

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.

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

11
 12 Section 1. Section 316.304, Florida Statutes, is amended
 13 to 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
 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,
 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
 76 convicted of violation of motor vehicle laws or ordinances, or
 77 applicable provisions of s. 403.413(6) (b), amounting to 12 or
 78 more points as determined by the point system. The suspension
 79 shall be for a 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.

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.
100 However, no points shall be imposed for a violation of s.
101 316.0741 or s. 316.2065(12).

102 ~~9.8.~~ Any moving violation covered above, excluding
103 unlawful 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, 2009.