

1 A bill to be entitled
2 An act relating to texting while driving; amending s.
3 316.305, F.S.; revising legislative intent; requiring
4 a law enforcement officer to inform a motor vehicle
5 operator of certain rights; prohibiting certain
6 actions by such officer; removing the requirement that
7 enforcement be accomplished as a secondary action;
8 providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Paragraph (d) of subsection (2) and subsections
13 (3) and (5) of section 316.305, Florida Statutes, are amended to
14 read:

15 316.305 Wireless communications devices; prohibition.—

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

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

20 (3) (a) A person may not operate a motor vehicle while
21 manually typing or entering multiple letters, numbers, symbols,
22 or other characters into a wireless communications device or
23 while sending or reading data on such a device for the purpose
24 of nonvoice interpersonal communication, including, but not
25 limited to, communication methods known as texting, e-mailing,

26 and instant messaging. As used in this section, the term
27 "wireless communications device" means any handheld device used
28 or capable of being used in a handheld manner, that is designed
29 or intended to receive or transmit text or character-based
30 messages, access or store data, or connect to the Internet or
31 any communications service as defined in s. 812.15 and that
32 allows text communications. For the purposes of this paragraph,
33 a motor vehicle that is stationary is not being operated and is
34 not subject to the prohibition in this paragraph.

35 (b) Paragraph (a) does not apply to a motor vehicle
36 operator who is:

37 1. Performing official duties as an operator of an
38 authorized emergency vehicle as defined in s. 322.01, a law
39 enforcement or fire service professional, or an emergency
40 medical services professional.

41 2. Reporting an emergency or criminal or suspicious
42 activity to law enforcement authorities.

43 3. Receiving messages that are:

44 a. Related to the operation or navigation of the motor
45 vehicle;

46 b. Safety-related information, including emergency,
47 traffic, or weather alerts;

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

49 d. Radio broadcasts.

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

51 5. Conducting wireless interpersonal communication that
52 does not require manual entry of multiple letters, numbers, or
53 symbols, except to activate, deactivate, or initiate a feature
54 or function.

55 6. Conducting wireless interpersonal communication that
56 does not require reading text messages, except to activate,
57 deactivate, or initiate a feature or function.

58 7. Operating an autonomous vehicle, as defined in s.
59 316.003, in autonomous mode.

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

64 1. Access the wireless communications device without a
65 warrant.

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

68 3. Use intimidation tactics to convince the person in
69 possession of the wireless communications device to provide
70 access to such device without a warrant.

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

76 violation of paragraph (a) has been committed.

77 ~~(5) Enforcement of this section by state or local law~~
78 ~~enforcement agencies must be accomplished only as a secondary~~
79 ~~action when an operator of a motor vehicle has been detained for~~
80 ~~a suspected violation of another provision of this chapter,~~
81 ~~chapter 320, or chapter 322.~~

82 Section 2. This act shall take effect July 1, 2018.