

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:

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 However, no points shall be imposed for a violation of s.  
120 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
121 stop at a traffic signal and when enforced by a traffic  
122 infraction enforcement officer. In addition, a violation of s.  
123 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
124 stop at a traffic signal and when enforced by a traffic  
125 infraction enforcement officer may not be used for purposes of  
126 setting motor vehicle insurance rates.

127 7. All other moving violations (including parking on a  
128 highway outside the limits of a municipality)—3 points. However,  
129 no points shall be imposed for a violation of s. 316.0741 or s.  
130 316.2065(12); and points shall be imposed for a violation of s.  
131 316.1001 only when imposed by the court after a hearing pursuant  
132 to s. 318.14(5).

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

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

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

138 Section 3. This act shall take effect October 1, 2011.