

Florida

Department of Highway Safety and Motor Vehicles

Division of Motorist Services

PROCEDURE	SUBJECT:		
TL-65	IMPOUNDMENT NOTIFICATION FOR RACING ON HIGHWAYS VIOLATION		
DESCRIPTION AND USE:			
THIS PROCEDURE PROVIDES INFORMATION AND INSTRUCTIONS TO <u>ASSIST</u> TAX COLLECTOR EMPLOYEES, LICENSE PLATE AGENCY EMPLOYEES, AND THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES ABOUT THE NOTIFICATION PROCESS FOR VIOLATION OF S. 316.191, FLORIDA STATUTES.			
<p>I. PROVISIONS OF LAW:</p> <p>Section 316.191, Florida Statutes, states:</p> <p>(1) (a) “Conviction” means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.</p> <p> (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(s) within a certain distance or time limit.</p> <p> (c) “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.</p> <p>(2) A person may not:</p> <p> <u>a.</u> Drive 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;</p> <p> <u>b.</u> In any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race, competition, contest, test, or exhibition;</p>			
Revision(s) to this Procedure: Updated statute information on pages 1-3.			
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	10/01/10	09/09/10	TL-65-01

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<p>c. Knowingly ride as a passenger in any such race, competition, contest, test, or exhibition;</p> <p>or</p> <p>d. Purposefully cause the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.</p> <p>(3) (a). Any person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in section 775.082 or section 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. The person may request a hearing pursuant to section 322.271.</p> <p>(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 section 775.082 or section 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. The person may request a hearing pursuant to section 322.271.</p> <p>(c) <u>Any person who commits a third 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.</u></p> <p>(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 prior to the charged offense.</p> <p>(4) (a) A person may not be a spectator at any drag race prohibited under subsection (2).</p> <p>(b) A person who violates paragraph (a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.</p> <p>(5) Whenever a law enforcement officer determines that a person was engaged in a drag race or race, as described in subsection (1), the officer may immediately arrest and take such person into custody. 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.</p>	
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- (a) Notwithstanding any provision of law to the contrary, the impounding agency shall release a motor vehicle under the conditions provided in section 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 section 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 arrested is the registered owner or co-owner of the motor vehicle. The arresting officer may also immediately impound the motor vehicle and 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 violation of 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.

II. GENERAL INFORMATION:

The department must be notified by law enforcement of any impoundment for violation pursuant to section 316.191, Florida Statutes.

III. NOTIFICATION INSTRUCTIONS FOR LAW ENFORCEMENT:

- A. The law enforcement officer must fax a notice to the department on their agency letterhead stationery to report the motor vehicle has been impounded. The fax number is:
FAX (850) 617-5132
- B. The notice must include the driver's name, driver license number, vehicle identification number, and license plate number. Upon receiving this notice, the department will enter an administrative stop, which will remain in effect until further notification by the court or the reporting agency.

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