



974140

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2010	.	
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The Committee on Transportation (Dockery) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

316.305 Wireless communications devices; prohibition.-

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

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

(a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road



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13 users.

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

16 (c) Reduce injuries, deaths, property damage, health care
17 costs, health insurance rates, and automobile insurance rates
18 related to motor vehicle crashes.

19 (d) Authorize law enforcement officers to stop motor
20 vehicles and issue citations to persons texting while driving as
21 a secondary offense.

22 (3) (a) A person shall not operate a motor vehicle while
23 manually typing or entering multiple letters, numbers, symbols,
24 or other characters into a wireless communications device or
25 while sending or reading data in such a device for the purpose
26 of nonvoice interpersonal communication, including, but not
27 limited to, communication methods known as texting, e-mailing,
28 and instant messaging. As used in this section, the term
29 "wireless communications device" means any device that is
30 designed or intended to receive or transmit text or character-
31 based messages, access or store data, or connect to the Internet
32 or any communications service as defined in s. 812.15 and that
33 allows text communications. For purposes of this section, a
34 motor vehicle that is legally parked is not being operated and
35 is not subject to the prohibition in this paragraph.

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

38 1. Performing official duties as an operator of an
39 authorized emergency vehicle as defined in s. 322.01, a law
40 enforcement or fire service professional, or an emergency
41 medical services professional.



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42 2. Reporting an emergency or criminal or suspicious
43 activity to law enforcement authorities.

44 3. Receiving messages that are:

45 a. Related to the operation or navigation of the motor
46 vehicle;

47 b. Safety-related information, including emergency,
48 traffic, or weather alerts;

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

50 d. Radio broadcasts.

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

52 5. Conducting wireless interpersonal communication that
53 does not require manual entry of multiple letters, numbers, or
54 symbols or reading text messages, except to activate,
55 deactivate, or initiate a feature or function.

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

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

64 (b) Any person who commits a second or subsequent violation
65 of subsection (3) within 5 years after the date of a prior
66 conviction for a violation of subsection (3) commits a
67 noncriminal traffic infraction, punishable as a moving violation
68 as provided in chapter 318.

69 (5) Enforcement of this section by state or local law
70 enforcement agencies must be accomplished only as a secondary



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71 action when an operator of a motor vehicle has been detained for
72 a suspected violation of another section of this chapter,
73 chapter 320, or chapter 322.

74 Section 2. Paragraph (d) of subsection (3) of section
75 322.27, Florida Statutes, is amended to read:

76 322.27 Authority of department to suspend or revoke
77 license.-

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

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

- 93 1. Reckless driving, willful and wanton-4 points.
- 94 2. Leaving the scene of a crash resulting in property
95 damage of more than \$50-6 points.
- 96 3. Unlawful speed, or unlawful use of a wireless
97 communications device, resulting in a crash-6 points.
- 98 4. Passing a stopped school bus-4 points.
- 99 5. Unlawful speed:



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

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

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

106 7. All other moving violations (including parking on a
107 highway outside the limits of a municipality)—3 points. However,
108 no points shall be imposed for a violation of s. 316.0741 or s.
109 316.2065(12).

110 8. Any moving violation covered in this paragraph above,
111 excluding unlawful speed and unlawful use of a wireless
112 communications device, resulting in a crash—4 points.

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

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

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

116

117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete everything before the enacting clause
120 and insert:

121 A bill to be entitled
122 An act relating to use of wireless communications
123 devices while driving; creating s. 316.305, F.S.;
124 creating the "Florida Ban on Texting While Driving
125 Law"; providing legislative intent; prohibiting the
126 operation of a motor vehicle while using a wireless
127 communications device for certain purposes; providing
128 a definition; providing exceptions; specifying



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129 information admissible as evidence of a violation;
130 providing penalties; providing for enforcement as a
131 secondary action; amending s. 322.27, F.S.; providing
132 for points to be assessed against a driver's license
133 for the unlawful use of a wireless communications
134 device resulting in a crash; providing an effective
135 date.