

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

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

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

21 316.305 Wireless communications devices; prohibition.—

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

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

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

28 (b) Prevent crashes related to the act of text messaging

29 while driving a motor vehicle.

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

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

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

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

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

56 2. Reporting an emergency or criminal or suspicious

57 activity to law enforcement authorities.

58 3. Receiving messages that are:

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

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

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

64 d. Radio broadcasts.

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

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

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

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

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

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

85 action when an operator of a motor vehicle has been detained for
 86 a suspected violation of another provision of this chapter,
 87 chapter 320, or chapter 322.

88 Section 2. Paragraph (d) of subsection (3) of section
 89 322.27, Florida Statutes, is amended to read:

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

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

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

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

- 113 5. Unlawful speed:
- 114 a. Not in excess of 15 miles per hour of lawful or posted
- 115 speed—3 points.
- 116 b. In excess of 15 miles per hour of lawful or posted
- 117 speed—4 points.
- 118 6. A violation of a traffic control signal device as
- 119 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.
- 120 However, no points shall be imposed for a violation of s.
- 121 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
- 122 stop at a traffic signal and when enforced by a traffic
- 123 infraction enforcement officer. In addition, a violation of s.
- 124 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
- 125 stop at a traffic signal and when enforced by a traffic
- 126 infraction enforcement officer may not be used for purposes of
- 127 setting motor vehicle insurance rates.
- 128 7. All other moving violations (including parking on a
- 129 highway outside the limits of a municipality)—3 points. However,
- 130 no points shall be imposed for a violation of s. 316.0741 or s.
- 131 316.2065(12); and points shall be imposed for a violation of s.
- 132 316.1001 only when imposed by the court after a hearing pursuant
- 133 to s. 318.14(5).
- 134 8. Any moving violation covered in this paragraph ~~above~~,
- 135 excluding unlawful speed and unlawful use of a wireless
- 136 communications device, resulting in a crash—4 points.
- 137 9. Any conviction under s. 403.413(6)(b)—3 points.
- 138 10. Any conviction under s. 316.0775(2)—4 points.
- 139 Section 3. This act shall take effect October 1, 2012.