

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation Committee

BILL: SB 546

INTRODUCER: Senator Posey

SUBJECT: Fleeing From Law Enforcement Officer

DATE: March 7, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Favorable
2.			CJ	
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 546 provides a penalty for offenses relating to fleeing or attempting to elude a law enforcement officer.

Specifically, the bill provides an owner of a motor vehicle commits a first degree misdemeanor if he or she knowingly allows another person to operate the vehicle in violation of s. 316.1935(1), (2), (3), or (4), F.S., relating to eluding or fleeing law enforcement, and if the owner knows the vehicle was previously used during a violation of s. 316.1935(1), (2), (3), or (4), F.S.

This bill substantially amends s. 316.1935 of the Florida Statutes.

II. Present Situation:

Section 316.1935(1), F.S., provides it is a third degree felony for the operator of a vehicle, having knowledge he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, to willfully refuse or fail to stop, or having stopped in compliance with the order, willfully to flee in an attempt to elude the officer.

Section 316.1935(2), F.S., provides it is a third degree felony to willfully flee or attempt to elude a law enforcement officer in an authorized law enforcement patrol vehicle with agency insignia and other jurisdictional markings prominently displayed on the vehicle with siren and lights activated. This offense is a Level 3 offense on the Criminal Punishment Ranking Code.

Section 316.1935(3), F.S., provides it is a second degree felony to willfully flee or attempt to elude a law enforcement officer in an authorized law enforcement patrol vehicle with agency

insignia and other jurisdictional markings prominently displayed on the vehicle with siren and lights activated, if during the course of the fleeing or attempted eluding, the offender drives at high speed or in any manner which demonstrates a wanton disregard for the safety of persons or property. This offense is a Level 4 offense on the Criminal Punishment Ranking Code.

In addition, s. 316.1935(3)(b), F.S., provides a person commits a first degree felony with a three-year mandatory term of imprisonment, if that person willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle with agency insignia and other jurisdictional markings prominently displayed on the vehicle with siren and lights activated and during the course of the fleeing or attempted eluding, drives at a high speed or in any manner which demonstrates a wanton disregard for the safety of persons or property, and causes serious bodily injury or death to another person, including a law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle. This offense is a Level 7 offense on the Criminal Punishment Ranking Code.

Section 316.1935(4), F.S., provides a person commits a second degree felony when the person, in the course of unlawfully leaving or attempting to leave the scene of a crash (in violation of s. 316.027, F.S., or s. 316.061, F.S.¹), having knowledge of an order to stop by a duly authorized law enforcement officer, willfully refuses or fails to stop in compliance with such an order and as a result of such fleeing or eluding, causes injury to another person or causes damage to the property of another person. This offense is a Level 5 offense on the Criminal Punishment Ranking Code.

In addition s. 316.1935(4)(b), F.S., provides a person commits a first degree felony with a three-year minimum mandatory term of imprisonment if that person, in the course of unlawfully leaving or attempting to leave the scene of a crash (in violation of s. 316.027, F.S., or s. 316.061, F.S.), having knowledge of an order to stop by a duly authorized law enforcement officer, willfully refuses or fails to stop in compliance with such an order and as a result of such fleeing or eluding, causes serious bodily injury or death to another person, including a law enforcement officer involved in pursuing or otherwise attempting to affect a stop of the person's vehicle. This offense is a Level 8 offense on the Criminal Punishment Ranking Code.

The offenses in s. 316.1935(4)(a) and (b), F.S., are separate offenses for which a person may be charged, in addition to the offenses under ss. 316.027 and 316.061, F.S., relating to unlawfully leaving the scene of a crash which the person had been in the course of committing or attempting to commit when the order to stop was given.

¹ Section 316.027(1)(b), F.S., provides a driver of any vehicle involved in a crash resulting in the death of any person must immediately stop the vehicle at or near the scene of the crash, and must remain at the scene until he or she has complied with the requirements of s. 316.062, F.S., listed below. A willful violation of this provision is a first degree felony.

Section 316.061, F.S., provides a driver of any vehicle involved in a crash resulting in damage to a vehicle or other property must immediately stop the vehicle remain at the scene until he or she has complied with the requirements of s. 316.062, F.S., listed below. A willful violation of this provision is a second degree misdemeanor.

Section 316.062, F.S., requires a driver of a vehicle involved in a crash resulting in property damage or injury or death to provide certain information to the person who was injured or whose property was damaged or to law enforcement investigating the crash. The driver must provide his or her name, address, vehicle registration number and driver's license. The driver also must render reasonable assistance to the injured.

Section 316.1935(5), F.S., requires a judge to revoke a person driver's license for a violation of s. 316.1935, F.S., for a period not less than one year and not more than five years.

Section 316.1935(6), F.S., provides no court may withhold adjudication of guilt or imposition of sentence for a violation of s. 316.1935, F.S., and the violator who receives the minimum mandatory term is not eligible for statutory gain-time or discretionary early release, other than pardon or executive clemency or conditional medical release, prior to serving the minimum mandatory term.

Section 316.1935(7), F.S., provides a vehicle used in violation of s. 316.1935, F.S., is deemed to be contraband, which may be seized by a law enforcement agency and is subject to forfeiture pursuant to the Florida Contraband Forfeiture Act. Any vehicle not required to be titled under the laws of this state is presumed to be the property of the person in possession of the vehicle.

III. Effect of Proposed Changes:

The bill amends s. 316.1935(5), F.S., to provide if the owner of a motor vehicle knowingly allows another person to operate his or her vehicle in violation of s. 316.1935(1), (2), (3), or (4), F.S., relating to eluding or fleeing law enforcement, and if the owner knows the vehicle was previously used during a violation of s. 316.1935(1), (2), (3), or (4), F.S., then the owner commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S. or s. 775.083, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An owner of a motor vehicle who allows another person to use the vehicle to elude or flee from a law enforcement officer under the circumstances provided in the bill could, if found guilty, face imprisonment and/or fines.

The Department of Highway Safety and Motor Vehicle reported in 2005, that 4,925 drivers were cited for the offense of fleeing.

C. Government Sector Impact:

The bill may increase local government revenue an indeterminate amount. Also, since conviction can result in imprisonment, local governments may also incur additional costs as result of incarceration of violators.

The Department of Corrections and the Florida Department of Law Enforcement do not anticipate a fiscal impact to the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
