

28.5(a) [RACING ON A HIGHWAY] [STREET TAKEOVERS] [STUNT DRIVING]
§ 316.191(2), § 316.191(3)(c), and § 316.191(3)(f), Fla. Stat.

To prove the crime of [Racing on a Highway] [Street Takeovers] [Stunt Driving], the State must prove the following element beyond a reasonable doubt:

Give as applicable.
(Defendant)

- a. drove a motor vehicle in**
- b. [participated] [coordinated, through social media or otherwise] [facilitated] [collected monies] at any location for**
- c. knowingly rode as a passenger in**
- d. purposefully caused moving traffic, including pedestrian traffic, to slow, stop, or be impeded in any way for**
- e. operate a motor vehicle for the purpose of filming or recording the activities of participants in**
- f. operate a motor vehicle carrying any amount of fuel for the purposes of fueling a motor vehicle involved in**

[a race] [a drag race] [an acceleration contest involving a motor vehicle] [a street takeover] [any stunt driving] [a speed competition or contest involving a motor vehicle] [a test of physical endurance involving a motor vehicle] [an exhibition of speed or acceleration involving a motor vehicle] [an attempt, involving a motor vehicle, to make a speed record] on a highway or roadway or a parking lot.

Give only if § 316.191(3)(c), Fla. Stat. is charged.

If you find (defendant) guilty of [Racing on a Highway] [Street Takeover] [Stunt Driving], you must also determine whether the State proved beyond a reasonable doubt that in the course of committing the crime, [he] [she] knowingly impeded, obstructed, or interfered with an authorized emergency vehicle that was on call and that was responding to an emergency, other than the [Racing on a Highway] [Street Takeover] [Stunt Driving] that was alleged in this case.

Give only if § 316.191(2)(a) or (2)(d) or (2)(e) or (2)(f) Fla. Stat., and § 316.191(3)(f) is charged.

If you find (defendant) guilty of [Racing on a Highway] [Street Takeover] [Stunt Driving], you must also determine whether the State proved beyond a reasonable doubt that in the course of committing the crime, [he] [she] was engaged in a coordinated street takeover.

Definitions. Give only if applicable.

§ 316.003, Fla. Stat. “Organ transport vehicle” has its own definition in § 316.003, Fla. Stat.

“Authorized emergency vehicle” means vehicles of the fire department (fire patrol), police vehicles, emergency management vehicles, organ transport vehicles, such ambulances and emergency vehicles of municipal and county departments, volunteer ambulance services, public service corporations operated by private corporations, the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the Department of Health, the Department of Transportation, Department of Agriculture and Consumer Services, and the Department of Corrections as are designated or authorized by their respective departments or the chief of police of an incorporated city or any sheriff of any of the various counties.

“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 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.

§ 316.191(1), Fla. Stat. Some of these terms have their own statutory definitions, which should be given if necessary.

“Motor vehicle” means a self-propelled vehicle not operated upon rails or guideway, including any motorcycle, auticycle, moped, all-terrain vehicle, off-road vehicle, or vehicle not licensed to operate on a highway or roadway, but not including a bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, or swamp buggy.

§ 316.003, Fla. Stat. Some of these terms have their own statutory definitions, which should be given if necessary.

“Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway [, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks].

§ 316.191(1), Fla. Stat.

“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 circumstances, can reasonably be interpreted as a

challenge to race.

§ 316.003, Fla. Stat.

“Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term roadway as used herein refers to any such roadway separately, but not to all such roadways collectively.

§ 316.003, Fla. Stat.

“Street or highway” means

- a. **The entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic;**
- b. **The entire width between the boundary lines of any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons, or any limited access road owned or controlled by a special district, whenever, by written agreement entered into under s. 316.006(2)(b) or (3)(b), a county or municipality exercises traffic control jurisdiction over said way or place;**
- c. **Any area, such as a runway, taxiway, ramp, clear zone, or parking lot, within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision, which area is used for vehicular traffic but which is not open for vehicular operation by the general public; or**
- d. **Any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district which has been created under s. 418.30 and the recreational facilities of which district are open to the general public.**

§ 316.191(1), Fla. Stat.

“Coordinated street takeover” means 10 or more vehicles operated in an organized manner to effect a street takeover.

§ 316.191(1), Fla. Stat.

“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.

§ 316.191(1), Fla. Stat.

“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.

§ 316.191(1), Fla. Stat.

“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.

§ 316.191(1), Fla. Stat.

“Drifting” means a maneuver performed while operating a motor vehicle whereby the motor vehicle is steered so that it makes a controlled sideways skid through a turn with the front wheels pointed in a direction opposite to that of the turn.

§ 316.191(1), Fla. Stat.

“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.

§ 316.191(1), Fla. Stat.

“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.

Lesser Included Offenses

[RACING ON A HIGHWAY] [STREET TAKEOVERS] [STUNT DRIVING] — 316.191(3)(c) OR (3)(f)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
[Racing on a Highway] [Street Takeover] [Stunt Driving]		316.191(2)	28.5(a)
	Resisting an Officer Without Violence (depending on type of authorized emergency vehicle)	843.01	21.2
	Attempt	777.04(1)	5.1

Comments

The filming or recording the activities of participants covered in element e. above does not apply to bona fide members of the news media. See § 316.191(2)(e), Fla. Stat.

Pursuant to § 316.191(3), Fla. Stat., repeat offenders of § 316.191(2), Fla. Stat., are subject to higher penalties. As of January 2025, it was unclear whether the facts related to prior(s) should be considered elements to be proven to the jury or sentencing factors to be proven to the judge. If treated as an element, do not read the allegation of prior(s) and do not send the charging document into the jury room. If the defendant is found guilty, the historical fact of a previous conviction, which includes withholds of adjudication, shall be determined beyond a reasonable doubt in a bifurcated proceeding. *State v. Harbaugh*, 754 So. 2d 691 (Fla. 2000).

This instruction was adopted in 2009 [6 So. 3d 574] and amended in 2012 [95 So. 3d 868], 2013 [31 So. 3d 755], 2019 [262 So. 3d 59], on October 2, 2020, on December 21, 2022, and on February 21, 2025.