

By the Committees on Rules; Judiciary; Innovation, Industry, and Technology; and 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 using a wireless
3 communications device; amending s. 316.305, F.S.;
4 revising a short title; redefining the term "wireless
5 communications device"; revising legislative intent;
6 prohibiting a person from operating a motor vehicle
7 while using a wireless communications device;
8 authorizing a law enforcement officer during a
9 specified period to stop motor vehicles to issue
10 warnings to persons who are driving while using a
11 wireless communications device; providing for repeal
12 of that authorization; authorizing a law enforcement
13 officer, on and after a specified date, to stop motor
14 vehicles and issue citations to persons who are
15 driving while using a wireless communications device;
16 revising exceptions to such prohibition; providing
17 that a user's billing records for a wireless
18 communications device or the testimony of or written
19 statements from certain authorities are admissible as
20 evidence in crashes involving serious bodily injury;
21 requiring that law enforcement officers indicate
22 specified information in the uniform traffic citation;
23 providing penalties for driving while using a wireless
24 communications device; authorizing first-time
25 offenders to participate in a wireless communications
26 device driving safety program, in lieu of the
27 imposition of penalties; authorizing a clerk of the
28 court to dismiss a case and assess court costs under
29 certain circumstances; requiring the deposit of fines

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30 into the Emergency Medical Services Trust Fund of the
31 Department of Health; deleting a provision requiring
32 that enforcement be accomplished only as a secondary
33 action; requiring law enforcement officers to record
34 the race and ethnicity of violators when issuing a
35 citation for a violation of this section; requiring
36 all law enforcement agencies to maintain such
37 information and report it to the Department of Highway
38 Safety and Motor Vehicles in a form and manner
39 determined by the department; beginning on a specified
40 date, requiring the department to annually report the
41 data to the Governor and Legislature; providing
42 requirements for the report; authorizing the
43 department, in consultation with the Department of
44 Transportation, to implement a statewide campaign to
45 raise awareness of and encourage compliance with the
46 prohibition on operating a motor vehicle while using a
47 wireless communications device; authorizing the
48 department to use certain messaging to implement the
49 campaign; authorizing the department to contract with
50 certain entities for certain purposes; providing
51 effective dates.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Effective October 1, 2019, section 316.305,
56 Florida Statutes, is amended to read:

57 316.305 Wireless communications devices; prohibition.—

58 (1) This section may be cited as the "Florida Hands-Free

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59 ~~Ban on Texting While Driving Law."~~

60 (2) For purposes of this section, the term "wireless
61 communications device" means any handheld device that is
62 designed or intended to allow two-way voice communication, to
63 receive or transmit text-based or character-based messages, to
64 record or view images, to access or store data, or to connect to
65 the Internet or to any communications service, as defined in s.
66 812.15, or that allows text communications. The term includes,
67 but is not limited to, a cell phone, a tablet, a laptop, a two-
68 way messaging device, or an electronic game that is used or
69 capable of being used in a handheld manner. The term does not
70 include a safety, security, or convenience feature built into a
71 motor vehicle which does not require the use of a handheld
72 device.

73 (3)(2) It is the intent of the Legislature to:

74 (a) Improve roadway safety for all vehicle operators,
75 vehicle passengers, bicyclists, pedestrians, and other road
76 users.

77 (b) Prevent crashes related to the act of driving while
78 using a wireless communications device when operating ~~text~~
79 messaging while driving a motor vehicle while the vehicle is in
80 motion.

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

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

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88 ~~(4)(3)(a)1.~~ A person may not operate a motor vehicle while
89 using a wireless communications device ~~while manually typing or~~
90 ~~entering multiple letters, numbers, symbols, or other characters~~
91 ~~into a wireless communications device or while sending or~~
92 ~~reading data on such a device for the purpose of nonvoice~~
93 ~~interpersonal communication, including, but not limited to,~~
94 ~~communication methods known as texting, e-mailing, and instant~~
95 ~~messaging. As used in this section, the term "wireless~~
96 ~~communications device" means any handheld device used or capable~~
97 ~~of being used in a handheld manner, that is designed or intended~~
98 ~~to receive or transmit text or character-based messages, access~~
99 ~~or store data, or connect to the Internet or any communications~~
100 ~~service as defined in s. 812.15 and that allows text~~
101 ~~communications. For the purposes of this paragraph, a motor~~
102 ~~vehicle that is stationary is not being operated and is not~~
103 ~~subject to the prohibition in this paragraph.~~

104 2.a. During the period from October 1, 2019, through
105 December 31, 2019, a law enforcement officer may stop motor
106 vehicles to issue verbal or written warnings to persons who are
107 driving while using a wireless communications device for the
108 purposes of informing and educating such persons of this
109 section. This sub-subparagraph shall stand repealed on October
110 1, 2020.

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

114 (b) Paragraph (a) does not apply to a motor vehicle
115 operator who is:

116 1. Performing official duties as an operator of an

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117 authorized emergency vehicle as defined in s. 322.01, a law
118 enforcement or fire service professional, or an emergency
119 medical services professional.

120 2. Reporting an emergency or criminal or suspicious
121 activity to law enforcement authorities.

122 3. Receiving messages that are:

123 a. Related to the operation or navigation of the motor
124 vehicle;

125 b. Safety-related information, including emergency,
126 traffic, or weather alerts;

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

128 d. Radio broadcasts.

129 4. Using a device or system in a hands-free manner for
130 navigation purposes.

131 5. Using a wireless communications device hands-free or
132 hands-free in voice-operated mode, including, but not limited
133 to, a factory-installed or after-market Bluetooth device
134 ~~Conducting wireless interpersonal communication that does not~~
135 ~~require manual entry of multiple letters, numbers, or symbols,~~
136 ~~except to activate, deactivate, or initiate a feature or~~
137 ~~function.~~

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

141 ~~6.7.~~ Operating an autonomous vehicle, as defined in s.
142 316.003, in autonomous mode.

143 (c) Only in the event of a crash resulting in death or
144 serious bodily injury, as defined in s. 316.027 ~~personal injury,~~
145 a user's billing records for a wireless communications device or

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146 the testimony of or written statements from appropriate
147 authorities receiving such messages may be admissible as
148 evidence in any proceeding to determine whether a violation of
149 subparagraph (a)1. ~~paragraph (a)~~ has been committed.

150 (d) Law enforcement officers must indicate the type of
151 wireless communications device in the comment section of the
152 uniform traffic citation.

153 (5)~~(4)~~(a) Any person who violates this section commits a
154 noncriminal traffic infraction, punishable as a moving
155 violation, as provided in chapter 318, and shall have 3 points
156 assessed against his or her driver license as set forth in s.
157 322.27(3)(d)7. For a first offense under this section, in lieu
158 of the penalty specified in s. 318.18 and the assessment of
159 points, a person who violates this section may elect to
160 participate in a wireless communications device driving safety
161 program approved by the Department of Highway Safety and Motor
162 Vehicles. Upon completion of such program, the penalty specified
163 in s. 318.18 and associated costs may be waived by the clerk of
164 the court and the assessment of points must be waived ~~Any person~~
165 ~~who violates paragraph (3)(a) commits a noncriminal traffic~~
166 ~~infraction, punishable as a nonmoving violation as provided in~~
167 ~~chapter 318.~~

168 (b) The clerk of the court may dismiss a case and assess
169 court costs in accordance with s. 318.18(11)(a) for a nonmoving
170 traffic infraction for a person who is cited for a first time
171 violation of this section if the person shows the clerk proof of
172 purchase of equipment that enables his or her personal wireless
173 communications device to be used in a hands-free manner ~~Any~~
174 ~~person who commits a second or subsequent violation of paragraph~~

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175 ~~(3) (a) within 5 years after the date of a prior conviction for a~~
176 ~~violation of paragraph (3) (a) commits a noncriminal traffic~~
177 ~~infraction, punishable as a moving violation as provided in~~
178 ~~chapter 318.~~

179 (6) (5) Notwithstanding s. 318.21, all proceeds collected
180 pursuant to s. 318.18 for violations of this section must be
181 remitted to the Department of Revenue for deposit into the
182 Emergency Medical Services Trust Fund of the Department of
183 Health Enforcement of this section by state or local law
184 enforcement agencies must be accomplished only as a secondary
185 action when an operator of a motor vehicle has been detained for
186 a suspected violation of another provision of this chapter,
187 chapter 320, or chapter 322.

188 (7) When a law enforcement officer issues a citation for a
189 violation of this section, the law enforcement officer must
190 record the race and ethnicity of the violator. All law
191 enforcement agencies must maintain such information and must
192 report such information to the department in a form and manner
193 determined by the department. Beginning February 1, 2020, the
194 department shall annually report the data collected under this
195 subsection to the Governor, the President of the Senate, and the
196 Speaker of the House of Representatives. The data collected must
197 be reported at least by statewide totals for local law
198 enforcement agencies, state law enforcement agencies, and state
199 university law enforcement agencies. The statewide total for
200 local law enforcement agencies must combine the data for the
201 county sheriffs and the municipal law enforcement agencies.

202 Section 2. (1) The Department of Highway Safety and Motor
203 Vehicles, in consultation with the Department of Transportation,

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204 may implement a statewide campaign to raise awareness of and
205 encourage compliance with s. 316.305, Florida Statutes. The
206 Department of Highway Safety and Motor Vehicles may use
207 television messaging, radio broadcasts, print media, digital
208 strategies, social media, and any other form of messaging deemed
209 necessary and appropriate by the department to implement the
210 campaign.

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

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