

201352er

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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.

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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

201352er

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

201352er

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) Only in the event of a crash resulting in death or
78 personal injury, a user's billing records for a wireless
79 communications device or the testimony of or written statements
80 from appropriate authorities receiving such messages may be
81 admissible as evidence in any proceeding to determine whether a
82 violation of paragraph (a) has been committed.

83 (4) (a) Any person who violates paragraph (3) (a) commits a
84 noncriminal traffic infraction, punishable as a nonmoving
85 violation as provided in chapter 318.

86 (b) Any person who commits a second or subsequent violation
87 of paragraph (3) (a) within 5 years after the date of a prior

201352er

88 conviction for a violation of paragraph (3) (a) commits a
89 noncriminal traffic infraction, punishable as a moving violation
90 as provided in chapter 318.

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

96 Section 2. Paragraph (d) of subsection (3) of section
97 322.27, Florida Statutes, is amended to read:

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

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

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

- 115 1. Reckless driving, willful and wanton—4 points.
116 2. Leaving the scene of a crash resulting in property

201352er

117 damage of more than \$50-6 points.

118 3. Unlawful speed, or unlawful use of a wireless
119 communications device, resulting in a crash-6 points.

120 4. Passing a stopped school bus-4 points.

121 5. Unlawful speed:

122 a. Not in excess of 15 miles per hour of lawful or posted
123 speed-3 points.

124 b. In excess of 15 miles per hour of lawful or posted
125 speed-4 points.

126 6. A violation of a traffic control signal device as
127 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.
128 However, no points shall be imposed for a violation of s.
129 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
130 stop at a traffic signal and when enforced by a traffic
131 infraction enforcement officer. In addition, a violation of s.
132 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
133 stop at a traffic signal and when enforced by a traffic
134 infraction enforcement officer may not be used for purposes of
135 setting motor vehicle insurance rates.

136 7. All other moving violations (including parking on a
137 highway outside the limits of a municipality)-3 points. However,
138 no points shall be imposed for a violation of s. 316.0741 or s.
139 316.2065(11); and points shall be imposed for a violation of s.
140 316.1001 only when imposed by the court after a hearing pursuant
141 to s. 318.14(5).

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

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

201352er

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

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

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