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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
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	.	

The Committee on Rules (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Effective October 1, 2019, section 316.305,
Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

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

(2) For purposes of this section, the term "wireless
communications device" means any handheld device that is



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12 designed or intended to allow two-way voice communication, to
13 receive or transmit text-based or character-based messages, to
14 record or view images, to access or store data, or to connect to
15 the Internet or to any communications service, as defined in s.
16 812.15, or that allows text communications. The term includes,
17 but is not limited to, a cell phone, a tablet, a laptop, a two-
18 way messaging device, or an electronic game that is used or
19 capable of being used in a handheld manner. The term does not
20 include a safety, security, or convenience feature built into a
21 motor vehicle which does not require the use of a handheld
22 device.

23 (3)~~(2)~~ It is the intent of the Legislature to:

24 (a) Improve roadway safety for all vehicle operators,
25 vehicle passengers, bicyclists, pedestrians, and other road
26 users.

27 (b) Prevent crashes related to the act of driving while
28 using a wireless communications device when operating ~~text~~
29 ~~messaging while driving~~ a motor vehicle while the vehicle is in
30 motion.

31 (c) Reduce injuries, deaths, property damage, health care
32 costs, health insurance rates, and automobile insurance rates
33 related to motor vehicle crashes.

34 (d) Authorize law enforcement officers to stop motor
35 vehicles and issue citations ~~as a secondary offense~~ to persons
36 who are ~~texting while driving~~ while using a wireless
37 communications device as provided in subsection (4).

38 (4)~~(3)~~(a)1. A person may not operate a motor vehicle while
39 using a wireless communications device ~~while manually typing or~~
40 ~~entering multiple letters, numbers, symbols, or other characters~~



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41 ~~into a wireless communications device or while sending or~~
42 ~~reading data on such a device for the purpose of nonvoice~~
43 ~~interpersonal communication, including, but not limited to,~~
44 ~~communication methods known as texting, e-mailing, and instant~~
45 ~~messaging. As used in this section, the term "wireless~~
46 ~~communications device" means any handheld device used or capable~~
47 ~~of being used in a handheld manner, that is designed or intended~~
48 ~~to receive or transmit text or character-based messages, access~~
49 ~~or store data, or connect to the Internet or any communications~~
50 ~~service as defined in s. 812.15 and that allows text~~
51 ~~communications. For the purposes of this paragraph, a motor~~
52 ~~vehicle that is stationary is not being operated and is not~~
53 ~~subject to the prohibition in this paragraph.~~

54 2.a. During the period from October 1, 2019, through
55 December 31, 2019, a law enforcement officer may stop motor
56 vehicles to issue verbal or written warnings to persons who are
57 driving while using a wireless communications device for the
58 purposes of informing and educating such persons of this
59 section. This sub-subparagraph shall stand repealed on October
60 1, 2020.

61 b. Effective January 1, 2020, a law enforcement officer may
62 stop motor vehicles and issue citations to persons who are
63 driving while using a wireless communications device.

64 (b) Paragraph (a) does not apply to a motor vehicle
65 operator who is:

66 1. Performing official duties as an operator of an
67 authorized emergency vehicle as defined in s. 322.01, a law
68 enforcement or fire service professional, or an emergency
69 medical services professional.



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70 2. Reporting an emergency or criminal or suspicious
71 activity to law enforcement authorities.
72 3. Receiving messages that are:
73 a. Related to the operation or navigation of the motor
74 vehicle;
75 b. Safety-related information, including emergency,
76 traffic, or weather alerts;
77 c. Data used primarily by the motor vehicle; or
78 d. Radio broadcasts.
79 4. Using a device or system in a hands-free manner for
80 navigation purposes.
81 5. Using a wireless communications device hands-free or
82 hands-free in voice-operated mode, including, but not limited
83 to, a factory-installed or after-market Bluetooth device
84 ~~Conducting wireless interpersonal communication that does not~~
85 ~~require manual entry of multiple letters, numbers, or symbols,~~
86 ~~except to activate, deactivate, or initiate a feature or~~
87 ~~function.~~
88 ~~6. Conducting wireless interpersonal communication that~~
89 ~~does not require reading text messages, except to activate,~~
90 ~~deactivate, or initiate a feature or function.~~
91 ~~6.7.~~ Operating an autonomous vehicle, as defined in s.
92 316.003, in autonomous mode.
93 (c) Only in the event of a crash resulting in death or
94 serious bodily injury, as defined in s. 316.027 ~~personal injury,~~
95 a user's billing records for a wireless communications device or
96 the testimony of or written statements from appropriate
97 authorities receiving such messages may be admissible as
98 evidence in any proceeding to determine whether a violation of



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99 subparagraph (a)1. paragraph (a) has been committed.

100 (d) Law enforcement officers must indicate the type of
101 wireless communications device in the comment section of the
102 uniform traffic citation.

103 (5)(4)(a) Any person who violates this section commits a
104 noncriminal traffic infraction, punishable as a moving
105 violation, as provided in chapter 318, and shall have 3 points
106 assessed against his or her driver license as set forth in s.
107 322.27(3)(d)7. For a first offense under this section, in lieu
108 of the penalty specified in s. 318.18 and the assessment of
109 points, a person who violates this section may elect to
110 participate in a wireless communications device driving safety
111 program approved by the Department of Highway Safety and Motor
112 Vehicles. Upon completion of such program, the penalty specified
113 in s. 318.18 and associated costs may be waived by the clerk of
114 the court and the assessment of points must be waived ~~Any person~~
115 ~~who violates paragraph (3)(a) commits a noncriminal traffic~~
116 ~~infraction, punishable as a nonmoving violation as provided in~~
117 ~~chapter 318.~~

118 (b) The clerk of the court may dismiss a case and assess
119 court costs in accordance with s. 318.18(11)(a) for a nonmoving
120 traffic infraction for a person who is cited for a first time
121 violation of this section if the person shows the clerk proof of
122 purchase of equipment that enables his or her personal wireless
123 communications device to be used in a hands-free manner ~~Any~~
124 ~~person who commits a second or subsequent violation of paragraph~~
125 ~~(3)(a) within 5 years after the date of a prior conviction for a~~
126 ~~violation of paragraph (3)(a) commits a noncriminal traffic~~
127 ~~infraction, punishable as a moving violation as provided in~~



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128 ~~chapter 318.~~

129 (6) ~~(5)~~ Notwithstanding s. 318.21, all proceeds collected
130 pursuant to s. 318.18 for violations of this section must be
131 remitted to the Department of Revenue for deposit into the
132 Emergency Medical Services Trust Fund of the Department of
133 Health ~~Enforcement of this section by state or local law~~
134 ~~enforcement agencies must be accomplished only as a secondary~~
135 ~~action when an operator of a motor vehicle has been detained for~~
136 ~~a suspected violation of another provision of this chapter,~~
137 ~~chapter 320, or chapter 322.~~

138 (7) When a law enforcement officer issues a citation for a
139 violation of this section, the law enforcement officer must
140 record the race and ethnicity of the violator. All law
141 enforcement agencies must maintain such information and must
142 report such information to the department in a form and manner
143 determined by the department. Beginning February 1, 2020, the
144 department shall annually report the data collected under this
145 subsection to the Governor, the President of the Senate, and the
146 Speaker of the House of Representatives. The data collected must
147 be reported at least by statewide totals for local law
148 enforcement agencies, state law enforcement agencies, and state
149 university law enforcement agencies. The statewide total for
150 local law enforcement agencies must combine the data for the
151 county sheriffs and the municipal law enforcement agencies.

152 Section 2. (1) The Department of Highway Safety and Motor
153 Vehicles, in consultation with the Department of Transportation,
154 may implement a statewide campaign to raise awareness of and
155 encourage compliance with s. 316.305, Florida Statutes. The
156 Department of Highway Safety and Motor Vehicles may use



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157 television messaging, radio broadcasts, print media, digital
158 strategies, social media, and any other form of messaging deemed
159 necessary and appropriate by the department to implement the
160 campaign.

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

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

167
168 ===== T I T L E A M E N D M E N T =====

169 And the title is amended as follows:

170 Delete everything before the enacting clause
171 and insert:

172 A bill to be entitled
173 An act relating to driving while using a wireless
174 communications device; amending s. 316.305, F.S.;
175 revising a short title; redefining the term "wireless
176 communications device"; revising legislative intent;
177 prohibiting a person from operating a motor vehicle
178 while using a wireless communications device;
179 authorizing a law enforcement officer during a
180 specified period to stop motor vehicles to issue
181 warnings to persons who are driving while using a
182 wireless communications device; providing for repeal
183 of that authorization; authorizing a law enforcement
184 officer, on and after a specified date, to stop motor
185 vehicles and issue citations to persons who are



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



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