



384344

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AE/3R	.	Floor: C
04/25/2019 06:25 PM	.	04/29/2019 05:50 PM
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Senator Simpson moved the following:

**Senate Amendment (with title amendment)**

Delete line 104

and insert:

Section 2. Effective October 1, 2019, section 316.306, Florida Statutes, is created to read:

316.306 School and work zones; prohibition on the use of a wireless communications device in a handheld manner.-

(1) For purposes of this section, the term "wireless communications device" has the same meaning as provided in s. 316.305(3) (a). The term includes, but is not limited to, a cell



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12 phone, a tablet, a laptop, a two-way messaging device, or an  
13 electronic game that is used or capable of being used in a  
14 handheld manner. The term does not include a safety, security,  
15 or convenience feature built into a motor vehicle which does not  
16 require the use of a handheld device.

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

18 (a) Improve roadway safety in school and work zones for all  
19 vehicle operators, vehicle passengers, bicyclists, pedestrians,  
20 and other road users.

21 (b) Prevent crashes related to the act of driving while  
22 using a wireless communications device in a handheld manner when  
23 operating a motor vehicle while the vehicle is in motion.

24 (c) Reduce injuries, deaths, property damage, health care  
25 costs, health insurance rates, and automobile insurance rates  
26 related to motor vehicle crashes.

27 (d) Authorize law enforcement officers to stop motor  
28 vehicles and issue citations to persons who are driving in  
29 school or work zones while using a wireless communications  
30 device in a handheld manner as provided in subsection (3).

31 (3) (a) 1. A person may not operate a motor vehicle while  
32 using a wireless communications device in a handheld manner in a  
33 designated school crossing, school zone, or work zone area as  
34 defined in s. 316.003(101). This subparagraph shall only be  
35 applicable to work zone areas if construction personnel are  
36 present or are operating equipment on the road or immediately  
37 adjacent to the work zone area. For the purposes of this  
38 paragraph, a motor vehicle that is stationary is not being  
39 operated and is not subject to the prohibition in this  
40 paragraph.



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41 2.a. During the period from October 1, 2019, through  
42 December 31, 2019, a law enforcement officer may stop motor  
43 vehicles to issue verbal or written warnings to persons who are  
44 in violation of subparagraph (a)1. for the purposes of informing  
45 and educating such persons of this section. This sub-  
46 subparagraph shall stand repealed on October 1, 2020.

47 b. Effective January 1, 2020, a law enforcement officer may  
48 stop motor vehicles and issue citations to persons who are  
49 driving while using a wireless communications device in a  
50 handheld manner in violation of subparagraph (a)1.

51 (b) Paragraph (a) does not apply to a motor vehicle  
52 operator who is:

53 1. Performing official duties as an operator of an  
54 authorized emergency vehicle as defined in s. 322.01, a law  
55 enforcement or fire service professional, or an emergency  
56 medical services professional.

57 2. Reporting an emergency or criminal or suspicious  
58 activity to law enforcement authorities.

59 3. Receiving messages that are:

60 a. Related to the operation or navigation of the motor  
61 vehicle;

62 b. Safety-related information, including emergency,  
63 traffic, or weather alerts;

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

65 d. Radio broadcasts.

66 4. Using a device or system in a hands-free manner for  
67 navigation purposes.

68 5. Using a wireless communications device hands-free or  
69 hands-free in voice-operated mode, including, but not limited



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70 to, a factory-installed or after-market Bluetooth device.  
71 6. Operating an autonomous vehicle, as defined in s.  
72 316.003, in autonomous mode.  
73 (c) A law enforcement officer who stops a motor vehicle for  
74 a violation of paragraph (a) must inform the motor vehicle  
75 operator of his or her right to decline a search of his or her  
76 wireless communications device and may not:  
77 1. Access the wireless communications device without a  
78 warrant.  
79 2. Confiscate the wireless communications device while  
80 awaiting issuance of a warrant to access such device.  
81 3. Obtain consent from the motor vehicle operator to search  
82 his or her wireless communications device through coercion or  
83 other improper method. Consent to search a motor vehicle  
84 operator's wireless communications device must be voluntary and  
85 unequivocal.  
86 (d) Only in the event of a crash resulting in death or  
87 serious bodily injury, as defined in s. 316.027, may a user's  
88 billing records for a wireless communications device, or the  
89 testimony of or written statements from appropriate authorities  
90 receiving such messages, be admissible as evidence in any  
91 proceeding to determine whether a violation of subparagraph  
92 (a)1. has been committed.  
93 (e) Law enforcement officers must indicate the type of  
94 wireless communications device in the comment section of the  
95 uniform traffic citation.  
96 (4) (a) Any person who violates this section commits a  
97 noncriminal traffic infraction, punishable as a moving  
98 violation, as provided in chapter 318, and shall have 3 points



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99 assessed against his or her driver license as set forth in s.  
100 322.27(3)(d)7. For a first offense under this section, in lieu  
101 of the penalty specified in s. 318.18 and the assessment of  
102 points, a person who violates this section may elect to  
103 participate in a wireless communications device driving safety  
104 program approved by the Department of Highway Safety and Motor  
105 Vehicles. Upon completion of such program, the penalty specified  
106 in s. 318.18 and associated costs may be waived by the clerk of  
107 the court and the assessment of points must be waived.

108 (b) The clerk of the court may dismiss a case and assess  
109 court costs in accordance with s. 318.18(11)(a) for a nonmoving  
110 traffic infraction for a person who is cited for a first time  
111 violation of this section if the person shows the clerk proof of  
112 purchase of equipment that enables his or her personal wireless  
113 communications device to be used in a hands-free manner.

114 (5) Notwithstanding s. 318.21, all proceeds collected  
115 pursuant to s. 318.18 for violations of this section must be  
116 remitted to the Department of Revenue for deposit into the  
117 Emergency Medical Services Trust Fund of the Department of  
118 Health.

119 (6) When a law enforcement officer issues a citation for a  
120 violation of this section, the law enforcement officer must  
121 record the race and ethnicity of the violator. All law  
122 enforcement agencies must maintain such information and must  
123 report such information to the department in a form and manner  
124 determined by the department. Beginning February 1, 2020, the  
125 department shall annually report the data collected under this  
126 subsection to the Governor, the President of the Senate, and the  
127 Speaker of the House of Representatives. The data collected must



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128 be reported at least by statewide totals for local law  
129 enforcement agencies, state law enforcement agencies, and state  
130 university law enforcement agencies. The statewide total for  
131 local law enforcement agencies must combine the data for the  
132 county sheriffs and the municipal law enforcement agencies.

133 Section 3. (1) The Department of Highway Safety and Motor  
134 Vehicles, in consultation with the Department of Transportation,  
135 may implement a statewide campaign to raise awareness of and  
136 encourage compliance with ss. 316.305 and 316.306, Florida  
137 Statutes. The Department of Highway Safety and Motor Vehicles  
138 may use television messaging, radio broadcasts, print media,  
139 digital strategies, social media, and any other form of  
140 messaging deemed necessary and appropriate by the department to  
141 implement the campaign.

142 (2) The Department of Highway Safety and Motor Vehicles may  
143 contract with counties, local law enforcement agencies, safety  
144 councils, and public schools to assist with planning and  
145 conducting the statewide campaign.

146 Section 4. Except as otherwise expressly provided in this  
147 act, this act shall take effect July 1, 2019.

148  
149 ===== T I T L E A M E N D M E N T =====

150 And the title is amended as follows:

151 Delete lines 2 - 14

152 and insert:

153 An act relating to wireless communications while  
154 driving; amending s. 316.305, F.S.; revising  
155 legislative intent; requiring a law enforcement  
156 officer to inform a motor vehicle operator of certain



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157 rights; prohibiting certain actions by such officer;  
158 requiring such officer to record the race and  
159 ethnicity of a violator when issuing a citation;  
160 requiring law enforcement agencies to report such  
161 information to the Department of Highway Safety and  
162 Motor Vehicles; requiring the department to annually  
163 report certain data to the Governor and Legislature;  
164 removing the requirement that enforcement be  
165 accomplished as a secondary action; creating s.  
166 316.306, F.S.; defining the term "wireless  
167 communications device"; providing legislative intent;  
168 prohibiting a person from operating a motor vehicle  
169 while using a wireless communications device in a  
170 handheld manner in a designated school crossing,  
171 school zone, or work zone; providing applicability;  
172 providing construction; authorizing a law enforcement  
173 officer during a specified period to stop motor  
174 vehicles to issue warnings to persons who are driving  
175 while using a wireless communications device in a  
176 handheld manner in a designated school crossing,  
177 school zone, or work zone; providing for repeal of  
178 that authorization; authorizing a law enforcement  
179 officer, on and after a specified date, to stop motor  
180 vehicles and issue citations to persons who are  
181 driving while using a wireless communications device  
182 in a handheld manner in a designated school crossing,  
183 school zone, or work zone; providing exceptions to  
184 such prohibition; requiring a law enforcement officer  
185 who stops a motor vehicle for a violation of driving



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186 while using a wireless communications device in a  
187 handheld manner in a designated school crossing,  
188 school zone, or work zone to inform the motor vehicle  
189 operator of his or her right to decline a search of  
190 his or her wireless communications device; prohibiting  
191 the law enforcement officer from taking specified  
192 actions; requiring certain consent to search a motor  
193 vehicle operator's wireless communications device;  
194 providing that a user's billing records for a wireless  
195 communications device or the testimony of or written  
196 statements from certain authorities are admissible as  
197 evidence in crashes resulting in death or serious  
198 bodily injury for certain purposes; requiring that law  
199 enforcement officers indicate specified information in  
200 the uniform traffic citation; providing penalties for  
201 driving while using a wireless communications device  
202 in a handheld manner in a designated school crossing,  
203 school zone, or work zone; authorizing first-time  
204 offenders to participate in a wireless communications  
205 device driving safety program, in lieu of the  
206 imposition of penalties; authorizing a clerk of the  
207 court to dismiss a case and assess court costs under  
208 certain circumstances; requiring the deposit of fines  
209 into the Emergency Medical Services Trust Fund of the  
210 Department of Health; requiring law enforcement  
211 officers to record the race and ethnicity of violators  
212 when issuing a citation for a violation of this  
213 section; requiring all law enforcement agencies to  
214 maintain such information and report it to the





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215 Department of Highway Safety and Motor Vehicles in a  
216 form and manner determined by the department;  
217 beginning on a specified date, requiring the  
218 department to annually report the data to the Governor  
219 and Legislature; providing requirements for the  
220 report; authorizing the department, in consultation  
221 with the Department of Transportation, to implement a  
222 statewide campaign to raise awareness of and encourage  
223 compliance with the prohibitions on operating a motor  
224 vehicle while using a wireless communications device;  
225 authorizing the department to use certain messaging to  
226 implement the campaign; authorizing the department to  
227 contract with certain entities for certain purposes;  
228 providing effective dates.