

By the Committee on Infrastructure and Security; and Senators Simpson, Passidomo, Hooper, Mayfield, Book, Rouson, Berman, Perry, Taddeo, and Cruz

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1 A bill to be entitled
2 An act relating to driving while distracted; amending
3 s. 316.305, F.S.; revising the short title; defining
4 the term "driving while distracted"; redefining the
5 term "wireless communications device"; revising
6 legislative intent; prohibiting a person from
7 operating a motor vehicle when driving while
8 distracted; authorizing a law enforcement officer
9 during a specified period to stop motor vehicles to
10 issue warnings to persons who are driving while
11 distracted; providing for repeal of a provision;
12 authorizing a law enforcement officer, after a
13 specified date, to stop motor vehicles and issue
14 citations to persons who are driving while distracted;
15 revising exceptions to such prohibition; revising
16 crash results for which a user's billing records for a
17 wireless communications device or the testimony of or
18 written statements from certain authorities are
19 admissible as evidence; requiring that law enforcement
20 officers indicate specified information in the uniform
21 traffic citation; providing penalties for driving
22 while distracted; authorizing participation in a
23 distracted driving safety program for a first offense,
24 in lieu of specified penalties; authorizing a clerk of
25 the court to dismiss a case and assess court costs
26 under certain circumstances; requiring the deposit of
27 fines into the Emergency Medical Services Trust Fund;
28 deleting a provision requiring that enforcement of
29 this section be accomplished only as a secondary

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30 action; authorizing the Department of Highway Safety
31 and Motor Vehicles, in consultation with the
32 Department of Transportation, to implement a statewide
33 campaign to raise awareness and prevent drivers from
34 driving while distracted; authorizing the department
35 to use certain messaging to implement the campaign;
36 authorizing the department to contract with certain
37 entities for certain purposes; providing contract
38 authority; providing effective dates.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Effective October 1, 2019, section 316.305,
43 Florida Statutes, is amended to read:

44 316.305 Driving while distracted ~~Wireless communications~~
45 ~~devices~~; prohibition.—

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

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

49 (a) "Driving while distracted" means the inattentive
50 operation of a motor vehicle. Inattentive or distracted driving
51 conduct includes reading, writing, performing personal grooming,
52 applying a beauty aid or similar products, interacting with pets
53 or unsecured cargo, using a personal wireless communications
54 device, or engaging in any other activity, conduct, task, or
55 action that causes distraction.

56 (b) "Wireless communications device" means any handheld
57 device that is designed or intended to receive or transmit text-
58 or character-based messages, to record or view images, to access

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59 or store data, or to connect to the Internet or any
60 communications service, as defined in s. 812.15, or which allows
61 text communications. The term includes, but is not limited to, a
62 cell phone, a tablet, a laptop, a two-way messaging device, or
63 an electronic game that is used or capable of being used in a
64 handheld manner. The term does not include a safety, security,
65 or convenience feature built into a motor vehicle which does not
66 require the use of a handheld device.

67 (3)(2) It is the intent of the Legislature to:

68 (a) Improve roadway safety for all vehicle operators,
69 vehicle passengers, bicyclists, pedestrians, and other road
70 users.

71 (b) Prevent crashes related to the act of driving while
72 distracted when operating ~~text messaging while driving~~ a motor
73 vehicle.

74 (c) Reduce injuries, deaths, property damage, health care
75 costs, health insurance rates, and automobile insurance rates
76 related to motor vehicle crashes.

77 (d) Authorize law enforcement officers to stop motor
78 vehicles and issue citations ~~as a secondary offense~~ to persons
79 who are ~~texting while driving~~ while distracted as provided in
80 subsection (4).

81 (4)(3)(a)1. A person may not operate a motor vehicle when
82 driving while distracted ~~while manually typing or entering~~
83 ~~multiple letters, numbers, symbols, or other characters into a~~
84 ~~wireless communications device or while sending or reading data~~
85 ~~on such a device for the purpose of nonvoice interpersonal~~
86 ~~communication, including, but not limited to, communication~~
87 ~~methods known as texting, e-mailing, and instant messaging. As~~

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88 ~~used in this section, the term "wireless communications device"~~
89 ~~means any handheld device used or capable of being used in a~~
90 ~~handheld manner, that is designed or intended to receive or~~
91 ~~transmit text or character-based messages, access or store data,~~
92 ~~or connect to the Internet or any communications service as~~
93 ~~defined in s. 812.15 and that allows text communications. For~~
94 the purposes of this paragraph, a motor vehicle that is
95 stationary is not being operated and is not subject to the
96 prohibition in this paragraph.

97 2.a. During the period of October 1, 2019, through December
98 31, 2019, a law enforcement officer may stop motor vehicles to
99 issue verbal or written warnings to persons who are driving
100 while distracted for the purposes of informing and educating
101 such persons. This sub-subparagraph shall stand repealed on
102 October 1, 2020.

103 b. After December 31, 2019, a law enforcement officer may
104 stop motor vehicles and issue citations to persons who are
105 driving while distracted.

106 (b) Paragraph (a) does not apply to a motor vehicle
107 operator who is:

108 1. Performing official duties as an operator of an
109 authorized emergency vehicle as defined in s. 322.01, a law
110 enforcement or fire service professional, or an emergency
111 medical services professional.

112 2. Reporting an emergency or criminal or suspicious
113 activity to law enforcement authorities.

114 3. Receiving messages that are:

115 a. Related to the operation or navigation of the motor
116 vehicle;

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- 117 b. Safety-related information, including emergency,
118 traffic, or weather alerts;
- 119 c. Data used primarily by the motor vehicle; or
- 120 d. Radio broadcasts.
- 121 4. Using a device or system in a hands-free manner for
122 navigation purposes.
- 123 5. Using a wireless communications device hands-free or
124 hands-free in voice-operated mode, including, but not limited
125 to, a factory-installed or after-market Bluetooth device
126 ~~Conducting wireless interpersonal communication that does not~~
127 ~~require manual entry of multiple letters, numbers, or symbols,~~
128 ~~except to activate, deactivate, or initiate a feature or~~
129 ~~function.~~
- 130 ~~6. Conducting wireless interpersonal communication that~~
131 ~~does not require reading text messages, except to activate,~~
132 ~~deactivate, or initiate a feature or function.~~
- 133 ~~6.7.~~ Operating an autonomous vehicle, as defined in s.
134 316.003, in autonomous mode.
- 135 (c) Only in the event of a crash resulting in death or
136 serious bodily injury, as defined in s. 316.027 ~~personal injury,~~
137 a user's billing records for a wireless communications device or
138 the testimony of or written statements from appropriate
139 authorities receiving such messages may be admissible as
140 evidence in any proceeding to determine whether a violation of
141 paragraph (a) has been committed.
- 142 (d) Law enforcement officers must indicate the type of
143 distraction in the comment section of the uniform traffic
144 citation.
- 145 ~~(5)-(4)~~ (a) Any person who violates this section commits a

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146 noncriminal traffic infraction, punishable as a moving
147 violation, as provided in chapter 318, and shall have 3 points
148 assessed against his or her driver license as set forth in s.
149 322.27. For a first offense under this section, in lieu of the
150 penalty specified in s. 318.18 and the assessment of points, a
151 person who violates this section may elect to participate in a
152 distracted driving safety program approved by the Department of
153 Highway Safety and Motor Vehicles. Upon completion of such
154 program, the penalty specified in s. 318.18 and associated costs
155 may be waived by the clerk of the court and the assessment of
156 points must be waived ~~Any person who violates paragraph (3) (a)~~
157 ~~commits a noncriminal traffic infraction, punishable as a~~
158 ~~nonmoving violation as provided in chapter 318.~~

159 (b) The clerk of the court may dismiss a case and assess
160 court costs in accordance with s. 318.18(11) (a) for a nonmoving
161 traffic infraction for a person who is cited for a first time
162 violation of this section if the inattentive or distracted
163 driving conduct resulting in the violation is for the use of a
164 personal wireless communications device and the person shows the
165 clerk proof of purchase of equipment that enables his or her
166 personal wireless communications device to be used in a hands-
167 free manner ~~Any person who commits a second or subsequent~~
168 ~~violation of paragraph (3) (a) within 5 years after the date of a~~
169 ~~prior conviction for a violation of paragraph (3) (a) commits a~~
170 ~~noncriminal traffic infraction, punishable as a moving violation~~
171 ~~as provided in chapter 318.~~

172 (6) (5) Notwithstanding s. 318.21, all proceeds collected
173 pursuant to s. 318.18 for violations of this section must be
174 remitted to the Department of Revenue for deposit into the

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175 Emergency Medical Services Trust Fund of the Department of
176 Health ~~Enforcement of this section by state or local law~~
177 ~~enforcement agencies must be accomplished only as a secondary~~
178 ~~action when an operator of a motor vehicle has been detained for~~
179 ~~a suspected violation of another provision of this chapter,~~
180 ~~chapter 320, or chapter 322.~~

181 Section 2. (1) The Department of Highway Safety and Motor
182 Vehicles, in consultation with the Department of Transportation,
183 may implement a statewide campaign to raise awareness and
184 prevent drivers from driving while distracted. The Department of
185 Highway Safety and Motor Vehicles may use television messaging,
186 radio broadcasts, print media, digital strategies, social media,
187 and any other form of messaging deemed necessary and appropriate
188 by the department to implement the campaign.

189 (2) The Department of Highway Safety and Motor Vehicles may
190 contract with counties, local law enforcement agencies, safety
191 councils, and public schools to assist with planning and
192 conducting the statewide driving while distracted safety and
193 public awareness campaign in a manner that encourages compliance
194 with s. 316.305, Florida Statutes.

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