

By Senator Bennett

21-02905-08

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1                   A bill to be entitled  
2           An act relating to the use of an electronic wireless  
3           communications device while driving; amending s. 316.304,  
4           F.S.; prohibiting the operation of a moving motor vehicle  
5           while reading, manually writing or typing, or sending a  
6           message on an electronic wireless communications device;  
7           providing an effective date.

8  
9   Be It Enacted by the Legislature of the State of Florida:

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11           Section 1.   Section 316.304, Florida Statutes, is amended to  
12   read:

13           316.304   Use of listening or communications devices;  
14   restrictions ~~Wearing of headsets.--~~

15           (1) (a)   No person shall operate a vehicle while wearing a  
16   headset, headphone, or other listening device, other than a  
17   hearing aid or instrument for the improvement of defective human  
18   hearing.

19           (b)(2)   This subsection ~~section~~ does not apply to:

20           1.(a)   Any law enforcement officer equipped with any  
21   communications ~~communication~~ device necessary in performing his  
22   or her assigned duties or to any emergency vehicle operator  
23   equipped with any ear protection device.

24           2.(b)   Any applicant for a license to operate a motorcycle  
25   while taking the examination required by s. 322.12(5).

26           3.(e)   Any person operating a motorcycle who is using a  
27   headset that is installed in a helmet and worn so as to prevent  
28   the speakers from making direct contact with the user's ears so  
29   that the user can hear surrounding sounds.

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30        ~~4.(d)~~ Any person using a headset in conjunction with a  
31 cellular telephone that only provides sound through one ear and  
32 allows surrounding sounds to be heard with the other ear.

33        ~~5.(e)~~ Any person using a headset in conjunction with  
34 communicating with the central base operation that only provides  
35 sound through one ear and allows surrounding sounds to be heard  
36 with the other ear.

37        ~~(c)(3)~~ The Department of Highway Safety and Motor Vehicles  
38 shall promulgate, by administrative rule, standards and  
39 specifications for headset equipment the use of which is  
40 permitted under this subsection ~~section~~. The department shall  
41 inspect and review all such devices submitted to it and shall  
42 publish a list by name and type of approved equipment.

43        (2)(a) No person shall operate a moving motor vehicle while  
44 reading, manually writing or typing, or sending a message on an  
45 electronic wireless communications device.

46        (b) This subsection does not apply to a person operating an  
47 authorized emergency vehicle or using an electronic wireless  
48 communications device to:

- 49        1. Report illegal activity;
- 50        2. Summon medical or other emergency help; or
- 51        3. Prevent injury to a person or property.

52        ~~(3)(4)~~ A violation of this section is a noncriminal traffic  
53 infraction, punishable as a nonmoving violation as provided in  
54 chapter 318.

55        Section 2. This act shall take effect October 1, 2008.