

By Senator Baker

20-00169-09

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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.
 4 316.304, F.S.; prohibiting certain persons from using
 5 an electronic wireless communications device while
 6 operating a motor vehicle; providing for enforcement;
 7 providing penalties; amending s. 322.27, F.S.;

8 providing for a point assessment against the driver's
 9 license; providing an effective date.
 10

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

12

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

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

17 (1) (a) ~~A~~ ~~No~~ person may not ~~shall~~ operate a vehicle while
 18 wearing a headset, headphone, or other listening device, other
 19 than a hearing aid or instrument for the improvement of
 20 defective human hearing.

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

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

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

28 3. ~~(e)~~ Any person operating a motorcycle who is using a
 29 headset that is installed in a helmet and worn so as to prevent

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30 the speakers from making direct contact with the user's ears so
31 that the user can hear surrounding sounds.

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

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

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

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

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

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

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

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

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59 a suspected violation of this chapter, chapter 320, or chapter
60 322.

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

65 Section 2. Paragraph (d) of subsection (3) of section
66 322.27, Florida Statutes, is amended to read:

67 322.27 Authority of department to suspend or revoke
68 license.—

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

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

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

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88 4. Passing a stopped school bus-4 points.

89 5. Unlawful speed:

90 a. Not in excess of 15 miles per hour of lawful or posted
91 speed-3 points.

92 b. In excess of 15 miles per hour of lawful or posted
93 speed-4 points.

94 6. A violation of a traffic control signal device as
95 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.

96 7. Person who has not attained 18 years of age operating a
97 motor vehicle while using an electronic wireless communications
98 device in violation of s. 316.304(2)-1 point.

99 ~~8.7.~~ All other moving violations (including parking on a
100 highway outside the limits of a municipality)-3 points. However,
101 no points shall be imposed for a violation of s. 316.0741 or s.
102 316.2065(12).

103 ~~9.8.~~ Any moving violation covered above, excluding unlawful
104 speed, resulting in a crash-4 points.

105 ~~10.9.~~ Any conviction under s. 403.413(6)(b)-3 points.

106 ~~11.10.~~ Any conviction under s. 316.0775(2)-4 points.

107 Section 3. This act shall take effect July 1, 2009.