

CHAPTER 2022-180

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 399

An act relating to motor vehicle and vessel law enforcement; reenacting and amending s. 316.191, F.S.; revising and providing definitions; prohibiting a person from driving any motor vehicle in any street takeover, stunt driving performed as part of a street takeover, racing, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration on any highway, roadway, or parking lot; prohibiting a person from participating in or coordinating via social media any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; prohibiting a person from knowingly riding as a passenger in any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; prohibiting a person from purposefully causing the movement of traffic, including pedestrian traffic, to slow, stop, or be impeded in any way for such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; prohibiting a person from operating a motor vehicle for the purpose of filming or recording activities of participants in any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; providing an exception; prohibiting a person from 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; providing penalties; prohibiting a person from being a spectator at any such race, drag race, or street takeover; providing penalties; amending s. 316.2397, F.S.; providing criminal penalties for unlawful use of certain lights under specified circumstances; amending s. 318.18, F.S.; conforming provisions to changes made by the act; reenacting ss. 316.027(2)(c) and 322.0261(4)(a) and (b), F.S., relating to a crash involving death or personal injuries and driver improvement courses, respectively, to incorporate the amendment made to s. 316.191, F.S., in references thereto; amending s. 901.15, F.S.; conforming provisions to changes made by the act; amending s. 843.08, F.S.; authorizing a court or jury to consider specified evidence in determining whether an offense of false personation was committed; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.191, Florida Statutes, is reenacted and amended to read:

316.191 Racing on highways, street takeovers, and stunt driving.—

(1) As used in this section, the term:

(a) “Burnout” means a maneuver performed while operating a motor vehicle whereby the motor vehicle is kept stationary, or is in motion, while

the wheels are spun, resulting in friction which causes the motor vehicle's tires to heat up and emit smoke.

(b)(a) "Conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

(c) "Doughnut" means a maneuver performed while operating a motor vehicle whereby the front or rear of the motor 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.

(d)(b) "Drag race" means the operation of two or more motor vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such motor vehicle or motor vehicles within a certain distance or time limit.

(e) "Drifting" means a maneuver performed while operating a motor vehicle whereby the motor 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.

(f) "Motor vehicle" has the same meaning as in s. 316.003. The term "motor vehicle" also includes any motorcycle, autocycle, moped, all-terrain vehicle, off-road vehicle, or vehicle not licensed to operate on a highway or roadway.

(g)(e) "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.

(h)(d) "Spectator" 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 ~~raee~~. For purposes of determining whether or not an individual is a spectator, finders of fact shall consider the relationship between the motor vehicle operator ~~raeer~~ and the individual, evidence of gambling or betting on the outcome of the event ~~raee~~, filming or recording the event, or posting the event on social media, and any other factor that would tend to show knowing attendance or participation.

(i) “Street takeover” means 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.

(j) “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.

(k) “Wheelie” means a maneuver performed while operating a motor vehicle whereby a motor vehicle is ridden for a distance with the front wheel or wheels raised off the ground.

(2) A person may not:

(a) Drive any motor vehicle, ~~including any motoreyele,~~ in any street takeover, stunt driving, 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;

(b) In any manner participate in, coordinate through social media or otherwise, facilitate, or collect moneys at any location for any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition;

(c) Knowingly ride as a passenger in any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; ~~or~~

(d) Purposefully cause the movement of traffic, including pedestrian traffic, to slow, ~~or stop,~~ or be impeded in any way for any such race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition;

(e) Operate 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. This paragraph does not apply to bona fide members of the news media; or

(f) Operate 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.

(3)(a) Any person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates subsection (2) shall pay a fine of not less than \$500 and not more than \$1,000, and the department shall revoke the driver license of a person so convicted for 1 year. A hearing may be requested pursuant to s. 322.271.

(b) Any person who commits a second violation of subsection (2) within 5 years after the date of a prior violation that resulted in a conviction for a violation of subsection (2) commits a misdemeanor of the first degree,

punishable as provided in s. 775.082 or s. 775.083, and shall pay a fine of not less than \$1,000 and not more than \$3,000. The department shall also revoke the driver license of that person for 2 years. A hearing may be requested pursuant to s. 322.271.

(c) Any person who commits a third or subsequent violation of subsection (2) within 5 years after the date of a prior violation that resulted in a conviction for a violation of subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall pay a fine of not less than \$2,000 and not more than \$5,000. The department shall also revoke the driver license of that person for 4 years. A hearing may be requested pursuant to s. 322.271.

(d) In any case charging a violation of subsection (2), the court shall be provided a copy of the driving record of the person charged and may obtain any records from any other source to determine if one or more prior convictions of the person for a violation of subsection (2) have occurred within 5 years before ~~prior to~~ the charged offense.

(4)(a) A person may not be a spectator at any race, drag race, or street takeover prohibited under subsection (2).

(b) A person who violates paragraph (a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(5) Whenever a law enforcement officer has probable cause to believe that a person violated subsection (2), the officer may arrest and take such person into custody without a warrant. The court may enter an order of impoundment or immobilization as a condition of incarceration or probation. Within 7 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.

(a) Notwithstanding any provision of law to the contrary, the impounding agency shall release a motor vehicle under the conditions provided in s. 316.193(6)(e), (f), (g), and (h), if the owner or agent presents a valid driver license at the time of pickup of the motor vehicle.

(b) All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the motor vehicle or, if the motor vehicle is leased or rented, by the person leasing or renting the motor vehicle, unless the impoundment or immobilization order is dismissed. All provisions of s. 713.78 shall apply.

(c) Any motor vehicle used in violation of subsection (2) may be impounded for a period of 30 business days if a law enforcement officer has arrested and taken a person into custody pursuant to this subsection and the person being arrested is the registered owner or co-owner of the motor

vehicle. If the arresting officer finds that the criteria of this paragraph are met, the officer may immediately impound the motor vehicle. The law enforcement officer shall notify the Department of Highway Safety and Motor Vehicles of any impoundment for violation of this subsection in accordance with procedures established by the department. Paragraphs (a) and (b) shall be applicable to such impoundment.

(6) Any motor vehicle used in violation of subsection (2) by any person within 5 years after the date of a prior conviction of that person for a violation under subsection (2) may be seized and forfeited as provided by the Florida Contraband Forfeiture Act. This subsection shall only be applicable if the owner of the motor vehicle is the person charged with violating subsection (2).

(7) This section does not apply to licensed or duly authorized racetracks, drag strips, or other designated areas set aside by proper authorities for such purposes.

Section 2. Subsection (10) of section 316.2397, Florida Statutes, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(10)(a) A person who violates subsection (1) and in so doing effects or attempts to effect a stop of another vehicle commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in paragraph (a), a violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 3. Subsection (20) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(20) In addition to any other penalty, \$65 for a violation of s. 316.191, prohibiting racing on highways, street takeovers, and stunt driving, or s. 316.192, prohibiting reckless driving. The additional \$65 collected under this subsection shall be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health to be used as provided in s. 395.4036.

Section 4. For the purpose of incorporating the amendment made by this act to section 316.191, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 316.027, Florida Statutes, is reenacted to read:

316.027 Crash involving death or personal injuries.—

(2)

(c) The driver of a vehicle involved in a crash occurring on public or private property which results in the death of a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who is arrested for a violation of this paragraph and who has previously been convicted of a violation of this section, s. 316.061, s. 316.191, or s. 316.193, or a felony violation of s. 322.34, shall be held in custody until brought before the court for admittance to bail in accordance with chapter 903. A person who willfully violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be sentenced to a mandatory minimum term of imprisonment of 4 years. A person who willfully commits such a violation while driving under the influence as set forth in s. 316.193(1) shall be sentenced to a mandatory minimum term of imprisonment of 4 years.

Section 5. For the purpose of incorporating the amendment made by this act to section 316.191, Florida Statutes, in references thereto, paragraphs (a) and (b) of subsection (4) of section 322.0261, Florida Statutes, are reenacted to read:

322.0261 Driver improvement course; requirement to maintain driving privileges; failure to complete; department approval of course.—

(4)(a) The department shall identify any operator convicted of, or who pleaded nolo contendere to, a violation of s. 316.074(1), s. 316.075(1)(c)1., s. 316.172, s. 316.191, or s. 316.192 and shall require that operator, in addition to other applicable penalties, to attend a department-approved driver improvement course in order to maintain driving privileges. The department shall, within 10 days after receiving a notice of judicial disposition, send notice to the operator of the requirement to attend a driver improvement course. If the operator fails to complete the course within 90 days after receiving notice from the department, the operator's driver license shall be canceled by the department until the course is successfully completed.

(b) Any operator who receives a traffic citation for a violation of s. 316.074(1), s. 316.075(1)(c)1., s. 316.191, or s. 316.192, for which the court withholds adjudication, is not required to attend a driver improvement course, unless the court finds that the nature or severity of the violation is such that attendance to a driver improvement course is necessary. The department shall, within 10 days after receiving a notice of judicial disposition, send notice to the operator of the requirement to attend a driver improvement course. If the operator fails to complete the course within 90 days after receiving notice from the department, the operator's driver license shall be canceled by the department until the course is successfully completed.

Section 6. Paragraph (d) of subsection (9) of section 901.15, Florida Statutes, is amended to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(9) There is probable cause to believe that the person has committed:

(d) A racing, street takeover, or stunt driving violation as described in s. 316.191(2).

Section 7. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In determining whether a defendant has violated this section, the court or jury may consider any relevant evidence, including, but not limited to, whether the defendant used lights in violation of s. 316.2397 or s. 843.081.

Section 8. This act shall take effect October 1, 2022.

Approved by the Governor June 8, 2022.

Filed in Office Secretary of State June 8, 2022.