

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 71 Motor Vehicle Speed Competitions  
**SPONSOR(S):** Quinones  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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| REFERENCE                           | ACTION   | ANALYST  | STAFF DIRECTOR |
|-------------------------------------|----------|----------|----------------|
| 1) Criminal Justice Committee       | 6 Y, 0 N | Kramer   | Kramer         |
| 2) Transportation Committee         |          | Thompson | Miller         |
| 3) Justice Appropriations Committee |          |          |                |
| 4) Justice Council                  |          |          |                |
| 5) _____                            |          |          |                |

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### SUMMARY ANALYSIS

HB 71 increases the severity of the offense of racing on highways, commonly known as "drag racing", from a second degree misdemeanor to a first degree misdemeanor for a first offense and from a first degree misdemeanor to a third degree felony for a second offense that is committed within five years. This will have the effect of increasing the maximum sentence for a first violation from 60 days in county jail to one year in county jail, and increasing the maximum sentence for a second violation from one year in county jail to five years in state prison. The bill also increases the minimum fine for a first offense from \$250 to \$500 and increases the maximum fine from \$500 to \$1000. For a second offense, the bill increases the minimum fine from \$500 to \$1,000 and the maximum fine from \$1,000 to \$5,000.

The bill defines the term "conviction" for purposes of the section to mean a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. The bill also provides that any motor vehicle used in violation of this section may be seized and forfeited as provided by the Florida Contraband Forfeiture Act.

During the 2004 session, the Criminal Justice Impact Conference determined that HB 1923 which was identical to this bill would have an insignificant prison bed impact on the Department of Corrections. Due to increased minimum fines and potential forfeiture revenues the bill could have a potential positive fiscal impact to state and local governments (See Fiscal Comments section). The bill has an effective date of October 1, 2005.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0071b.TR.doc  
**DATE:** 1/26/2005

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility: This bill increases the severity of the sanction for potentially injurious behavior.

Provide limited government: The bill allows for the seizure and forfeiture of a motor vehicle as provided by the Florida Contraband Forfeiture Act under certain circumstances.

#### B. EFFECT OF PROPOSED CHANGES:

Section 316.191, F.S. provides the following:

A person may not drive any vehicle, including any motorcycle, in any race<sup>1</sup>; speed competition or contest; drag race<sup>2</sup> or acceleration contest; test of physical endurance; exhibition of speed or acceleration; or for the purpose of making a speed record on any highway, roadway, or parking lot, and a person may not in any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race; ride as a passenger in; or purposefully cause the movement of traffic to slow or stop for, any such race, competition, contest, test or exhibition.

The offense is second degree misdemeanor. A second degree misdemeanor is punishable by up to sixty days in county jail. The section also requires the imposition of a fine of not less than \$250 or more than \$500 and the revocation of the offender's driver's license for one year.

A person who commits the offense within five years of a prior violation commits a first degree misdemeanor. A first degree misdemeanor is punishable by up to one year in county jail. The section requires the imposition of a fine of not less than \$500 or more than \$1,000 and the revocation of the offender's driver's license for two years.

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

HB 71 amends section 316.191, F.S. to provide that a first conviction for this section will be a first degree misdemeanor (rather than a second degree misdemeanor) and increases the minimum fine from \$250 to \$500 and the maximum fine from \$500 to \$1,000. The bill also increases the severity of a second violation of this section which is committed within 5 years after the date of a prior violation, from a first degree misdemeanor to a third degree felony. This will have the effect of increasing the maximum sentence for a first violation from 60 days in county jail to one year in county jail and increasing the maximum sentence for a second violation from one year in county jail to five years in state prison. The bill also increases the minimum fine for the second offense from \$500 to \$1,000 and the maximum fine from \$1,000 to \$5,000.

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<sup>1</sup> The term "racing" is defined to mean "the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes." s. 316.191(1)(b), F.S.

<sup>2</sup> The term "drag race" is defined to mean "the operation of two or more 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 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 vehicle or vehicles within a certain distance or time limit." s. 316.191(1)(a), F.S.

The bill defines the term "conviction" for purposes of the section to mean a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. The bill also provides that any motor vehicle used in violation of this section may be seized and forfeited as provided by the Florida Contraband Forfeiture Act.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.191, F.S.; relating to motor vehicle speed competitions.

Section 2. Provides effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. During the 2004 session, the Criminal Justice Impact Conference determined that CS/SB 2472, which was identical to this bill, would have an insignificant prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

To the extent that this bill results in offenders serving more time in county jail as a result of increasing the offense from a second to a first degree misdemeanor, it may have some impact on county jail populations.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because HB 71 increases minimum fines, any person convicted of racing under s. 316.191, F.S. , would pay additional fine amounts. In addition, violators would be subject to forfeiture proceedings against their vehicle.

D. FISCAL COMMENTS:

The average annual number of racing violations on a public highway is 4,134, per the Driver License Information Warehouse (an in-house database used by DHSMV). Assuming the minimum fine increase of \$250 applied to each of these violations, an additional \$1.03 million in fines would be collected. However, the number of violations may be reduced due to the increased penalties under the bill acting as a deterrent to illegal racing activities

The Florida Contraband Forfeiture Act s. 932.704 F.S. authorizes the seizing law enforcement agencies to utilize proceeds collected under the act as supplemental funding for authorized purposes. Revenues and expenditures of law enforcement agencies could be impacted due to vehicles involved in racing being forfeited pursuant to the Florida Contraband Forfeiture Act. The amount of this impact is unknown

due to a lack of information on the number and value of the vehicles that would be seized for racing violations.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

##### **2. Other:**

None

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**