likely to delay, distract, startle, or interfere with other users of the roadway or highway.

The bill provides that it is a noncriminal traffic infraction for a person to be a spectator at any street takeover.

The bill amends s. 316.191, F.S., relating to racing on highways, to add street takeovers and stunt driving to the list of prohibited acts that constitute a first degree misdemeanor. Specifically, the bill provides that a person may not:

- Drive any motor vehicles in any street takeover or stunt driving on any highway, roadway, or parking lot;
- Participate, coordinate, facilitate, or collect moneys, in a street takeover or stunt driving;
- Knowingly ride as a passenger in a street takeover or stunt driving; and
- Cause the movement of traffic to slow or stop for a street takeover or stunt driving.

The bill amends s. 318.18, F.S., to add street takeovers and stunt driving on highways to the list of criminal offenses which would require a \$65 penalty, in addition to any other penalty. The

additional \$65 must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.

Additionally, the bill provides that a law enforcement officer may arrest a person without a warrant when there is probable cause to believe a person has committed a street takeover or stunt driving.

The bill may have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill has an effective date of October 1, 2022.

## II. Present Situation:

Under current law a person is prohibited from driving any motor vehicle, including any motorcycle, in any race, speed competition or contest, drag race 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 addition, a person is prohibited from participating in, coordinating, facilitating, or collecting moneys at any location for any such event; knowingly riding as a passenger in any such event; or purposefully causing the movement of traffic to slow or stop for any such event.<sup>1</sup>

Any person who violates the above provisions commits a first degree misdemeanor,<sup>2</sup> must also pay a fine of not less than \$500 and not more than \$1,000, and the Department of Highway Safety and Motor Vehicles (DHSMV) must also revoke his or her driver license for one year.<sup>3</sup>

Any person who commits a second violation of the above provisions within five years of a prior conviction commits a first degree misdemeanor, must pay a fine of not less than \$1,000 and not more than \$3,000, and the DHSMV must also revoke his or her driver license for two years.<sup>4</sup>

Any person who commits a third or subsequent violation of the above provisions within five years of a prior conviction commits a first degree misdemeanor, must pay a fine of not less than \$2,000 and not more than \$5,000, and the DHSMV must also revoke his or her driver license for four years.<sup>5</sup>

A person who has had his or her driver license revoked may request a hearing pursuant to s. 322.271, F.S., to petition the DHSMV for reinstatement of driving privileges for the above revocations.<sup>6</sup>

Whenever a law enforcement officer has probable cause to believe that a person commits any of the above violations, the law enforcement officer may arrest and take the person into custody

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<sup>1</sup> Section 316.191(2), F.S.

<sup>2</sup> A first degree misdemeanor is punishable by up to a year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>3</sup> Section 316.191(3), F.S.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

without a warrant, and the court may enter an order of impoundment or immobilization as a condition of incarceration or probation. Within seven business days after the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the motor vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the motor vehicle.<sup>7</sup>

In addition, a person who is a spectator at a prohibited drag race under this section commits a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.<sup>8</sup>

### **Street Takeover**

Street takeovers are a relatively recent phenomenon that occur when large numbers, sometimes hundreds, of cars gather at a predetermined site, typically a large intersection. Some of the cars are used to block off the intersection and then other cars come into that intersection to perform donuts and other types of vehicular stunts. The problem with controlling these events is that it takes time for law enforcement to arrive because, due to the size and scale of these gatherings, multiple law enforcement resources need to be coordinated before they can take action. Once the first sign of law enforcement presence is detected, the participants scatter, including the many bystanders that come to watch the cars.<sup>9</sup>

There does not appear to be much governmental data or statistics associated with street takeovers; however, there are a number of media accounts from across the nation, including Orange and Miami-Dade counties in Florida. Numerous media accounts indicate that a significant number of injuries and fatalities have been associated with street takeovers.<sup>10</sup>

The Dallas Police Department's speeding and racing task force provides one example of a concerted local effort to crack down on street takeovers and other illegal events since the start of the pandemic. Since the formation of the task force through September 14, 2021, they have reported the following actions in connection with illegal events:<sup>11</sup>

- Traffic Stops: 5,855
- Hazardous Citations: 1,496
- Regulatory Citations: 4,585
- Spectators Arrested/Cited: 741
- Vehicles Towed: 650
- Calls Answered: 6,009
- Misdemeanor Arrests: 944

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<sup>7</sup> Section 316.191(5), F.S.

<sup>8</sup> Section 316.191(4), F.S.; Section 318.18, F.S., provides, that in addition to any other penalty, a person must pay \$65 for a violation of s. 316.191, F.S.

<sup>9</sup> Thom Taylor, *Street Takeovers Are Turning More Deadly*, November 15, 2021, motorbiscuit.com, <https://www.motorbiscuit.com/street-takeovers-turning-more-deadly/> (last visited January 27, 2022).

<sup>10</sup> *Ibid*; Erin Myers, *Car that crashed into Van Nuys building, killing 1, was being followed by police after doing donuts in street takeover*, October 25, 2021, ktla.com, <https://ktla.com/news/local-news/car-that-crashed-into-van-nuys-building-killing-1-was-being-followed-by-police-after-doing-donuts-in-street-takeover/> (last visited January 27, 2022).

<sup>11</sup> Michael Lozano, *Illegal Dallas 'street takeovers' feeling pinch from Dallas PD*, October 2, 2021, spectrumlocalnews.com, <https://spectrumlocalnews.com/tx/dallas-fort-worth/news/2021/09/30/dallas-illegal--street-takeovers--feeling-pinch-from-dallas-pd-> (last visited January 27, 2022).

- Felony Arrests: 124
- Offenses Cleared: 67
- Guns Seized: 107
- Drugs Seized: 201
- Stolen Vehicles Recovered: 42
- Arrest Assists: 1,099

### III. Effect of Proposed Changes:

The bill amends s. 316.191(1), F.S., to add the following definitions:

- “Burnout” means a maneuver performed while operating a motor vehicle whereby the vehicle is kept stationary, or is in motion, while the wheels are spun, the resulting friction causing the vehicle’s tires to heat up and emit smoke.
- “Doughnut” means a maneuver performed while operating a motor vehicle whereby the front or rear of the vehicle is rotated around the opposite set of wheels in a continuous motion which may cause a circular skid-mark pattern of rubber on the driving surface or the tires to heat up and emit smoke from friction, or both.
- “Drifting” means a maneuver performed while operating a motor vehicle whereby the vehicle is steered so that it makes a controlled skid sideways through a turn with the front wheels pointed in a direction opposite to that of the turn.
- “Street takeover” means the taking over of a portion of a highway or roadway by blocking or impeding the regular flow of traffic to perform burnouts, doughnuts, drifting, wheelies, or other stunt driving.
- “Stunt driving” means to perform or engage in any burnouts, doughnuts, drifting, wheelies, or other activity on a roadway or highway which is likely to delay, distract, startle, or interfere with other users of the roadway or highway.
- “Wheelie” means a maneuver performed while operating a motor vehicle whereby a motorcycle or other motor vehicle is ridden for a distance with the front wheel or wheels raised off the ground.

The bill amends the term “spectator” to include a person who is knowingly present at and views a street takeover. The new definition now means any person who is knowingly present at and views a drag race or street takeover, when such presence is the result of an affirmative choice to attend or participate in the event. For purposes of determining whether or not an individual is a spectator, finders of fact shall consider the relationship between the motor vehicle operator and the individual, evidence of gambling or betting on the outcome of the event, and any other factor that would tend to show knowing attendance or participation.

The bill amends s. 316.191(4), F.S., to provide that a person may not be a spectator at a street takeover and a person who violates this provision commits a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.

The bill amends s. 316.191(2), F.S., to provide that a person may not:

- Drive any motor vehicles, including any motorcycle, in any *street takeover* or *stunt driving* on any highway, roadway, or parking lot;
- Participate in, coordinate, facilitate, or collect moneys at any location for a *street takeover* or *stunt driving*;
- Knowingly ride as a passenger in a *street takeover* or *stunt driving*; or
- Purposefully cause the movement of traffic to slow or stop for a *street takeover* or *stunt driving*.

Any person who violates the above provisions commits a first degree misdemeanor, must pay a fine of not less than \$500 and not more than \$1,000, and the DHSMV must also revoke his or her driver license for one year.

Any person who commits a second violation of the above provisions within five years after the date of a prior violation that resulted in a conviction commits a first degree misdemeanor, must pay a fine of not less than \$1,000 and not more than \$3,000, and the DHSMV must also revoke his or her driver license for two years.

Any person who commits a third or subsequent violation of the above provisions within five years after the date of a prior violation that resulted in a conviction commits a first degree misdemeanor, must pay a fine of not less than \$2,000 and not more than \$5,000, and the DHSMV must also revoke his or her driver license for four years.

A hearing may be requested pursuant to s. 322.271, F.S., to petition the DHSMV for reinstatement of driving privileges for the above revocations.

Whenever a law enforcement officer has probable cause to believe that a person commits any of the above violations, the officer may arrest and take the person into custody without a warrant, and the court may enter an order of impoundment or immobilization as a condition of incarceration or probation. Within seven business days after the date of the impoundment or immobilization order, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the motor vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the motor vehicle.

The bill amends s. 901.15(9), F.S., to include a *street takeover* and *stunt driving* as incidents when a law enforcement officer may arrest a person without a warrant.

The bill amends s. 318.18(20), F.S., to add street takeovers and stunt driving on highways to the list of criminal offenses which would require a \$65 penalty, in addition to any other penalty. The additional \$65 must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.

The bill has an effective date of October 1, 2022.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

**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.

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

None.

**B. Private Sector Impact:**

Individuals driving, participating, coordinating, facilitating, collecting money, knowingly riding as a passenger, or causing the movement of traffic to slow or stop for a street takeover or stunt driving event may be negatively impacted if they are fined, arrested, have their vehicle impounded, or have their driver license revoked.

Individual spectators of a street takeover event may be negatively impacted if they are cited with a noncriminal traffic infraction.

**C. Government Sector Impact:**

State and local government entities may see an indeterminate positive fiscal impact associated with any fines or fees collected from individuals driving, participating, coordinating, facilitating, collecting money, knowingly riding as a passenger, or causing the movement of traffic to slow or stop for a street takeover or stunt driving event, and from the impoundment of vehicles.

State and local government may see an indeterminate positive fiscal impact associated with the issuance of a noncriminal traffic infraction to spectators of a street takeover.

The Emergency Medical Services Trust Fund of the Department of Health may see an indeterminate positive fiscal impact due to the addition of street takeovers and stunt driving on highways to the list of criminal offenses which would require a \$65 penalty, in addition to any other penalty, under s. 318.18(20), F.S.

There may be an indeterminate positive fiscal (increase in jail beds) due to persons arrested for the crimes created in the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.191, 318.18, and 901.15.

This bill reenacts section 322.0261 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on January 12, 2022:**

The committee substitute:

- Modifies the definition of “burnout” to allow the vehicle to also be in motion, and not just stationary.
- Amends the definition for “spectator” to include an individual present at and viewing a street takeover event.

- B. **Amendments:**

None.