

By Senator Baker

20-00053B-10

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1 A bill to be entitled
2 An act relating to motor vehicle operators; amending
3 s. 316.304, F.S.; prohibiting a person from writing or
4 sending a text message on an electronic communications
5 device while operating a motor vehicle; providing for
6 enforcement; providing exceptions; providing
7 penalties; 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 Using listening or communications devices ~~Wearing~~
14 ~~of headsets.~~-

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

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

20 1. ~~(a)~~ Any law enforcement officer equipped with any
21 communication device necessary in performing his or her assigned
22 duties or to any emergency vehicle operator equipped with any
23 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 only one ear
32 and 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 only one ear and allows surrounding sounds to be
36 heard with the other ear.

37 (c)~~(3)~~ The Department of Highway Safety and Motor Vehicles
38 shall adopt ~~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 (d)~~(4)~~ A violation of this subsection ~~section~~ is a
44 noncriminal traffic infraction, punishable as a nonmoving
45 violation as provided in chapter 318.

46 (2) (a) A person may not operate a motor vehicle while using
47 an electronic communications device in order to write or send
48 text-based communications, including text messages, instant
49 messages, or electronic mail.

50 (b) It is not a violation of this subsection to read,
51 select, or enter a telephone number or name in an electronic
52 communications device in order to make or receive a telephone
53 call.

54 (c) This subsection does not apply to a person who writes a
55 text message on an electronic communications device in order to:

- 56 1. Report illegal activity;
- 57 2. Summon medical or other emergency help; or
- 58 3. Prevent injury or damage to a person or property.

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59 (d) A violation of this subsection is a noncriminal traffic
60 infraction, punishable as a moving violation as provided in
61 chapter 318.

62 Section 2. This act shall take effect July 1, 2010.