

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Slosberg offered the following:

Amendment (with title amendment)

Between lines 61 and 62, insert:

Section 5. The amendment made by this act to s. 316.305, Florida Statutes, may be cited as the "Logan Scherer and Anthony Branca Distracted Driving Act."

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

316.305 Wireless communications devices; prohibition.—

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

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

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

31 (b) Paragraph (a) does not apply to a motor vehicle
32 operator who is:

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

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37 2. Reporting an emergency or criminal or suspicious
38 activity to law enforcement authorities.

39 3. Receiving messages that are:

40 a. Related to the operation or navigation of the motor
41 vehicle;

42 b. Safety-related information, including emergency,
43 traffic, or weather alerts;

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

45 d. Radio broadcasts.

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

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

51 6. Conducting wireless interpersonal communication that
52 does not require reading text messages, except to activate,
53 deactivate, or initiate a feature or function.

54 7. Operating an autonomous vehicle, as defined in s.
55 316.003, in autonomous mode.

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

60 1. Access the wireless communications device without a
61 warrant.

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

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

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

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

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

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T I T L E A M E N D M E N T

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Remove lines 2-5 and insert:

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An act relating to cellular phones, portable

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electronic communication devices, and microphone-

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enabled household devices; providing a short title;

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amending s. 316.305, F.S.; revising legislative

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intent; requiring a law enforcement officer to inform

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a motor vehicle operator of certain rights;

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prohibiting certain actions by such officer; requiring

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such officer to record the race and ethnicity of a

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violator when issuing a citation; requiring law

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enforcement agencies to report such information to the

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Department of Highway Safety and Motor Vehicles;

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requiring the department to annually report certain

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data to the Governor and Legislature; removing the

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111 requirement that enforcement be accomplished as a
112 secondary action; amending s.

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