

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; defining  
 8           the term "wireless communications device"; providing  
 9           exceptions; specifying information that is admissible  
 10          as evidence of a violation; providing penalties;  
 11          providing for enforcement as a secondary action;  
 12          amending s. 322.27, F.S.; providing for points to be  
 13          assessed against a driver license for the unlawful use  
 14          of a wireless communications device within a school  
 15          zone or resulting in a crash; providing an effective  
 16          date.

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

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

22           316.305 Wireless communications devices; prohibition.—

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

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

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

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

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

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

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

52 (b) Paragraph (a) does not apply to a motor vehicle  
 53 operator who is:

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

57 | medical services professional.

58 |       2. Reporting an emergency or criminal or suspicious

59 | activity to law enforcement authorities.

60 |       3. Receiving messages that are:

61 |       a. Related to the operation or navigation of the motor

62 | vehicle;

63 |       b. Safety-related information, including emergency,

64 | traffic, or weather alerts;

65 |       c. Data used primarily by the motor vehicle; or

66 |       d. Radio broadcasts.

67 |       4. Using a device or system for navigation purposes.

68 |       5. Conducting wireless interpersonal communication that

69 | does not require manual entry of multiple letters, numbers, or

70 | symbols, except to activate, deactivate, or initiate a feature

71 | or function.

72 |       6. Conducting wireless interpersonal communication that

73 | does not require reading text messages, except to activate,

74 | deactivate, or initiate a feature or function.

75 |       7. Operating an autonomous vehicle, as defined in s.

76 | 316.003, in autonomous mode.

77 |       (c) A user's billing records for a wireless communications

78 | device or the testimony of or written statements from

79 | appropriate authorities receiving such messages may be

80 | admissible as evidence in any proceeding to determine whether a

81 | violation of paragraph (a) has been committed.

82 |       (4) (a) Any person who violates paragraph (3) (a) commits a

83 | noncriminal traffic infraction, punishable as a nonmoving

84 | violation as provided in chapter 318.

85           (b) Any person who commits a second or subsequent  
 86 violation of paragraph (3)(a) within 5 years after the date of a  
 87 prior conviction for a violation of paragraph (3)(a) commits a  
 88 noncriminal traffic infraction, punishable as a moving violation  
 89 as provided in chapter 318.

90           (5) Enforcement of this section by state or local law  
 91 enforcement agencies must be accomplished only as a secondary  
 92 action when an operator of a motor vehicle has been detained for  
 93 a suspected violation of another provision of this chapter,  
 94 chapter 320, or chapter 322.

95           Section 2. Paragraph (d) of subsection (3) of section  
 96 322.27, Florida Statutes, is amended to read:

97           322.27 Authority of department to suspend or revoke driver  
 98 license or identification card.—

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

111           (d) The point system shall have as its basic element a  
 112 graduated scale of points assigning relative values to

- 113 | convictions of the following violations:
- 114 |       1. Reckless driving, willful and wanton—4 points.
- 115 |       2. Leaving the scene of a crash resulting in property
- 116 | damage of more than \$50—6 points.
- 117 |       3. Unlawful speed, or unlawful use of a wireless
- 118 | communications device, resulting in a crash—6 points.
- 119 |       4. Passing a stopped school bus—4 points.
- 120 |       5. Unlawful speed:
- 121 |           a. Not in excess of 15 miles per hour of lawful or posted
- 122 | speed—3 points.
- 123 |           b. In excess of 15 miles per hour of lawful or posted
- 124 | speed—4 points.
- 125 |       6. A violation of a traffic control signal device as
- 126 | provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.
- 127 | However, no points shall be imposed for a violation of s.
- 128 | 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
- 129 | stop at a traffic signal and when enforced by a traffic
- 130 | infraction enforcement officer. In addition, a violation of s.
- 131 | 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
- 132 | stop at a traffic signal and when enforced by a traffic
- 133 | infraction enforcement officer may not be used for purposes of
- 134 | setting motor vehicle insurance rates.
- 135 |       7. All other moving violations (including parking on a
- 136 | highway outside the limits of a municipality)—3 points. However,
- 137 | no points shall be imposed for a violation of s. 316.0741 or s.
- 138 | 316.2065(11); and points shall be imposed for a violation of s.
- 139 | 316.1001 only when imposed by the court after a hearing pursuant
- 140 | to s. 318.14(5).

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141 8. Any moving violation covered in this paragraph ~~above~~,  
142 excluding unlawful speed and unlawful use of a wireless  
143 communications device, resulting in a crash-4 points.

144 9. Any conviction under s. 403.413(6)(b)-3 points.

145 10. Any conviction under s. 316.0775(2)-4 points.

146 11. A moving violation covered in this paragraph which is  
147 committed in conjunction with the unlawful use of a wireless  
148 communications device within a school zone-2 points, in addition  
149 to the points assigned for the moving violation.

150 Section 3. This act shall take effect October 1, 2013.