



Volunteer Climate Reality Leader

September 19, 2019

Dear Legislators:

There is a loophole in FL auto emission standards regulation S316.2935 which makes nuisance exhibition of vehicle exhaust legal, weakening enforcement of the Clean Air Act. FL 2019 316.2935 only prohibits sale of vehicles that have had specific exhaust parts modified by the seller. Dealers do not have to qualify exhaust functionality. The only current prohibition is that exhaust should not be visible for greater than five continuous seconds. Drivers in FL can modify their exhaust systems to spew black carbon laden, toxic smoke for five seconds or less as many times as they like to distract and harass other drivers and roadside pedestrians. Doing so constitutes the legal definition of Careless Driving, S316.1925..

This proposed bill closes the loophole and allows law enforcement to protect the Clean Air Act, to keep our roads, bicyclists and pedestrians safe, and protects our first Amendment right to protest publicly.

As Sarasota Police Officers Dubendorf and Blanco told me, the Clean Air Act prohibits this abuse, but FL does not currently enforce the prohibition. I was encouraged by them to keep complaining to our legislators until the regulation gets amended.

Sincerely,

A handwritten signature in black ink that reads "Doreen Dupont". The signature is written in a cursive, flowing style.

Doreen Dupont MD
Climate Reality Leader
Board of Directors Environmental Caucus Of Sarasota Democrats and The
Democratic Environmental Caucus Of Florida

Events are hosted by Climate Reality Leaders, a group of thousands of volunteers in 126 countries around the globe who have been personally trained by former US Vice President and Nobel Laureate Al Gore to educate the public about climate change.

<http://realityhub.climaterealityproject.org>

The 2019 Florida Statutes

[Title XXIII](#)
MOTOR VEHICLES

[Chapter 316](#)
STATE UNIFORM TRAFFIC CONTROL

[View Entire Chapter](#)

316.2935 Air pollution control equipment; tampering prohibited; penalty.—

(1)(a) It is unlawful for any person or motor vehicle dealer as defined in s. [320.27](#) to offer or display for retail sale or lease, sell, lease, or transfer title to, a motor vehicle in Florida that has been tampered with in violation of this section, as determined pursuant to subsection (7). Tampering is defined as the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle. All motor vehicles sold, reassigned, or traded to a licensed motor vehicle dealer are exempt from this paragraph.

(b) At the time of sale, lease, or transfer of title of a motor vehicle, the seller, lessor, or transferor shall certify in writing to the purchaser, lessee, or transferee that the air pollution control equipment of the motor vehicle has not been tampered with by the seller, lessor, or transferor or their agents, employees, or other representatives. A licensed motor vehicle dealer shall also visually observe those air pollution control devices listed by department rule pursuant to subsection (7), and certify that they are in place, and appear properly connected and undamaged. Such certification shall not be deemed or construed as a warranty that the pollution control devices of the subject vehicle are in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.

(c) All motor vehicles sold, reassigned, or traded by a licensed motor vehicle dealer to a licensed motor vehicle dealer, all new motor vehicles subject to certification under s. 207, Clean Air Act, 42 U.S.C. s. 7541, and all lease agreements for 30 days or less are exempt from this subsection. Also exempt from this subsection are sales of motor vehicles for salvage purposes only.

(2) No person shall operate any gasoline-powered motor vehicle, except a motorcycle, moped, scooter, or an imported nonconforming motor vehicle which has received a one-time exemption from federal emission control requirements under 40 C.F.R. 85, subpart P, on the public roads and streets of this state which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, and no person shall operate on the public roads or streets of this state any motor vehicle that has been tampered with in violation of this section, as determined pursuant to subsection (7).

(3) No person shall operate on the public roads or streets of this state any diesel-powered motor vehicle which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, except during engine acceleration, engine lugging, or engine deceleration.

(4) This section shall be enforced by the Department of Environmental Protection and any law enforcement officer of this state as defined in s. [112.531](#).

Coal Rolling Is Careless Driving - Proposed Amendment to 316.2935

Substitute Subsection (4)

No person shall operate either a gas powered, or diesel powered vehicle, in a manner to willfully emit transient visible emissions from the exhaust pipe to intentionally harass pedestrians or other vehicles on public roads or streets of this state.

Relabel subsection (4) as (5)

Substitute subsection (7)

Any person who violates subsection (4) shall be charged with Careless Driving pursuant to provisions in S 316.1925 punishable as provided in chapter 318.

Relabel subsection (7) as (8).

Select Year:

The 2019 Florida Statutes

[Title XXIII](#)

MOTOR VEHICLES

[Chapter 316](#)

STATE UNIFORM TRAFFIC CONTROL

[View Entire Chapter](#)

[316.1925](#) Careless driving.—

(1) Any person operating a vehicle upon the streets or highways within the state shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section.

(2) Any person who violates this section shall be cited for a moving violation, punishable as provided in chapter 318.

History.—s. 1, ch. 71-135; ss. 1, 6, ch. 76-31; s. 24, ch. 96-350.

Note.—Former s. 316.030.

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2nd driver cited for 'rolling coal' during Steamboat demonstration

News | March 27, 2018



Matt Stenland
mstenland@SteamboatPilot.com



A pickup is seen "rolling coal" during the "March For Our Lives" demonstration Sunday at the Routt County Courthouse.

STEAMBOAT SPRINGS — Steamboat Springs police have ticketed a second driver for "rolling coal" during Saturday's March For Our Lives demonstration Saturday in front of the Routt County Courthouse.

Colorado Gov. John Hickenlooper in May signed the new "rolling coal" law, which "prohibits engaging in a nuisance exhibition of motor vehicle exhaust, which is the act of knowingly blowing black smoke through one or more exhaust pipes attached to a motor vehicle."

Demonstrators were harassed by drivers in several vehicles during Saturday's event. The protesters provided police with images of the vehicles involved.

SIERRA

The national magazine of the Sierra Club

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“Rolling Coal” Backfires

Trump’s EPA goes easy on mega-polluting trucks



BY [PAUL RAUBER \(/SIERRA/AUTHORS/PAUL-RAUBER\)](#) | APR 13 2019

Pedestrians, cyclists, and electric vehicles have long been favored targets for drivers of monster trucks “rolling coal”—that is, intentionally spewing huge clouds of diesel exhaust at their perceived enemies in the nation’s culture war. The ability to do so has been facilitated by a slew of companies—Bully Dog, Sinister Diesel, Derive Systems, and many others—that manufacture or sell aftermarket auto parts that intentionally bypass vehicles’ pollution controls. (The effect is similar to that of the emissions cheating by Volkswagen that cost the company more than \$30 billion in fines.) These “defeat devices,” including electronic programmers or “tuners,” “unlock horsepower and torque” by changing fuel and timing settings and turning off certain emissions controls. Since 2013, the EPA found that Derive Systems sold over 350,000 illegal tuners.

That extra horsepower and torque comes at an enormous cost to clean air. A vehicle equipped with such a defeat device can produce 40 to 100 times the emissions of a standard vehicle. If only 2 or 3 percent of similar diesel vehicles

remains to be seen, Zars said, but “it does suggest that the courthouse door is not locked to citizens whose air is fouled by vehicles violating the Clean Air Act.”

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RELATED STORIES

September 20, 2019

Honorable Florida State Senators and Representatives:

The Environmental Caucus of the Manatee County Democratic Party urges you to pass legislation to close the loophole in S316.3925.

Nuisance exhibition of vehicular exhaust is a deliberate violation of the Clean Air Act. Unfortunately, the law is not enforced in Florida.

Florida is more vulnerable than any other state to the effects of pollution and climate change, yet it is a state with lax laws and little enforcement.

Black smoke blasting out of commercial trucks and private pick-ups is surely a turn-off for would be tourists and potential future residents as well as a health threat for everyone.

We urge you to amend S316.3925 such that any nuisance display of vehicular exhaust is a moving violation, punishable as careless driving. In a practical world, Florida would be a world leader in environmental legislation and enforcement. Please amend S316.3925 to make one small step in that direction.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert McCaa", with a long horizontal flourish extending to the right.

Robert McCaa, President, MCDP Environmental Caucus

435 Cortez Rd.

Bradenton, FL 34207

eco.manateedems@gmail.com



September 16, 2019

To The Florida Legislative Delegation:

On behalf of the Environmental Caucus of Sarasota County Democrats, we urge you to pass legislation to close the loophole in S316.2935. Allowing nuisance exhibition of vehicular exhaust is an affront to implementation of The Clean Air Act.

Florida is environmentally more vulnerable to the effects of pollution, and climate change, than all other states. Our air quality is critical and you must guard it for all, as well as make sure our roads are safe and our right to protest is upheld.

Respectfully,

A handwritten signature in black ink, appearing to read "Barbara Klein", with a long horizontal flourish extending to the right.

Barbara Klein
Chair of the Environmental Caucus of Sarasota
County Democrats