

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Slosberg offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 638 and 639, insert:

5 Section 10. Paragraph (d) of subsection (2) and  
6 subsections (3) and (5) of section 316.305, Florida Statutes,  
7 are amended to read:

8 316.305 Wireless communications devices; prohibition.—

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

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

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13 (3) (a) A person may not operate a motor vehicle while  
14 manually typing or entering multiple letters, numbers, symbols,  
15 or other characters into a wireless communications device or  
16 while sending or reading data on such a device for the purpose  
17 of nonvoice interpersonal communication, including, but not  
18 limited to, communication methods known as texting, e-mailing,  
19 and instant messaging. As used in this section, the term  
20 "wireless communications device" means any handheld device used  
21 or capable of being used in a handheld manner, that is designed  
22 or intended to receive or transmit text or character-based  
23 messages, access or store data, or connect to the Internet or  
24 any communications service as defined in s. 812.15 and that  
25 allows text communications. For the purposes of this paragraph,  
26 a motor vehicle that is stationary is not being operated and is  
27 not subject to the prohibition in this paragraph.

28 (b) Paragraph (a) does not apply to a motor vehicle  
29 operator who is:

30 1. Performing official duties as an operator of an  
31 authorized emergency vehicle as defined in s. 322.01, a law  
32 enforcement or fire service professional, or an emergency  
33 medical services professional.

34 2. Reporting an emergency or criminal or suspicious  
35 activity to law enforcement authorities.

36 3. Receiving messages that are:

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37 a. Related to the operation or navigation of the motor  
38 vehicle;

39 b. Safety-related information, including emergency,  
40 traffic, or weather alerts;

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

42 d. Radio broadcasts.

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

44 5. Conducting wireless interpersonal communication that  
45 does not require manual entry of multiple letters, numbers, or  
46 symbols, except to activate, deactivate, or initiate a feature  
47 or function.

48 6. Conducting wireless interpersonal communication that  
49 does not require reading text messages, except to activate,  
50 deactivate, or initiate a feature or function.

51 7. Operating an autonomous vehicle, as defined in s.  
52 316.003, in autonomous mode.

53 (c) A law enforcement officer who stops a motor vehicle  
54 for a violation of paragraph (a) must inform the motor vehicle  
55 operator of his or her right to decline a search of his or her  
56 wireless communications device and may not:

57 1. Access the wireless communications device without a  
58 warrant.

59 2. Confiscate the wireless communications device while  
60 awaiting issuance of a warrant to access such device.

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61 3. Obtain consent from the motor vehicle operator to  
62 search his or her wireless communications device through  
63 coercion or other improper method. Consent to search a motor  
64 vehicle operator's wireless communications device must be  
65 voluntary and unequivocal.

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

72 (5) When a law enforcement officer issues a citation for a  
73 violation of this section, the law enforcement officer must  
74 record the race and ethnicity of the violator. All law  
75 enforcement agencies must maintain such information and report  
76 the information to the department in a form and manner  
77 determined by the department. Beginning February 1, 2019, the  
78 department shall annually report the data collected under this  
79 subsection to the Governor, the President of the Senate, and the  
80 Speaker of the House of Representatives. The data collected must  
81 be reported at least by statewide totals for local law  
82 enforcement agencies, state law enforcement agencies, and state  
83 university law enforcement agencies. The statewide total for  
84 local law enforcement agencies shall combine the data for the  
85 county sheriffs and the municipal law enforcement agencies.

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

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92 -----

**T I T L E   A M E N D M E N T**

93  
94 Between lines 52 and 53, insert:

95 316.305, F.S.; revising legislative intent; requiring  
96 a law enforcement officer to inform a motor vehicle  
97 operator of certain rights; prohibiting certain  
98 actions by such officer; requiring such officer to  
99 record the race and ethnicity of a violator when  
100 issuing a citation; requiring law enforcement agencies  
101 to report such information to the Department of  
102 Highway Safety and Motor Vehicles; requiring the  
103 department to annually report certain data to the  
104 Governor and Legislature; removing the requirement  
105 that enforcement be accomplished as a secondary  
106 action; amending s.

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