

1 A bill to be entitled
 2 An act relating to use of wireless communications devices
 3 while driving; creating s. 316.305, F.S.; creating the
 4 "Florida Ban on Texting While Driving Law"; providing
 5 legislative intent; prohibiting the operation of a motor
 6 vehicle while using a wireless communications device for
 7 certain purposes; providing a definition; providing
 8 exceptions; specifying information admissible as evidence
 9 of a violation; providing penalties; providing for
 10 enforcement as a secondary action; amending s. 322.27,
 11 F.S.; providing for points to be assessed against a
 12 driver's license for the unlawful use of a wireless
 13 communications device resulting in a crash; providing an
 14 effective date.

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

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 18 Section 1. Section 316.305, Florida Statutes, is created
 19 to read:

20 316.305 Wireless communications devices; prohibition.—

21 (1) This section may be cited as the "Florida Ban on
 22 Texting While Driving Law."

23 (2) It is the intent of the Legislature to:

24 (a) Improve roadway safety for all vehicle operators,
 25 vehicle passengers, bicyclists, pedestrians, and other road
 26 users.

27 (b) Prevent crashes related to the act of text messaging
 28 while driving a motor vehicle.

29 (c) Reduce injuries, deaths, property damage, health care
 30 costs, health insurance rates, and automobile insurance rates
 31 related to motor vehicle crashes.

32 (d) Authorize law enforcement officers to stop motor
 33 vehicles and issue citations to persons texting while driving as
 34 a secondary offense.

35 (3) (a) A person shall not operate a motor vehicle while
 36 manually typing or entering multiple letters, numbers, symbols,
 37 or other characters into a wireless communications device or
 38 while sending or reading data in such a device for the purpose
 39 of nonvoice interpersonal communication, including, but not
 40 limited to, communication methods known as texting, e-mailing,
 41 and instant messaging. As used in this section, the term
 42 "wireless communications device" means any device that is
 43 designed or intended to receive or transmit text or character-
 44 based messages, access or store data, or connect to the Internet
 45 or any communications service as defined in s. 812.15 and that
 46 allows text communications. For purposes of this section, a
 47 motor vehicle that is legally parked is not being operated and
 48 is not subject to the prohibition in this paragraph.

49 (b) This subsection does not apply to a motor vehicle
 50 operator who is:

51 1. Performing official duties as an operator of an
 52 authorized emergency vehicle as defined in s. 322.01, a law
 53 enforcement or fire service professional, or an emergency
 54 medical services professional.

55 2. Reporting an emergency or criminal or suspicious
 56 activity to law enforcement authorities.

57 3. Receiving messages that are:

58 a. Related to the operation or navigation of the motor
59 vehicle;

60 b. Safety-related information, including emergency,
61 traffic, or weather alerts;

62 c. Data used primarily by the motor vehicle; or

63 d. Radio broadcasts.

64 4. Using a device or system for navigation purposes.

65 5. Conducting wireless interpersonal communication that
66 does not require manual entry of multiple letters, numbers, or
67 symbols or reading text messages, except to activate,
68 deactivate, or initiate a feature or function.

69 (c) A user's billing records for a wireless communications
70 device or the testimony of or written statements from
71 appropriate authorities receiving such messages may be
72 admissible as evidence in any proceeding to determine whether a
73 violation of this section has been committed.

74 (4) (a) Any person who violates subsection (3) commits a
75 noncriminal traffic infraction, punishable as a nonmoving
76 violation as provided in chapter 318.

77 (b) Any person who commits a second or subsequent
78 violation of subsection (3) within 5 years after the date of a
79 prior conviction for a violation of subsection (3) commits a
80 noncriminal traffic infraction, punishable as a moving violation
81 as provided in chapter 318.

82 (5) Enforcement of this section by state or local law
83 enforcement agencies must be accomplished only as a secondary
84 action when an operator of a motor vehicle has been detained for

85 a suspected violation of another section of this chapter,
 86 chapter 320, or chapter 322.

87 Section 2. Paragraph (d) of subsection (3) of section
 88 322.27, Florida Statutes, is amended to read:

89 322.27 Authority of department to suspend or revoke
 90 license.—

91 (3) There is established a point system for evaluation of
 92 convictions of violations of motor vehicle laws or ordinances,
 93 and violations of applicable provisions of s. 403.413(6) (b) when
 94 such violations involve the use of motor vehicles, for the
 95 determination of the continuing qualification of any person to
 96 operate a motor vehicle. The department is authorized to suspend
 97 the license of any person upon showing of its records or other
 98 good and sufficient evidence that the licensee has been
 99 convicted of violation of motor vehicle laws or ordinances, or
 100 applicable provisions of s. 403.413(6) (b), amounting to 12 or
 101 more points as determined by the point system. The suspension
 102 shall be for a period of not more than 1 year.

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

- 106 1. Reckless driving, willful and wanton—4 points.
- 107 2. Leaving the scene of a crash resulting in property
 108 damage of more than \$50—6 points.
- 109 3. Unlawful speed, or unlawful use of a wireless
 110 communications device, resulting in a crash—6 points.
- 111 4. Passing a stopped school bus—4 points.
- 112 5. Unlawful speed:

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113 a. Not in excess of 15 miles per hour of lawful or posted
114 speed—3 points.

115 b. In excess of 15 miles per hour of lawful or posted
116 speed—4 points.

117 6. A violation of a traffic control signal device as
118 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.

119 7. All other moving violations (including parking on a
120 highway outside the limits of a municipality)—3 points. However,
121 no points shall be imposed for a violation of s. 316.0741 or s.
122 316.2065(12).

123 8. Any moving violation covered in this paragraph ~~above~~,
124 excluding unlawful speed and unlawful use of a wireless
125 communications device, resulting in a crash—4 points.

126 9. Any conviction under s. 403.413(6)(b)—3 points.

127 10. Any conviction under s. 316.0775(2)—4 points.

128 Section 3. This act shall take effect October 1, 2010.