



949778

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
01/23/2018	.	
	.	
	.	
	.	

Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(1) This section may be cited as the "Florida Ban on Handheld Wireless Communications ~~Texting~~ While Driving Law."

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



949778

11 (a) Improve roadway safety for all vehicle operators,
12 vehicle passengers, bicyclists, pedestrians, and other road
13 users.

14 (b) Prevent crashes related to the act of using a wireless
15 communications device ~~text messaging~~ while driving a motor
16 vehicle.

17 (c) Reduce injuries, deaths, property damage, health care
18 costs, health insurance rates, and automobile insurance rates
19 related to motor vehicle crashes.

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

24 (3) (a) A person may not operate a motor vehicle while:

25 1. Dialing, or talking or listening on, a wireless
26 communications device for the purpose of interpersonal
27 communication;

28 2. Manually typing or entering multiple letters, numbers,
29 symbols, or other characters into a wireless communications
30 device or while sending or reading data on such a device for the
31 purpose of nonvoice interpersonal communication, including, but
32 not limited to, communication methods known as texting, e-
33 mailing, and instant messaging; or

34 3. Using a wireless communications device to view or post
35 an electronic message or initiate a command to the Internet.

36
37 As used in this section, the term "wireless communications
38 device" means any handheld device that is used or capable of
39 being used in a handheld manner; ~~it~~ that is designed or intended



949778

40 to receive interpersonal communication, ~~or~~ transmit text or
41 character-based messages, access or store data, or connect to
42 the Internet or any communications service as defined in s.
43 812.15; and that allows text communications. For the purposes of
44 this paragraph, a motor vehicle that is stationary is not being
45 operated and is not subject to the prohibition in this
46 paragraph.

47 (b) Paragraph (a) does not apply to a motor vehicle
48 operator who is:

49 1. Performing official duties as an operator of an
50 authorized emergency vehicle as defined in s. 322.01, a law
51 enforcement or fire service professional, or an emergency
52 medical services professional.

53 2. Reporting an emergency or criminal or suspicious
54 activity to law enforcement authorities.

55 3. Receiving messages that are:

56 a. Related to the operation or navigation of the motor
57 vehicle;

58 b. Safety-related information, including emergency,
59 traffic, or weather alerts;

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

61 d. Radio broadcasts.

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

63 ~~5. Conducting wireless interpersonal communication that~~
64 ~~does not require manual entry of multiple letters, numbers, or~~
65 ~~symbols, except to activate, deactivate, or initiate a feature~~
66 ~~or function.~~

67 ~~6. Conducting wireless interpersonal communication that~~
68 ~~does not require reading text messages, except to activate,~~



949778

69 ~~deactivate, or initiate a feature or function.~~

70 5.7. Operating an autonomous vehicle, as defined in s.
71 316.003, in autonomous mode.

72 6. Conducting wireless interpersonal communication through
73 the use of a hands-free electronic device. The term "hands-free
74 electronic device" means a mobile electronic device that has an
75 internal feature or function, or that is equipped with an
76 attachment or addition, regardless of whether the attachment or
77 addition is a permanent part of such mobile electronic device,
78 by which a user engages in conversation without the use of
79 either hand.

80 (c) Only in the event of a crash resulting in death or
81 personal injury, a user's billing records for a wireless
82 communications device or the testimony of or written statements
83 from appropriate authorities obtaining ~~receiving~~ such
84 communications ~~messages~~ may be admissible as evidence in any
85 proceeding to determine whether a violation of paragraph (a) has
86 been committed.

87 (4) (a) Any person who violates paragraph (3) (a) commits a
88 noncriminal traffic infraction, punishable as a nonmoving
89 violation as provided in chapter 318.

90 (b) Any person who commits a second or subsequent violation
91 of paragraph (3) (a) within 5 years after the date of a prior
92 conviction for a violation of paragraph (3) (a) commits a
93 noncriminal traffic infraction, punishable as a moving violation
94 as provided in chapter 318.

95 (5) Notwithstanding s. 318.21, all proceeds collected
96 pursuant to s. 318.18 for a violation of this section must be
97 remitted to the Department of Revenue for deposit into the



949778

98 Department of Health Emergency Medical Services Trust Fund
99 ~~Enforcement of this section by state or local law enforcement~~
100 ~~agencies must be accomplished only as a secondary action when an~~
101 ~~operator of a motor vehicle has been detained for a suspected~~
102 ~~violation of another provision of this chapter, chapter 320, or~~
103 ~~chapter 322.~~

104 Section 2. This act shall take effect October 1, 2018.

105
106 ===== T I T L E A M E N D M E N T =====

107 And the title is amended as follows:

108 Delete everything before the enacting clause
109 and insert:

110 A bill to be entitled
111 An act relating to wireless communications devices
112 while driving; amending s. 316.305, F.S.; renaming the
113 short title as the "Florida Ban on Handheld Wireless
114 Communications While Driving Law"; revising
115 legislative intent; prohibiting a person from
116 operating a motor vehicle while dialing, or talking or
117 listening on, a wireless communications device for the
118 purpose of interpersonal communication or while using
119 a wireless communications device to view or post an
120 electronic message or initiate a command to the
121 Internet; revising the definition of the term
122 "wireless communications device"; revising the
123 exceptions to the prohibition against operating a
124 motor vehicle while using a wireless communications
125 device; defining the term "hands-free electronic
126 device"; requiring certain fines to be deposited into



949778

127 the Department of Health Emergency Medical Services
128 Trust Fund; deleting a provision requiring that
129 enforcement of the wireless communications device
130 prohibition be accomplished only as a secondary
131 action; providing an effective date.