

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 1764

INTRODUCER: Senator Pizzo

SUBJECT: Car Racing Penalties

DATE: February 5, 2024

REVISED: _____

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

I. Summary:

SB 1764 makes numerous changes to s. 316.191, F.S., related to racing on highways, street takeovers, and stunt driving. Specifically, the bill:

- Defines the term “conviction” for the purposes of determining whether a conviction constitutes a first, second, third, or subsequent conviction as it relates to sentencing.
- Increases the fine for a violation of s. 316.191(2), F.S., (participating in a prohibited activity) from \$500 to \$1,000, to \$1,500 to \$2,500.
- Decreases 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
 - Increases the penalty for such a violation from a first degree misdemeanor to a third degree felony.
 - Increases the fine for such a violation from \$1,000 to \$3,000, to \$5,000 to \$7,500.
 - Authorizes the arresting law enforcement agency to seize any vehicle used in the commission of the offense.
- Increases the penalty for a third or subsequent violation 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 increases the fine from \$2,000 to \$5,000, to \$7,500 to \$10,000.
- Creates 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 second or subsequent violation of this provision is punishable as a second degree felony.
- Increases the fine for being a spectator at a prohibited activity from \$65 to \$500.

The bill may have an indeterminate impact on the jail and prison bed population 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. The bill may have an indeterminate positive impact on state and local revenues by increasing fines relating to specified racing and spectator offenses.

The bill takes effect July 1, 2024.

II. Present Situation:

Street Racing

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

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), ktl.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. 25, 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. 25, 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. 25, 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. 25, 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. 25, 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. 25, 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. 25, 2024).

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 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;

⁸ *Street Racing/Takeovers, Stunt Driving*, DHSMV, <https://www.flhsmv.gov/safety-center/driving-safety/stop-racing/> (last visited Jan. 25, 2024).

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. 25, 2024).

¹⁰ Section 316.191(1)(d), F.S.

¹¹ Section 316.191(1)(i), F.S.

¹² Section 316.191(1)(j), F.S.

¹³ Section 316.191(7), F.S.

- 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

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

¹⁴ Section 316.191(2), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 775.082, F.S.

¹⁸ Section 316.191(3), F.S.

¹⁹ Section 318.18(20), F.S.

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

III. Effect of Proposed Changes:

The bill amends s. 316.191 (1)(b) F.S., to provide that for the purposes of determining whether a conviction is a first, second, third, or subsequent conviction for the purposes of sentencing under this section, the term "conviction" includes being convicted of a violation of this section, the completion of any diversion or other program that results in the dismissal or change of charge of a violation of this section, or the acceptance of a plea creating a change of charge of violation of this section.

The bill amends s. 316.191(2) F.S., to increase the fine for a first offense violation from \$500 to \$1,000, to \$1,500 to \$2,500.

The bill amends s. 319.191 (2) F.S. to decrease the time period during which a second violation of the subsection 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. It increases the penalty for such a violation from a first degree misdemeanor to a third degree felony. It also increases the fine for such a violation from \$1,000 to \$3,000, to \$5,000 to \$7,500. Pursuant to the Florida Contraband Forfeiture Act, the arresting law enforcement agency may move to seize any vehicle used in the violation of this subsection.

²⁰ Section 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 Section 921.0022, F.S.

²³ Section 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. Section 921.0023, F.S.

²⁵ Sections 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.

The bill amends s. 316.191(2) F.S., to create a third degree felony for any person who violates this subsection 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). The bill creates a second degree felony, in addition to a four year driver license revocation, for a second or subsequent violation of this offense.

The bill increases 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 fine from \$2,000 to \$5,000, to \$7,500 to \$10,000.

The bill increases the spectator fine under s. 316.191(4), F.S., from \$65 to \$500.

For purposes of 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.²⁸

The bill takes effect July 1, 2024.

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.

²⁸ Section 316.003(1), F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate positive impact on state revenues by increasing fines for specified racing offenses.

The bill may have an indeterminate positive impact on local government revenues by increasing the fine for a noncriminal traffic infraction for being a spectator at a race or street takeover.

The bill may have an indeterminate positive impact on the jail and prison bed population 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.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 1764 provides that the term “conviction” includes the completion of any diversion or other program that results in the dismissal or change of charge of a violation of s. 316.191, F.S., for the purpose of reclassifying an offense based upon previous convictions. The state must prove a previous conviction for purposes of reclassifying second or subsequent offenses.²⁹ If the person’s previous alleged violation was dismissed or resulted in a conviction of a different offense, the state would be unable to prove the previous conviction for purposes of reclassifying the offense.

VIII. Statutes Affected:

This bill substantially amends section 316.191, F.S.

²⁹ The Fifth and Sixth Amendments of the U.S. Constitution require criminal convictions to rest upon a jury determination that the defendant is guilty of every element of the crime with which he is charged. *Sullivan v. Louisiana*, 508 U.S. 275, 277–278.

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.
