

(LATE FILED FOR: MARCH 7 THIRD READING) HOUSE AMENDMENT

Bill No. CS/CS/CS/SB 616, 1st Eng. (2018)

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 415 and 416, insert:

5 Section 2. Paragraph (d) of subsection (2) and subsections
6 (3) and (5) of section 316.305, Florida Statutes, are amended to
7 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
93 **T I T L E A M E N D M E N T**

94 Between lines 67 and 68, insert:
95 amending s. 316.305, F.S.; revising legislative
96 intent; requiring a law enforcement officer to inform
97 a motor vehicle operator of certain rights;
98 prohibiting certain actions by such officer; requiring
99 such officer to record the race and ethnicity of a
100 violator when issuing a citation; requiring law
101 enforcement agencies to report such information to the
102 Department of Highway Safety and Motor Vehicles;
103 requiring the department to annually report certain
104 data to the Governor and Legislature; removing the
105 requirement that enforcement be accomplished as a
106 secondary action;

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