

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 Transportation

BILL: SB 876

INTRODUCER: Senator Pizzo

SUBJECT: Stunt Driving on Highways

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Vickers	TR	Pre-meeting
2.			CJ	
3.			RC	

I. Summary:

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 a person may not:

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

The bill adds 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 provides probable cause for a law enforcement officer to arrest without a warrant for street takeover and 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.¹

Any person who violates the above provisions commits a misdemeanor of the first degree. They 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 the driver license of a person convicted for one year.²

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 misdemeanor of the first degree. They must also pay a fine of not less than \$1,000 and not more than \$3,000, and the DHSMV must also revoke the driver license of that person for two years.³

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 misdemeanor of the first degree. They must also pay a fine of not less than \$2,000 and not more than \$5,000, and the DHSMV must also revoke the driver license of that person for four years.⁴

The misdemeanors of the first degree are punishable as provided in ss. 775.082 or 775.083, F.S., and 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.⁵

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 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 the court issues 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.⁶

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.⁷

¹ Section 316.191(2), F.S.

² Section 316.191(3), F.S.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Section 316.191(5), F.S.

⁷ Section 319.191(4), F.S.

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.⁸

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.⁹

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:¹⁰

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

⁸ Thom Taylor, *Street Takeovers Are Turning More Deadly*, motorbiscuit.com, <https://www.motorbiscuit.com/street-takeovers-turning-more-deadly/> (last visited January 7, 2022).

⁹ *Ibid*; Erin Myers, *Car that crashed into Van Nuys building, killing 1, was being followed by police after doing donuts in street takeover*, 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 10, 2022).

¹⁰ Michael Lozano, *Illegal Dallas 'street takeovers' feeling pinch from Dallas PD*, 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 7, 2022).

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 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 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 misdemeanor of the first degree. They must also pay a fine of not less than \$500 and not more than \$1,000, and the DHSMV must also revoke the driver license of a person convicted 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 misdemeanor of the first degree. They must also pay a fine of not less than \$1,000 and not more than \$3,000, and the DHSMV must also revoke the driver license of that person 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 misdemeanor of the first degree. They must also pay a fine of not less than \$2,000 and not more than \$5,000, and the DHSMV must also revoke the driver license of that person for four years.

The misdemeanors of the first degree are punishable as provided in ss. 775.082 or 775.083, F.S., and 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 the court issues 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.

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. 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:

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.

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 as 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.

VI. Technical Deficiencies:

The proposed definition of “burnout” provides that a vehicle performing this maneuver is stationary. Therefore, the act of burning tires while the vehicle is moving in any respect may not fall within this definition. The DHSMV recommends that unless this is the intended result of this language, it may be necessary to omit the requirement that a vehicle be stationary to perform a burnout.¹¹

Section 316.191(3)(a), F.S., provides that any person who violates s. 316.191(2), F.S., commits a first-degree misdemeanor. Under SB 876, a person performing a wheelie while operating a motor vehicle may constitute “stunt driving,” which would be a prohibited act under s. 316.191(2)(a), F.S. Therefore, by performing a wheelie, a person may be charged with a first-degree misdemeanor. Although the term “wheelie” is not used in s. 316.2085, F.S., that section provides

¹¹ Department of Highway Safety and Motor Vehicles, *2022 Legislative Bill Analysis for SB 876*, (December 20, 2021), p. 5 (on file in the Senate Committee on Transportation).

that a person shall ride upon a motorcycle or moped only while sitting astride the seat with both wheels on the ground at all times. Violation of this section is a noncriminal traffic infraction punishable as a moving violation in ch. 318, F.S. Thus, the bill creates a potential conflict between s. 316.191(2)(a), F.S., which makes performing a wheelie a first-degree misdemeanor, and s. 316.2085, F.S., which may make performing a wheelie a noncriminal infraction punishable as a moving violation. The DHSMV recommends that consideration be given to either creating a distinction between a wheelie punishable as a noncriminal infraction and a wheelie punishable as a misdemeanor crime or proposing amendments to s. 316.2085, F.S., that are consistent with the bill's proposals regarding wheelies.¹²

The DHSMV advises the definition of "spectator" may need to be amended due to the proposed amendments to 316.191(4)(a), F.S. The proposed amendment provides that "a person may not be a spectator at any drag race or street takeover prohibited under subsection (2)." Currently, "spectator" is very narrowly defined in s. 316.191(1)(d), F.S., as a person who is knowingly present at and views a drag race. Moreover, a "drag race" is also very narrowly defined in s. 316.191(1)(b), F.S., and, by definition, would not include behavior defined as a "street takeover." Therefore, the DHSMV recommends that consideration be given to defining "spectator" in a manner that is consistent with the proposed changes to s. 316.191(4)(a), F.S.¹³

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.

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.

¹² *Ibid*, p. 5-6.

¹³ *Ibid*, p. 5.