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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/RE/3R

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04/25/2019 06:25 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). For the purposes of this paragraph,
35 a motor vehicle that is stationary is not being operated and is
36 not subject to the prohibition in this paragraph.

37 2.a. During the period from October 1, 2019, through
38 December 31, 2019, a law enforcement officer may stop motor
39 vehicles to issue verbal or written warnings to persons who are
40 in violation of subparagraph (a)1. for the purposes of informing



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41 and educating such persons of this section. This sub-
42 subparagraph shall stand repealed on October 1, 2020.

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

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 in a hands-free manner for
63 navigation purposes.

64 5. Using a wireless communications device hands-free or
65 hands-free in voice-operated mode, including, but not limited
66 to, a factory-installed or after-market Bluetooth device.

67 6. Operating an autonomous vehicle, as defined in s.
68 316.003, in autonomous mode.

69 (c) A law enforcement officer who stops a motor vehicle for



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70 a violation of paragraph (a) must inform the motor vehicle
71 operator of his or her right to decline a search of his or her
72 wireless communications device and may not:

73 1. Access the wireless communications device without a
74 warrant.

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

77 3. Obtain consent from the motor vehicle operator to search
78 his or her wireless communications device through coercion or
79 other improper method. Consent to search a motor vehicle
80 operator's wireless communications device must be voluntary and
81 unequivocal.

82 (d) Only in the event of a crash resulting in death or
83 serious bodily injury, as defined in s. 316.027, may a user's
84 billing records for a wireless communications device, or the
85 testimony of or written statements from appropriate authorities
86 receiving such messages, be admissible as evidence in any
87 proceeding to determine whether a violation of subparagraph
88 (a)1. has been committed.

89 (e) Law enforcement officers must indicate the type of
90 wireless communications device in the comment section of the
91 uniform traffic citation.

92 (4) (a) Any person who violates this section commits a
93 noncriminal traffic infraction, punishable as a moving
94 violation, as provided in chapter 318, and shall have 3 points
95 assessed against his or her driver license as set forth in s.
96 322.27(3)(d)7. For a first offense under this section, in lieu
97 of the penalty specified in s. 318.18 and the assessment of
98 points, a person who violates this section may elect to



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99 participate in a wireless communications device driving safety
100 program approved by the Department of Highway Safety and Motor
101 Vehicles. Upon completion of such program, the penalty specified
102 in s. 318.18 and associated costs may be waived by the clerk of
103 the court and the assessment of points must be waived.

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

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

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



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128 county sheriffs and the municipal law enforcement agencies.

129 Section 2. (1) The Department of Highway Safety and Motor
130 Vehicles, in consultation with the Department of Transportation,
131 may implement a statewide campaign to raise awareness of and
132 encourage compliance with ss. 316.305 and 316.306, Florida
133 Statutes. The Department of Highway Safety and Motor Vehicles
134 may use television messaging, radio broadcasts, print media,
135 digital strategies, social media, and any other form of
136 messaging deemed necessary and appropriate by the department to
137 implement the campaign.

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

142 Section 3. Except as otherwise expressly provided in this
143 act, this act shall take effect July 1, 2019.

144

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

146 And the title is amended as follows:

147 Delete lines 2 - 14

148 and insert:

149 An act relating to wireless communications while
150 driving; amending s. 316.305, F.S.; revising
151 legislative intent; requiring a law enforcement
152 officer to inform a motor vehicle operator of certain
153 rights; prohibiting certain actions by such officer;
154 requiring such officer to record the race and
155 ethnicity of a violator when issuing a citation;
156 requiring law enforcement agencies to report such



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



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



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215 and Legislature; providing requirements for the
216 report; authorizing the department, in consultation
217 with the Department of Transportation, to implement a
218 statewide campaign to raise awareness of and encourage
219 compliance with the prohibitions on operating a motor
220 vehicle while using a wireless communications device;
221 authorizing the department to use certain messaging to
222 implement the campaign; authorizing the department to
223 contract with certain entities for certain purposes;
224 providing effective dates.