



524280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
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The Committee on Judiciary (Simmons) recommended the following:

1 **Senate Substitute for Amendment (878202) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

8 316.305 Wireless communications devices; prohibition.—

9 (1) This section may be cited as the "Florida Ban on
10 Texting While Driving Law."

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



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

15 (b) Prevent crashes related to the act of driving while
16 text messaging when operating ~~while driving~~ a motor vehicle
17 while the vehicle is in motion.

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

21 (d) Authorize law enforcement officers to stop motor
22 vehicles and issue citations as a primary ~~secondary~~ offense to
23 persons who are texting while driving as provided in subsection
24 (3).

25 (3) (a) 1. A person may not operate a motor vehicle while
26 manually typing or entering multiple letters, numbers, symbols,
27 or other characters into a wireless communications device or
28 while sending or reading data on such a device for the purpose
29 of nonvoice interpersonal communication, including, but not
30 limited to, communication methods known as texting, e-mailing,
31 and instant messaging. As used in this section, the term
32 "wireless communications device" means any handheld device used
33 or capable of being used in a handheld manner, that is designed
34 or intended to receive or transmit text or character-based
35 messages, access or store data, or connect to the Internet or
36 any communications service as defined in s. 812.15 and that
37 allows text communications. For the purposes of this paragraph,
38 a motor vehicle that is stationary is not being operated and is
39 not subject to the prohibition in this paragraph.

40 2.a. During the period of October 1, 2019, through December



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41 31, 2019, a law enforcement officer may stop motor vehicles to
42 issue verbal or written warnings to persons who are texting
43 while driving for the purposes of informing and educating such
44 persons. This sub-subparagraph shall stand repealed on October
45 1, 2020.

46 b. After December 31, 2019, a law enforcement officer may
47 stop motor vehicles and issue citations to persons who are
48 texting while driving.

49 (b) Paragraph (a) does not apply to a motor vehicle
50 operator who is:

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

55 2. Reporting an emergency or criminal or suspicious
56 activity to law enforcement authorities.

57 3. Receiving messages that are:

58 a. Related to the operation or navigation of the motor
59 vehicle;

60 b. Safety-related information, including emergency,
61 traffic, or weather alerts;

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

63 d. Radio broadcasts.

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

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

69 6. Conducting wireless interpersonal communication that



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70 does not require reading text messages, except to activate,
71 deactivate, or initiate a feature or function.

72 7. Operating an autonomous vehicle, as defined in s.
73 316.003, in autonomous mode.

74 (c) Only in the event of a crash resulting in death or
75 serious bodily injury, as defined in s. 316.027 ~~personal injury,~~
76 a user's billing records for a wireless communications device or
77 the testimony of or written statements from appropriate
78 authorities receiving such messages may be admissible as
79 evidence in any proceeding to determine whether a violation of
80 paragraph (a) has been committed.

81 (4) ~~(a)~~ Any person who violates this section commits a
82 noncriminal traffic infraction, punishable as a moving
83 violation, as provided in chapter 318, and shall have 3 points
84 assessed against his or her driver license as set forth in s.
85 322.27. For a first offense under this section, in lieu of the
86 penalty specified in s. 318.18 and the assessment of points, a
87 person who violates this section may elect to participate in a
88 distracted driving safety program approved by the Department of
89 Highway Safety and Motor Vehicles. Upon completion of such
90 program, the penalty specified in s. 318.18 and associated costs
91 may be waived by the clerk of the court and the assessment of
92 points must be waived ~~Any person who violates paragraph (3) (a)~~
93 ~~commits a noncriminal traffic infraction, punishable as a~~
94 ~~nonmoving violation as provided in chapter 318.~~

95 ~~(b) Any person who commits a second or subsequent violation~~
96 ~~of paragraph (3) (a) within 5 years after the date of a prior~~
97 ~~conviction for a violation of paragraph (3) (a) commits a~~
98 ~~noncriminal traffic infraction, punishable as a moving violation~~



99 ~~as provided in chapter 318.~~

100 (5) Notwithstanding s. 318.21, all proceeds collected
101 pursuant to s. 318.18 for violations of this section must be
102 remitted to the Department of Revenue for deposit into the
103 Emergency Medical Services Trust Fund of the Department of
104 Health ~~Enforcement of this section by state or local law~~
105 ~~enforcement agencies must be accomplished only as a secondary~~
106 ~~action when an operator of a motor vehicle has been detained for~~
107 ~~a suspected violation of another provision of this chapter,~~
108 ~~chapter 320, or chapter 322.~~

109 Section 2. (1) The Department of Highway Safety and Motor
110 Vehicles, in consultation with the Department of Transportation,
111 may implement a statewide campaign to raise awareness and
112 prevent drivers from driving while distracted. The Department of
113 Highway Safety and Motor Vehicles may use television messaging,
114 radio broadcasts, print media, digital strategies, social media,
115 and any other form of messaging deemed necessary and appropriate
116 by the department to implement the campaign.

117 (2) The Department of Highway Safety and Motor Vehicles may
118 contract with counties, local law enforcement agencies, safety
119 councils, and public schools to assist with planning and
120 conducting the statewide driving while distracted safety and
121 public awareness campaign in a manner that encourages compliance
122 with s. 316.305, Florida Statutes.

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

125
126 ===== T I T L E A M E N D M E N T =====

127 And the title is amended as follows:



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128 Delete everything before the enacting clause
129 and insert:

130 A bill to be entitled
131 An act relating to texting while driving; amending s.
132 316.305, F.S.; prohibiting a person from texting while
133 driving; authorizing a law enforcement officer during
134 a specified period to stop motor vehicles to issue
135 warnings to persons who are driving while distracted;
136 providing for repeal of a provision; authorizing a law
137 enforcement officer, after a specified date, to stop
138 motor vehicles and issue citations to persons who are
139 driving while distracted; revising exceptions to such
140 prohibition; revising crash results for which a user's
141 billing records for a wireless communications device
142 or the testimony of or written statements from certain
143 authorities are admissible as evidence; providing
144 penalties for driving while distracted; authorizing
145 participation in a distracted driving safety program
146 for a first offense, in lieu of specified penalties;
147 requiring the deposit of fines into the Emergency
148 Medical Services Trust Fund; deleting a provision
149 requiring that enforcement of this section be
150 accomplished only as a secondary action; authorizing
151 the Department of Highway Safety and Motor Vehicles,
152 in consultation with the Department of Transportation,
153 to implement a statewide campaign to raise awareness
154 and prevent drivers from driving while distracted;
155 authorizing the department to use certain messaging to
156 implement the campaign; authorizing the department to



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contract with certain entities for certain purposes;
providing contract authority; providing an effective
date.