

By the Committees on Judiciary; Innovation, Industry, and Technology; and Infrastructure and Security; and Senators Simpson, Passidomo, Hooper, Mayfield, Book, Rouson, Berman, Perry, Taddeo, and Cruz

590-03464-19

201976c3

1 A bill to be entitled
2 An act relating to texting while driving; amending s.
3 316.305, F.S.; revising legislative intent;
4 authorizing law enforcement officers, during a
5 specified timeframe, to stop motor vehicles to issue
6 verbal or written warnings to persons who are texting
7 while driving; specifying the purpose for such stops;
8 repealing the authorization as of a specified date;
9 authorizing law enforcement officers, after a
10 specified date, to stop motor vehicles and issue
11 citations to persons who are texting while driving;
12 adding a circumstance under which a wireless
13 communications device user's billing records or
14 related testimony or statements may be admissible as
15 evidence in certain proceedings; providing penalties;
16 authorizing participation in a distracted driving
17 safety program in lieu of the specified penalties for
18 first-time offenders; requiring the deposit of related
19 fines into the Emergency Medical Services Trust Fund;
20 deleting a provision requiring that enforcement be
21 accomplished only as a secondary action; authorizing
22 the Department of Highway Safety and Motor Vehicles,
23 in consultation with the Department of Transportation,
24 to implement a statewide safety and public awareness
25 campaign; authorizing the Department of Highway Safety
26 and Motor Vehicles to use certain messaging to
27 implement the campaign; authorizing the department to
28 contract with certain entities for certain purposes;
29 providing effective dates.

590-03464-19

201976c3

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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

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

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

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

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

(3) (a) 1. A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term

590-03464-19

201976c3

59 "wireless communications device" means any handheld device used
60 or capable of being used in a handheld manner, that is designed
61 or intended to receive or transmit text or character-based
62 messages, access or store data, or connect to the Internet or
63 any communications service as defined in s. 812.15 and that
64 allows text communications. For the purposes of this paragraph,
65 a motor vehicle that is stationary is not being operated and is
66 not subject to the prohibition in this paragraph.

67 2.a. During the period from October 1, 2019, through
68 December 31, 2019, a law enforcement officer may stop motor
69 vehicles to issue verbal or written warnings to persons who are
70 texting while driving, for the purposes of informing and
71 educating such persons. This sub-subparagraph shall stand
72 repealed on October 1, 2020.

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

76 (b) Paragraph (a) does not apply to a motor vehicle
77 operator who is:

78 1. Performing official duties as an operator of an
79 authorized emergency vehicle as defined in s. 322.01, a law
80 enforcement or fire service professional, or an emergency
81 medical services professional.

82 2. Reporting an emergency or criminal or suspicious
83 activity to law enforcement authorities.

84 3. Receiving messages that are:

85 a. Related to the operation or navigation of the motor
86 vehicle;

87 b. Safety-related information, including emergency,

590-03464-19

201976c3

88 traffic, or weather alerts;

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

90 d. Radio broadcasts.

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

92 5. Conducting wireless interpersonal communication that
93 does not require manual entry of multiple letters, numbers, or
94 symbols, except to activate, deactivate, or initiate a feature
95 or function.

96 6. Conducting wireless interpersonal communication that
97 does not require reading text messages, except to activate,
98 deactivate, or initiate a feature or function.

99 7. Operating an autonomous vehicle, as defined in s.
100 316.003, in autonomous mode.

101 (c) Only in the event of a crash resulting in death or
102 serious bodily injury, as defined in s. 316.027 ~~personal injury~~,
103 a user's billing records for a wireless communications device or
104 the testimony of or written statements from appropriate
105 authorities receiving such messages may be admissible as
106 evidence in any proceeding to determine whether a violation of
107 paragraph (a) has been committed.

108 (4)~~(a)~~ Any person who violates this section commits a
109 noncriminal traffic infraction, punishable as a moving
110 violation, as provided in chapter 318, and shall have 3 points
111 assessed against his or her driver license as set forth in s.
112 322.27. For a first offense under this section, in lieu of the
113 penalty specified in s. 318.18 and the assessment of points, a
114 person who violates this section may elect to participate in a
115 distracted driving safety program approved by the Department of
116 Highway Safety and Motor Vehicles. Upon completion of such

590-03464-19

201976c3

117 program, the penalty specified in s. 318.18 and associated costs
118 may be waived by the clerk of the court and the assessment of
119 points must be waived ~~Any person who violates paragraph (3)(a)~~
120 ~~commits a noncriminal traffic infraction, punishable as a~~
121 ~~nonmoving violation as provided in chapter 318.~~

122 ~~(b) Any person who commits a second or subsequent violation~~
123 ~~of paragraph (3)(a) within 5 years after the date of a prior~~
124 ~~conviction for a violation of paragraph (3)(a) commits a~~
125 ~~noncriminal traffic infraction, punishable as a moving violation~~
126 ~~as provided in chapter 318.~~

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

136 Section 2. (1) The Department of Highway Safety and Motor
137 Vehicles, in consultation with the Department of Transportation,
138 may implement a statewide campaign to raise awareness and
139 prevent drivers from driving while distracted. The Department of
140 Highway Safety and Motor Vehicles may use television messaging,
141 radio broadcasts, print media, digital strategies, social media,
142 and any other form of messaging deemed necessary and appropriate
143 by the department to implement the campaign.

144 (2) The Department of Highway Safety and Motor Vehicles may
145 contract with counties, local law enforcement agencies, safety

590-03464-19

201976c3

146 councils, and public schools to assist with planning and
147 conducting the statewide driving while distracted safety and
148 public awareness campaign in a manner that encourages compliance
149 with s. 316.305, Florida Statutes.

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