



594074

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2019	.	
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The Committee on Infrastructure and Security (Simpson)  
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 Driving while distracted ~~Wireless communications~~  
~~devices~~; prohibition.—

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



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11           (2) For purposes of this section, the term:

12           (a) "Driving while distracted" means the inattentive  
13 operation of a motor vehicle. Inattentive or distracted driving  
14 conduct includes reading, writing, performing personal grooming,  
15 applying a beauty aid or similar products, interacting with pets  
16 or unsecured cargo, using a personal wireless communications  
17 device, or engaging in any other activity, conduct, task, or  
18 action that causes distraction.

19           (b) "Wireless communications device" means any handheld  
20 device that is designed or intended to receive or transmit text-  
21 or character-based messages, to record or view images, to access  
22 or store data, or to connect to the Internet or any  
23 communications service, as defined in s. 812.15, or which allows  
24 text communications. The term includes, but is not limited to, a  
25 cell phone, a tablet, a laptop, a two-way messaging device, or  
26 an electronic game that is used or capable of being used in a  
27 handheld manner. The term does not include a safety, security,  
28 or convenience feature built into a motor vehicle which does not  
29 require the use of a handheld device.

30           (3)~~(2)~~ It is the intent of the Legislature to:

31           (a) Improve roadway safety for all vehicle operators,  
32 vehicle passengers, bicyclists, pedestrians, and other road  
33 users.

34           (b) Prevent crashes related to the act of driving while  
35 distracted when operating ~~text messaging while driving~~ a motor  
36 vehicle.

37           (c) Reduce injuries, deaths, property damage, health care  
38 costs, health insurance rates, and automobile insurance rates  
39 related to motor vehicle crashes.



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40 (d) Authorize law enforcement officers to stop motor  
41 vehicles and issue citations as ~~a secondary offense~~ to persons  
42 who are ~~texting while driving~~ while distracted.

43 ~~(4)(3)~~(a) A person may not operate a motor vehicle when  
44 driving while distracted ~~while manually typing or entering~~  
45 ~~multiple letters, numbers, symbols, or other characters into a~~  
46 ~~wireless communications device or while sending or reading data~~  
47 ~~on such a device for the purpose of nonvoice interpersonal~~  
48 ~~communication, including, but not limited to, communication~~  
49 ~~methods known as texting, e-mailing, and instant messaging. As~~  
50 ~~used in this section, the term "wireless communications device"~~  
51 ~~means any handheld device used or capable of being used in a~~  
52 ~~handheld manner, that is designed or intended to receive or~~  
53 ~~transmit text or character-based messages, access or store data,~~  
54 ~~or connect to the Internet or any communications service as~~  
55 ~~defined in s. 812.15 and that allows text communications. For~~  
56 the purposes of this paragraph, a motor vehicle that is  
57 stationary is not being operated and is not subject to the  
58 prohibition in this paragraph.

59 (b) Paragraph (a) does not apply to a motor vehicle  
60 operator who is:

61 1. Performing official duties as an operator of an  
62 authorized emergency vehicle as defined in s. 322.01, a law  
63 enforcement or fire service professional, or an emergency  
64 medical services professional.

65 2. Reporting an emergency or criminal or suspicious  
66 activity to law enforcement authorities.

67 3. Receiving messages that are:

68 a. Related to the operation or navigation of the motor



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69 vehicle;

70 b. Safety-related information, including emergency,  
71 traffic, or weather alerts;

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

73 d. Radio broadcasts.

74 4. Using a device or system in a hands-free manner for  
75 navigation purposes.

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

79 ~~Conducting wireless interpersonal communication that does not~~  
80 ~~require manual entry of multiple letters, numbers, or symbols,~~  
81 ~~except to activate, deactivate, or initiate a feature or~~  
82 ~~function.~~

83 ~~6. Conducting wireless interpersonal communication that~~  
84 ~~does not require reading text messages, except to activate,~~  
85 ~~deactivate, or initiate a feature or function.~~

86 ~~6.7.~~ Operating an autonomous vehicle, as defined in s.  
87 316.003, in autonomous mode.

88 (c) Only in the event of a crash resulting in death or  
89 serious bodily injury, as defined in s. 316.027 ~~personal injury,~~  
90 a user's billing records for a wireless communications device or  
91 the testimony of or written statements from appropriate  
92 authorities receiving such messages may be admissible as  
93 evidence in any proceeding to determine whether a violation of  
94 paragraph (a) has been committed.

95 (d) Law enforcement officers must indicate the type of  
96 distraction in the comment section of the uniform traffic  
97 citation.



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98            (5)-(4)-(a) Any person who violates this section commits a  
99 noncriminal traffic infraction, punishable as a moving  
100 violation, as provided in chapter 318, and shall have 3 points  
101 assessed against his or her driver license as set forth in s.  
102 322.27. For a first offense of this section, in lieu of the  
103 penalty specified in s. 318.18 and the assessment of points, a  
104 person who violates this section may elect to participate in a  
105 distracted driving safety program approved by the Department of  
106 Highway Safety and Motor Vehicles. Upon completion of such  
107 program, the penalty specified in s. 318.18 and associated costs  
108 may be waived by the clerk of the court and the assessment of  
109 points must be waived ~~Any person who violates paragraph (3) (a)~~  
110 ~~commits a noncriminal traffic infraction, punishable as a~~  
111 ~~nonmoving violation as provided in chapter 318.~~

112            ~~(b) Any person who commits a second or subsequent violation~~  
113 ~~of paragraph (3) (a) within 5 years after the date of a prior~~  
114 ~~conviction for a violation of paragraph (3) (a) commits a~~  
115 ~~noncriminal traffic infraction, punishable as a moving violation~~  
116 ~~as provided in chapter 318.~~

117            (6)-(5) Notwithstanding s. 318.21, all proceeds collected  
118 pursuant to s. 318.18 for violations of this section must be  
119 remitted to the Department of Revenue for deposit into the  
120 Emergency Medical Services Trust Fund of the Department of  
121 Health ~~Enforcement of this section by state or local law~~  
122 ~~enforcement agencies must be accomplished only as a secondary~~  
123 ~~action when an operator of a motor vehicle has been detained for~~  
124 ~~a suspected violation of another provision of this chapter,~~  
125 ~~chapter 320, or chapter 322.~~

126            Section 2. This act shall take affect October 1, 2019.



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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to driving while distracted; amending  
s. 316.305, F.S.; revising the short title; defining  
the term "driving while distracted"; redefining the  
term "wireless communications device"; revising  
legislative intent; prohibiting a person from  
operating a motor vehicle when driving while  
distracted; revising exceptions to such prohibition;  
revising crash results for which a user's billing  
records for a wireless communications device or the  
testimony of or written statements from certain  
authorities are admissible as evidence; requiring that  
law enforcement officers indicate specified  
information in the uniform traffic citation; providing  
penalties for driving while distracted; authorizing  
participation in a distracted driving safety program  
for a first offense, in lieu of specified penalties;  
requiring the deposit of fines into the Emergency  
Medical Services Trust Fund; deleting a provision  
requiring that enforcement of this section be  
accomplished only as a secondary action; providing an  
effective date.