

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 449 Motor Vehicle Racing Penalties
SPONSOR(S): Criminal Justice Subcommittee, Michael and others
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|------------------|---------|--|
| 1) Criminal Justice Subcommittee | 18 Y, 0 N, As CS | Butcher | Hall |
| 2) Justice Appropriations Subcommittee | 13 Y, 0 N | Smith | Keith |
| 3) Judiciary Committee | | | |

SUMMARY ANALYSIS

Florida law prohibits the following racing activities on highways, roadways, or parking lots, unless sanctioned by the proper authorities: driving a motor vehicle, including a motorcycle, in any: race; street takeover; stunt driving; speed competition or contest; drag race; test of physical endurance; or exhibition of speed or acceleration or for making a speed record; participating in, coordinating, facilitating, collecting money, filming or recording, or carrying fuel, for any such race; knowingly riding as a passenger in any such race; or purposefully stopping or slowing traffic movement for any such race.

Generally, a racing violation is a first degree misdemeanor and being a spectator at a race is punishable as a noncriminal traffic infraction.

CS/HB 449 amends s. 316.191, F.S., to:

- Increase the amount to be fined for a violation of s. 316.191(2), F.S., from a range of not less than \$500 and not more than \$1,000, to a range of not less than \$1,500 and not more than \$2,500.
- Decrease the time period during which a second violation of s. 316.191(2), F.S., will result in an enhanced penalty, from within *five years* after the date of a prior violation that resulted in conviction, to within *one year* of such violation; and
 - Increase the penalty for such a violation from a first degree misdemeanor to a third degree felony.
 - Increase the amount to be fined for such a violation from a range of not less than \$1,000 and not more than \$3,000, to a range of not less than \$5,000 and not more than \$7,500.
- Create a third degree felony for any person who violates s. 316.191(2), F.S., and, in the course of committing the offense, knowingly impedes, obstructs, or interferes with an authorized emergency vehicle, as defined in s. 316.003(1), that is on call and responding to an emergency other than a violation of s. 316.191(2), F.S.
- Create a second degree felony, in addition to a four year driver license revocation, for a second or subsequent violation of the above described offense.
- Increase the penalty for a third or subsequent violation of s. 316.191(2), F.S., within five years after the date of a prior violation that resulted in a conviction, from a first degree misdemeanor to a third degree felony, and increase the amount to be fined from a range of not less than \$2,000 and not more than \$5,000, to a range of not less than \$7,500 and not more than \$10,000.
- Increase the spectator fine under s. 316.191(4), F.S., from \$65 to \$250.

The bill may have a positive indeterminate impact on jail and prison beds by increasing the penalty for specified racing offenses from a misdemeanor to a felony, and by creating a new felony racing offense if a person knowingly impedes, obstructs, or interferes with an authorized emergency vehicle that is on call and responding to an emergency. The bill may also have an indeterminate, yet positive impact on state and local revenues by increasing fines relating to specified racing and spectator offenses.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Street-racing involves cars, motorcycles, and other motor vehicles engaging in prearranged or spontaneous competitions on roadways. The practice endangers participants, bystanders, and property. In addition to street-racing, another dangerous activity which has recently grown in popularity across the country is known as a “street takeover.”¹ Street takeovers occur when large numbers of cars and occupants gather at a predetermined site, typically a large intersection. Vehicles are then parked in a manner which blocks the intersection to make a space for other cars to perform donuts, drifting, burn-outs and other dangerous vehicular maneuvers.² Due to the large size of these gatherings, law enforcement may experience difficulty responding to and controlling these events because of the time it takes to assemble appropriate law enforcement resources to address the crowd. Typically, by the time law enforcement presence is detected, the vehicles participating in the street takeover flee the location, along with the many bystanders who were present to watch the cars.³

In Jacksonville, street takeover participants acknowledged that their meet-ups have anywhere from 300 to thousands of people in attendance,⁴ and residents nearby indicate that these events are dangerous and often continue until well past midnight.⁵ In 2023, the Orange County Sheriff's Office made 157 arrests, issued 1,290 citations, and seized 54 vehicles related to dangerous and illegal street racing.⁶ In Miami, police arrested a suspect accused of organizing street races and intersection takeovers in South Florida dating back to 2022.⁷ According to the Florida Department of Highway Safety and Motor Vehicles, between 2018 and 2022, there were 6,641 citations issued under s. 316.191, F.S. for either street racing and stunt driving, or for actively participating as a spectator, with the majority of citations issued to persons between 16 and 29 years old.⁸

Racing Offenses

Under s. 316.191(1)(g), F.S., a “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

¹ 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 Jan. 30, 2024).

² Elizabeth Fuller, *What's a Street "Takeover" and Why Should You Be Concerned?*, Larchmont Buzz (Sept. 21, 2020), <https://www.larchmontbuzz.com/featured-stories-larchmont-village/whats-a-street-takeover-and-why-you-should-be-concerned/> (last visited Jan. 30, 2024).

³ Thom Taylor, *Street Takeovers Are Turning More Deadly*, MotorBiscuit (Nov. 15, 2021), <https://www.motorbiscuit.com/street-takeovers-turning-more-deadly/> (last visited Jan. 30, 2024).

⁴ Corley Peel, *I-TEAM: Local car group speaks following street takeover complaints*, News4Jax (Jan. 17, 2022), <https://www.news4jax.com/news/local/2022/01/16/local-car-group-speaks-following-street-takeover-complaints/> (last visited Jan. 30, 2024).

⁵ Scott Johnson, *I-TEAM: Complaints continue over car groups driving erratically in vacant parking lots*, News4Jax (Jan. 13, 2022), <https://www.news4jax.com/news/local/2022/01/13/i-team-complaints-continue-over-dangerous-driving-in-vacant-parking-lots/> (last visited Jan. 30, 2024).

⁶ Aurielle Eady, *2 men clocked going 199 mph while street racing on Florida Turnpike, deputies say*, Fox 35 Orlando (Jan. 23, 2024), <https://www.fox35orlando.com/news/2-men-clocked-going-199-mph-while-street-racing-on-florida-turnpike-deputies-say> (last visited Jan. 30, 2024).

⁷ Brian Hamacher, *Alleged main organizer of Miami-Dade street races and intersection takeovers arrested*, NBC Miami (Jan. 18, 2024), <https://www.nbcmiami.com/news/local/alleged-main-organizer-of-miami-dade-street-races-and-intersection-takeovers-arrested/3209953/> (last visited Jan. 30, 2024).

⁸ *Street Racing/Takeovers, Stunt Driving*, FLHSMV, <https://www.flhsmv.gov/safety-center/driving-safety/stop-racing/> (last visited Jan. 30, 2024).

more drivers which, under the totality of the circumstances, can reasonably be interpreted as a challenge to race.

A “drag race” is a specific type of race involving:

- Two⁹ or more motor vehicles driven side-by-side at accelerating speeds in a competitive attempt to outdistance each other; or
- One or more motor vehicles driven over a common selected course, from the same starting point to the same ending point, for the purpose of comparing the relative speed or power of acceleration of such motor vehicle or vehicles within a certain distance or time limit.¹⁰

A “street takeover” is the taking over of a portion of a highway, roadway, or parking lot by blocking or impeding the regular flow of traffic to perform a race, drag race, burnout, doughnut, drifting, wheelie, or other stunt driving.¹¹

“Stunt driving” means to perform or engage in any burnouts, doughnuts, drifting, wheelies, or other dangerous motor vehicle activity on a highway, roadway, or parking lot as part of a street takeover.¹²

Florida law prohibits the following racing activities on any highway, roadway, or parking lot, unless sanctioned by the proper authorities:¹³

- Driving a motor vehicle, including a motorcycle, in a:
 - Race;
 - Street takeover;
 - Stunt driving;
 - Speed competition or contest;
 - Drag race or acceleration contest;
 - Test of physical endurance; or
 - Exhibition of speed or acceleration for the purpose of making a speed record;¹⁴
- Participating in, coordinating, facilitating, or collecting money at a race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition;
- Knowingly riding as a passenger in a race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition;
- Purposefully causing the movement of traffic, including pedestrian traffic, to slow, stop, or be impeded in any way for any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition;
- Operating a motor vehicle for the purpose of filming or recording the activities of participants in any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition, not including bona fide members of the news media; or
- Operating a motor vehicle carrying any amount of fuel for the purposes of fueling a motor vehicle involved in any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition.¹⁵

⁹ Drag racing most commonly involves two motor vehicles operating side-by-side. National Hot Rod Association, *Basics of Drag Racing*, <http://www.nhra.com/nhra101/basics.aspx> (last visited Jan. 30, 2024).

¹⁰ S. 316.191(1)(d), F.S.

¹¹ S. 316.191(1)(i), F.S.

¹² S. 316.191(1)(j), F.S.

¹³ S. 316.191(7), F.S.

¹⁴ S. 316.191(2), F.S.

¹⁵ *Id.*

A racing violation is a first degree misdemeanor,¹⁶ punishable by up to one year in county jail.¹⁷

Additionally, a court must impose the following penalties:

- For a violation with no prior convictions in the preceding five years, a fine of \$500 up to \$1,000 and a one year driver license suspension.
- For a second violation within five years of a prior violation resulting in a conviction, a fine of \$1,000 up to \$3,000 and a two year driver license suspension.
- For a third or subsequent violation within five years of a prior violation resulting in a conviction, a fine of \$2,000 up to \$5,000 and a four year driver license suspension.¹⁸

In addition to the criminal penalties provided, a person who commits a racing violation must pay a \$65 penalty.¹⁹ Monies collected pursuant to this additional penalty are remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health to be used to ensure the availability and accessibility of trauma services throughout the state as provided in s. 316.192, F.S.

Section 316.191, F.S., also prohibits a person from being a spectator at a drag race. To be considered a spectator, a person must knowingly be present at and view 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, the finder of fact must consider the relationship between the motor vehicle operator and the individual, evidence of gambling or betting on the outcome of the event, filming or recording the event, posting the event on social media, and any other factor that would tend to show knowing attendance or participation. Being a spectator at a drag race is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.²⁰

Criminal Punishment Code

Felony offenses which are subject to the Criminal Punishment Code²¹ are listed in a single offense severity ranking chart (OSRC),²² which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense listed in the OSRC is assigned a level according to the severity of the offense.^{23,24} A person's primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each offense.^{25,26} The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.²⁷

¹⁶ *Id.*

¹⁷ S. 775.082, F.S.

¹⁸ S. 316.191(3), F.S.

¹⁹ S. 318.18(20), F.S.

²⁰ S. 316.191(4), F.S.

²¹ All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code. S. 921.002, F.S.

²² S. 921.0022, F.S.

²³ S. 921.0022(2), F.S.

²⁴ Felony offenses that are not listed in the OSRC default to statutorily assigned levels, as follows: an unlisted third-degree felony defaults to a level 1; an unlisted second-degree felony defaults to a level 4; an unlisted first-degree felony defaults to a level 7; an unlisted first-degree felony punishable by life defaults to a level 9; and an unlisted life felony defaults to a level 10. S. 921.0023, F.S.

²⁵ Ss. 921.0022 and 921.0024, F.S.

²⁶ A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. S. 921.0024(1), F.S.

²⁷ If a person scores more than 44 points, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. S. 921.0024(2), F.S.

Effect of Proposed Changes

CS/HB 449 amends s. 316.191, F.S., to:

- Increase the amount to be fined for a violation of s. 316.191(2), F.S., from a range of not less than \$500 and not more than \$1,000, to a range of not less than \$1,500 and not more than \$2,500.
- Decrease the time period during which a second violation of s. 316.191(2), F.S., will result in an enhanced penalty, from within *five years* after the date of a prior violation that resulted in conviction, to within *one year* of such violation; and
 - Increase the penalty for such a violation from a first degree misdemeanor to a third degree felony.²⁸
 - Increase the amount to be fined for such a violation from a range of not less than \$1,000 and not more than \$3,000, to a range of not less than \$5,000 and not more than \$7,500.
- Create a third degree felony for any person who violates s. 316.191(2), F.S., and, in the course of committing the offense, knowingly impedes, obstructs, or interferes with an authorized emergency vehicle, as defined in s. 316.003(1), F.S., that is on call and responding to an emergency other than a violation of s. 316.191(2), F.S.
- Create a second degree felony,²⁹ in addition to a four year driver license revocation, for a second or subsequent violation of the above described offense.
- Increase the penalty for a third or subsequent violation of s. 316.191(2), F.S., within five years after the date of a prior violation that resulted in a conviction, from a first degree misdemeanor to a third degree felony, and increase the amount to be fined from a range of not less than \$2,000 and not more than \$5,000, to a range of not less than \$7,500 to not more than \$10,000.
- Increase the spectator fine under s. 316.191(4), F.S., from \$65 to \$250.

Under the bill, an authorized emergency vehicle is a vehicle of the fire department (fire patrol), a police vehicle, and such ambulance and emergency vehicles of municipal departments, volunteer ambulance services, public service corporations operated by private corporations, the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the Department of Health, the Department of Transportation, and the Department of Corrections as are designated or authorized by their respective departments or the chief of police of an incorporated city or any sheriff of any of the various counties.³⁰

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 316.191, F.S., relating to racing on highways, street takeovers, and stunt driving.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate, yet positive impact on state revenues by increasing fines and fees for specified racing offenses, in addition to broadening the scope under which such fines and fees may be levied.

2. Expenditures:

See Fiscal Comments.

²⁸ A third degree felony is punishable by up to five years in prison and a \$5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

²⁹ A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

³⁰ S. 316.003(1), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate, yet positive impact on local revenues by increasing the amount fined for a noncriminal traffic infraction for being a spectator at a race or street takeover from \$65 to \$250.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have a positive indeterminate impact on jail and prison beds by increasing the penalty for specified racing offenses from a misdemeanor to a felony, in addition to creating a new felony racing offense if a person knowingly impedes, obstructs, or interferes with an authorized emergency vehicle that is on call and responding to an emergency.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Criminal Justice Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differed from the original bill as it:

- Removed changes to s. 782.071, F.S., relating to vehicular homicide.
- Applied uniform penalties for violations of s. 316.191(2), F.S., instead of separate penalties for violations of s. 316.191(2)(a), F.S., and violations of other paragraphs in s. 316.191(2), F.S.
- Kept a standard violation s. 316.191(2), F.S., as a first degree misdemeanor, but increased the fine.
- Reduced the time period between specified offenses, during which a second violation will result in an enhanced penalty, from five years to one year, and increased the applicable fine.
- Increased the fine for a third or subsequent violation of s. 316.191(2), F.S., within five years.
- Increased the "spectator" fine under s. 316.191(4)(b), F.S.
- Created a new third degree felony for any person who violates s. 316.191(2), F.S., and, in the course of committing the offense, knowingly impedes, obstructs, or interferes with an authorized

emergency vehicle that is on call and responding to an emergency, and created a second degree felony for a second or subsequent offense.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.