

1 A bill to be entitled

2 An act relating to texting while driving; amending s.
3 316.305, F.S.; revising legislative intent; requiring
4 a law enforcement officer to inform a motor vehicle
5 operator of certain rights; prohibiting certain
6 actions by such officer; requiring such officer to
7 record the race and ethnicity of a violator when
8 issuing a citation; requiring law enforcement agencies
9 to report such information to the Department of
10 Highway Safety and Motor Vehicles; requiring the
11 department to annually report certain data to the
12 Governor and Legislature; removing the requirement
13 that enforcement be accomplished as a secondary
14 action; providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Paragraph (d) of subsection (2) and subsections
19 (3) and (5) of section 316.305, Florida Statutes, are amended to
20 read:

21 316.305 Wireless communications devices; prohibition.—

22 (2) It is the intent of the Legislature to:

23 (d) Authorize law enforcement officers to stop motor
24 vehicles and issue citations ~~as a secondary offense~~ to persons
25 who are texting while driving.

26 (3) (a) A person may not operate a motor vehicle while
27 manually typing or entering multiple letters, numbers, symbols,
28 or other characters into a wireless communications device or
29 while sending or reading data on such a device for the purpose
30 of nonvoice interpersonal communication, including, but not
31 limited to, communication methods known as texting, e-mailing,
32 and instant messaging. As used in this section, the term
33 "wireless communications device" means any handheld device used
34 or capable of being used in a handheld manner, that is designed
35 or intended to receive or transmit text or character-based
36 messages, access or store data, or connect to the Internet or
37 any communications service as defined in s. 812.15 and that
38 allows text communications. For the purposes of this paragraph,
39 a motor vehicle that is stationary is not being operated and is
40 not subject to the prohibition in this paragraph.

41 (b) Paragraph (a) does not apply to a motor vehicle
42 operator who is:

43 1. Performing official duties as an operator of an
44 authorized emergency vehicle as defined in s. 322.01, a law
45 enforcement or fire service professional, or an emergency
46 medical services professional.

47 2. Reporting an emergency or criminal or suspicious
48 activity to law enforcement authorities.

49 3. Receiving messages that are:

50 a. Related to the operation or navigation of the motor

51 | vehicle;

52 | b. Safety-related information, including emergency,

53 | traffic, or weather alerts;

54 | c. Data used primarily by the motor vehicle; or

55 | d. Radio broadcasts.

56 | 4. Using a device or system for navigation purposes.

57 | 5. Conducting wireless interpersonal communication that

58 | does not require manual entry of multiple letters, numbers, or

59 | symbols, except to activate, deactivate, or initiate a feature

60 | or function.

61 | 6. Conducting wireless interpersonal communication that

62 | does not require reading text messages, except to activate,

63 | deactivate, or initiate a feature or function.

64 | 7. Operating an autonomous vehicle, as defined in s.

65 | 316.003, in autonomous mode.

66 | (c) A law enforcement officer who stops a motor vehicle

67 | for a violation of paragraph (a) must inform the motor vehicle

68 | operator of his or her right to decline a search of his or her

69 | wireless communications device and may not:

70 | 1. Access the wireless communications device without a

71 | warrant.

72 | 2. Confiscate the wireless communications device while

73 | awaiting issuance of a warrant to access such device.

74 | 3. Obtain consent from the motor vehicle operator to

75 | search his or her wireless communications device through

76 coercion or other improper method. Consent to search a motor
77 vehicle operator's wireless communications device must be
78 voluntary and unequivocal.

79 (d)~~(e)~~ Only in the event of a crash resulting in death or
80 personal injury, a user's billing records for a wireless
81 communications device or the testimony of or written statements
82 from appropriate authorities receiving such messages may be
83 admissible as evidence in any proceeding to determine whether a
84 violation of paragraph (a) has been committed.

85 (5) When a law enforcement officer issues a citation for a
86 violation of this section, the law enforcement officer must
87 record the race and ethnicity of the violator. All law
88 enforcement agencies must maintain such information and report
89 the information to the department in a form and manner
90 determined by the department. Beginning February 1, 2019, the
91 department shall annually report the data collected under this
92 subsection to the Governor, the President of the Senate, and the
93 Speaker of the House of Representatives. The data collected must
94 be reported at least by statewide totals for local law
95 enforcement agencies, state law enforcement agencies, and state
96 university law enforcement agencies. The statewide total for
97 local law enforcement agencies shall combine the data for the
98 county sheriffs and the municipal law enforcement agencies.
99 ~~Enforcement of this section by state or local law enforcement~~
100 ~~agencies must be accomplished only as a secondary action when an~~

101 | ~~operator of a motor vehicle has been detained for a suspected~~
102 | ~~violation of another provision of this chapter, chapter 320, or~~
103 | ~~chapter 322.~~

104 | Section 2. This act shall take effect July 1, 2018.