

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 Criminal Justice

BILL: CS/CS/SB 876

INTRODUCER: Criminal Justice Committee; Transportation Committee; and Senators Pizzo and Rodrigues

SUBJECT: Stunt Driving on Highways

DATE: February 2, 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>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/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. Additionally, evidence that a person is filming or recording the event, or posting the event on social media, may be used to prove that a person was a spectator.

The bill amends s. 316.191, F.S., relating to racing on highways, to create three new first degree misdemeanor offenses. Specifically, a person may not:

- Operate a vehicle for the purpose of filming or recording the activities of participants in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition. There is an exception for bona fide members of the news media.
- Operate a vehicle carrying any amount of fuel for the purposes of fueling a vehicle involved in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; or
- Operate a vehicle in a manner that would constitute participation in a street takeover.

Additionally, the bill adds drag racing, street takeovers, and stunt driving to the current list of prohibited acts that constitute a first degree misdemeanor. The bill also adds specified vehicles that may not be driven at certain events. Specifically, the bill provides that a person may not:

- Drive any motor vehicle, motorcycle, *autocycle, moped, all-terrain vehicle, off-road vehicle, or vehicle not licensed to operate on a highway or roadway*, 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 or exhibiting the vehicle's performance capabilities and driver's abilities* on any highway, roadway, or parking lot;
- Participate, coordinate *through social media or otherwise*, facilitate, or collect moneys, in a *drag race, street takeover, or stunt driving*;
- Knowingly ride as a passenger in a *drag race, street takeover, or stunt driving*;
- Cause the movement of traffic, *including pedestrian traffic*, to slow, stop, or *be impeded in any way* for a *drag race, 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 amends s. 316.2397, F.S., relating to the prohibition of certain lights on a vehicle, to enhance the penalty from a noncriminal traffic infraction to a first degree misdemeanor. Additionally, the bill amends s. 843.08, F.S., to prohibit a person from falsely assuming or pretending to be specified persons by the use of certain lights.

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

¹ Section 316.191(2), F.S.

Any person who violates the above provisions commits a first degree misdemeanor,² 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.³

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.⁴

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.⁵

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.⁶

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 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.⁷

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.⁸

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

² 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.

³ Section 316.191(3), F.S.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Section 316.191(5), F.S.

⁸ 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.

first sign of law enforcement presence is detected, the participants scatter, including the many bystanders that come to watch the cars.⁹

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.¹⁰

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:¹¹

- 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

Certain prohibited lights

A person may not drive or move or cause to be moved any vehicle or equipment upon any highway within this state with any lamp or device thereon showing or displaying certain colors of lights unless they are explicitly authorized.¹² Section 316.2397, F.S., delineates what persons or entities may utilize certain lights. For example, only police vehicles and certain vehicles owned, operated, or leased by the Department of Corrections may show or display blue lights when responding to emergencies.¹³ A person may receive a noncriminal traffic infraction for the improper use of certain lights.¹⁴

⁹ 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).

¹⁰ *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).

¹¹ 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).

¹² Section 316.2397(1), F.S.

¹³ Section 316.2397(2), F.S.

¹⁴ Section 316.2397(10), F.S.

False Personation

A person who falsely assumes or pretends to be a specified person¹⁵ 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 third degree felony.¹⁶ However, a person who impersonates a specified person during the commission of a felony commits a second degree felony.¹⁷ If the felony results in death or personal injury of another person, it is a first degree felony.^{18, 19}

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.

¹⁵ Section 843.08, F.S. includes the following: firefighter, 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, 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.

¹⁶ The maximum term of imprisonment for a third degree felony is 5 years imprisonment and a fine not exceeding \$5,000. Sections 775.082 and 775.083 F.S.

¹⁷ The maximum term of imprisonment for a second degree felony is 15 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

¹⁸ The maximum term of imprisonment for a first degree felony is generally 30 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083 F.S.

¹⁹ Section 843.08, F.S.

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, filming or recording the event, or posting the event to social media, 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., relating to racing on highways, to create three new first degree misdemeanor offenses. Specifically, a person may not:

- Operate a vehicle for the purpose of filming or recording the activities of participants in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition. There is an exception for bona fide members of the news media.
- Operate a vehicle carrying any amount of fuel for the purposes of fueling a vehicle involved in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; or
- Operate a vehicle in a manner that would constitute participation in a street takeover.

Additionally, the bill adds drag racing, street takeovers, and stunt driving to the current list of prohibited acts that constitute a first degree misdemeanor. The bill also adds specified vehicles that may not be driven at certain events. Specifically, the bill provides that a person may not:

- Drive any motor vehicle, motorcycle, *autocycle, moped, all-terrain vehicle, off-road vehicle, or vehicle not licensed to operate on a highway or roadway*, 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 or exhibiting the vehicle’s performance capabilities and driver’s abilities* on any highway, roadway, or parking lot;
- Participate, coordinate *through social media or otherwise*, facilitate, or collect moneys, in a *drag race, street takeover, or stunt driving*;
- Knowingly ride as a passenger in a *drag race, street takeover, or stunt driving*;
- Cause the movement of traffic, *including pedestrian traffic*, to slow, stop, or *be impeded in any way for a drag race, 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.

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 amends s. 316.2397, F.S., relating to the prohibition of certain lights on a vehicle, to enhance the penalty from a noncriminal traffic infraction to a first degree misdemeanor. Additionally, the bill amends s. 843.08, F.S., to prohibit a person from falsely assuming or pretending to be specified persons by the use of certain lights.

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, 316.2397, 318.18, 843.08, and 901.15.

This bill reenacts sections 316.027 and 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/CS by Criminal Justice on February 1, 2022:

The committee substitute:

- Adds autocycle, moped, all-terrain vehicle, off-road vehicle, and a vehicle not licensed to operate on a highway or roadway to the list of vehicles that may not be driven in certain events.
- Provides that evidence of the filming or recording of a drag race or street takeover, or posting of such event on social media, may be used to determine if a person was a spectator at such event. There is an exception for bona fide members of the news media.
- Prohibits a person from operating a vehicle: for the purpose of filming or recording the activities of participants of certain events; carrying any amount of fuel for the purpose of fueling a vehicle involved in certain events; or in a manner that would constitute participation in a street takeover.
- Enhances the penalty under s. 316.2397, F.S., relating to the prohibition of certain lights on a vehicle, from a noncriminal traffic infraction to a first degree misdemeanor, and prohibits a person from falsely assuming or pretending to be specified persons by the use of certain lights.

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.