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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RS | . | |
| 03/26/2019 | . | |
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The Committee on Judiciary (Simmons) 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 Wireless communications devices; prohibition.—

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

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

(a) Improve roadway safety for all vehicle operators,



878202

12 vehicle passengers, bicyclists, pedestrians, and other road
13 users.

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

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

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

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

38 2.a. During the period of October 1, 2019, through December
39 31, 2019, a law enforcement officer may stop motor vehicles to
40 issue verbal or written warnings to persons who are texting



878202

41 while driving for the purposes of informing and educating such
42 persons. This sub-subparagraph shall stand repealed on October
43 1, 2020.

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

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 for navigation purposes.

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

67 6. Conducting wireless interpersonal communication that
68 does not require reading text messages, except to activate,
69 deactivate, or initiate a feature or function.



878202

70 7. Operating an autonomous vehicle, as defined in s.
71 316.003, in autonomous mode.

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

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

93 ~~(b) Any person who commits a second or subsequent violation~~
94 ~~of paragraph (3) (a) within 5 years after the date of a prior~~
95 ~~conviction for a violation of paragraph (3) (a) commits a~~
96 ~~noncriminal traffic infraction, punishable as a moving violation~~
97 ~~as provided in chapter 318.~~

98 (5) Notwithstanding s. 318.21, all proceeds collected



878202

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

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

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

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

123
124 ===== T I T L E A M E N D M E N T =====

125 And the title is amended as follows:

126 Delete everything before the enacting clause
127 and insert:



878202

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



878202

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date.