

By Senator Rodriguez

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1                   A bill to be entitled  
2           An act relating to texting while driving; amending s.  
3           316.305, F.S.; revising legislative intent; revising  
4           penalties for violations of the Florida Ban on Texting  
5           While Driving Law; providing enhanced penalties for  
6           such violations when committed in a school zone or  
7           school crossing; requiring each law enforcement agency  
8           in this state to adopt policies to prohibit the  
9           practice of racial profiling in the enforcement of  
10          this section; removing a requirement that specified  
11          provisions be enforced as a secondary action by a law  
12          enforcement agency; providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

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16           Section 1. Paragraph (d) of subsection (2) of section  
17           316.305, Florida Statutes, is amended, subsection (3) of that  
18           section is reenacted, and subsections (4) and (5) of that  
19           section are amended, to read:

20           316.305 Wireless communications devices; prohibition.-

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

22           (d) Authorize law enforcement officers to stop motor  
23           vehicles and issue citations ~~as a secondary offense~~ to persons  
24           who are texting while driving.

25           (3) (a) A person may not operate a motor vehicle while  
26           manually typing or entering multiple letters, numbers, symbols,  
27           or other characters into a wireless communications device or  
28           while sending or reading data on such a device for the purpose  
29           of nonvoice interpersonal communication, including, but not

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30 limited to, communication methods known as texting, e-mailing,  
31 and instant messaging. As used in this section, the term  
32 "wireless communications device" means any handheld device used  
33 or capable of being used in a handheld manner, that is designed  
34 or intended to receive or transmit text or character-based  
35 messages, access or store data, or connect to the Internet or  
36 any communications service as defined in s. 812.15 and that  
37 allows text communications. For the purposes of this paragraph,  
38 a motor vehicle that is stationary is not being operated and is  
39 not subject to the prohibition in this paragraph.

40 (b) Paragraph (a) does not apply to a motor vehicle  
41 operator who is:

42 1. Performing official duties as an operator of an  
43 authorized emergency vehicle as defined in s. 322.01, a law  
44 enforcement or fire service professional, or an emergency  
45 medical services professional.

46 2. Reporting an emergency or criminal or suspicious  
47 activity to law enforcement authorities.

48 3. Receiving messages that are:

49 a. Related to the operation or navigation of the motor  
50 vehicle;

51 b. Safety-related information, including emergency,  
52 traffic, or weather alerts;

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

54 d. Radio broadcasts.

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

56 5. Conducting wireless interpersonal communication that  
57 does not require manual entry of multiple letters, numbers, or  
58 symbols, except to activate, deactivate, or initiate a feature

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59 or function.

60 6. Conducting wireless interpersonal communication that  
61 does not require reading text messages, except to activate,  
62 deactivate, or initiate a feature or function.

63 7. Operating an autonomous vehicle, as defined in s.  
64 316.003, in autonomous mode.

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

71 (4) (a) A ~~Any~~ person who violates paragraph (3) (a) commits a  
72 noncriminal traffic infraction, punishable as a nonmoving  
73 violation as provided in chapter 318. For a violation committed  
74 in a legally posted school zone or designated school crossing,  
75 the amount of the fine prescribed for the violation shall be  
76 doubled.

77 (b) A ~~Any~~ person who commits a second or subsequent  
78 violation of paragraph (3) (a) within 5 years after the date of a  
79 prior conviction for a violation of paragraph (3) (a) commits a  
80 noncriminal traffic infraction, punishable as a moving violation  
81 as provided in chapter 318. For a violation committed in a  
82 legally posted school zone or designated school crossing,  
83 regardless of where the violation with respect to a prior  
84 conviction was committed, the amount of the fine prescribed for  
85 the violation shall be doubled.

86 (5) Each law enforcement agency in this state shall adopt  
87 policies to prohibit the practice of racial profiling in the

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

93 Section 2. This act shall take effect July 1, 2017.