

By the Committees on Judiciary; Communications, Energy, and Public Utilities; and Transportation; and Senators Detert, Montford, Margolis, Richter, Latvala, Abruzzo, Benacquisto, and Soto

590-03896-13

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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 safety zone or resulting in a crash; providing an
 16 effective 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 to
 21 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

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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 or capable of being used in a handheld manner, that is designed
46 or intended to receive or transmit text or character-based
47 messages, access or store data, or connect to the Internet or
48 any communications service as defined in s. 812.15 and that
49 allows text communications. For the purposes of this paragraph,
50 a motor vehicle that is stationary is not being operated and is
51 not subject to the 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

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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 violation
86 of paragraph (3) (a) within 5 years after the date of a prior
87 conviction for a violation of paragraph (3) (a) commits a

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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.

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- 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).
- 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.

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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 safety zone-2 points, in
149 addition to the points assigned for the moving violation.

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