

By Senator Baker

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1 A bill to be entitled

2 An act relating to use of an electronic wireless
3 communications device while driving; amending s. 316.304,
4 F.S.; prohibiting certain persons from using an electronic
5 wireless communications device while operating a motor
6 vehicle; providing for enforcement; providing penalties;
7 amending s. 322.27, F.S.; providing for a point assessment
8 against the driver's license; providing an effective date.
9

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

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

14 316.304 Use of listening or communications devices ~~Wearing~~
15 ~~of headsets.--~~

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

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

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

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

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

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30 that the user can hear surrounding sounds.

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

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

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

44 ~~(d)(4)~~ A violation of this subsection ~~section~~ is a
45 noncriminal traffic infraction, punishable as a nonmoving
46 violation as provided in chapter 318.

47 (2)(a) A person who has not attained 18 years of age shall
48 not operate a motor vehicle while using an electronic wireless
49 communications device.

50 (b) This subsection does not apply to a person using an
51 electronic wireless communications device to:

- 52 1. Report illegal activity;
53 2. Summon medical or other emergency help; or
54 3. Prevent injury to a person or property.

55 (c) Enforcement of this subsection by state or local law
56 enforcement agencies must be accomplished only as a secondary
57 action when an operator of a motor vehicle has been detained for
58 a suspected violation of another provision of this chapter,

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59 chapter 320, or chapter 322.

60 (d) A person who violates this subsection commits a
61 noncriminal traffic infraction, punishable as a moving violation
62 as provided in chapter 318, and shall have one point assessed
63 against his or her driver's license as set forth in s. 322.27.

64 Section 2. Paragraph (d) of subsection (3) of section
65 322.27, Florida Statutes, is amended to read:

66 322.27 Authority of department to suspend or revoke
67 license.--

68 (3) There is established a point system for evaluation of
69 convictions of violations of motor vehicle laws or ordinances,
70 and violations of applicable provisions of s. 403.413(6) (b) when
71 such violations involve the use of motor vehicles, for the
72 determination of the continuing qualification of any person to
73 operate a motor vehicle. The department is authorized to suspend
74 the license of any person upon showing of its records or other
75 good and sufficient evidence that the licensee has been convicted
76 of violation of motor vehicle laws or ordinances, or applicable
77 provisions of s. 403.413(6) (b), amounting to 12 or more points as
78 determined by the point system. The suspension shall be for a
79 period of not more than 1 year.

80 (d) The point system shall have as its basic element a
81 graduated scale of points assigning relative values to
82 convictions of the following violations:

- 83 1. Reckless driving, willful and wanton--4 points.
- 84 2. Leaving the scene of a crash resulting in property
85 damage of more than \$50--6 points.
- 86 3. Unlawful speed resulting in a crash--6 points.
- 87 4. Passing a stopped school bus--4 points.

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- 88 5. Unlawful speed:
- 89 a. Not in excess of 15 miles per hour of lawful or posted
- 90 speed--3 points.
- 91 b. In excess of 15 miles per hour of lawful or posted
- 92 speed--4 points.
- 93 6. A violation of a traffic control signal device as
- 94 provided in s. 316.074(1) or s. 316.075(1)(c)1.--4 points.
- 95 7. Person who has not attained 18 years of age operating a
- 96 motor vehicle while using an electronic wireless communications
- 97 device in violation of s. 316.304(2)--1 point.
- 98 ~~8.7.~~ All other moving violations (including parking on a
- 99 highway outside the limits of a municipality)--3 points. However,
- 100 no points shall be imposed for a violation of s. 316.0741 or s.
- 101 316.2065(12).
- 102 ~~9.8.~~ Any moving violation covered above, excluding unlawful
- 103 speed, resulting in a crash--4 points.
- 104 10.9. Any conviction under s. 403.413(6)(b)--3 points.
- 105 11.10. Any conviction under s. 316.0775(2)--4 points.
- 106 Section 3. This act shall take effect October 1, 2008.