

Amendment No. 1a

COMMITTEE/SUBCOMMITTEE ACTION

|                       |             |       |
|-----------------------|-------------|-------|
| ADOPTED               | <u>    </u> | (Y/N) |
| ADOPTED AS AMENDED    | <u>    </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u>    </u> | (Y/N) |
| FAILED TO ADOPT       | <u>    </u> | (Y/N) |
| WITHDRAWN             | <u>    </u> | (Y/N) |
| OTHER                 | <u>    </u> |       |

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1 Committee/Subcommittee hearing bill: Tourism, Infrastructure &  
 2 Energy Subcommittee

3 Representative Slosberg offered the following:

4  
 5 **Amendment to Amendment (212831) by Representative Andrade**  
 6 **(with title amendment)**

7 Between lines 68 and 69 of the amendment, insert:

8 Section 4. Paragraph (a) of subsection (3) of section  
 9 316.305, Florida Statutes, is amended, and subsection (4) of  
 10 that section is republished, to read:

11 316.305 Wireless communications devices; prohibition.—

12 (3) (a) A person may not operate a motor vehicle while  
 13 manually typing or entering multiple letters, numbers, symbols,  
 14 or other characters into a wireless communications device or  
 15 while sending or reading data on such a device for the purpose  
 16 of nonvoice interpersonal communication, including, but not

Amendment No. 1a

17 limited to, communication methods known as texting, e-mailing,  
18 and instant messaging. As used in this section, the term  
19 "wireless communications device" means any handheld device used  
20 or capable of being used in a handheld manner, that is designed  
21 or intended to receive or transmit text or character-based  
22 messages, access or store data, or connect to the Internet or  
23 any communications service as defined in s. 812.15 and that  
24 allows text communications. For the purposes of this paragraph,  
25 a motor vehicle that is stationary is not being operated and is  
26 not subject to the prohibition in this paragraph, except when a  
27 motor vehicle is stopped and remains in position until an  
28 authorized emergency vehicle has passed as required by s.  
29 316.126(1)(a).

30 (4)(a) Any person who violates paragraph (3)(a) commits a  
31 noncriminal traffic infraction, punishable as a nonmoving  
32 violation as provided in chapter 318.

33 (b) Any person who commits a second or subsequent  
34 violation of paragraph (3)(a) within 5 years after the date of a  
35 prior conviction for a violation of paragraph (3)(a) commits a  
36 noncriminal traffic infraction, punishable as a moving violation  
37 as provided in chapter 318.

38 Section 5. Paragraph (a) of subsection (3) of section  
39 316.306, Florida Statutes, is amended, and subsection (4) of  
40 that section is republished, to read:

41 316.306 School and work zones; prohibition on the use of a

Amendment No. 1a

42 wireless communications device in a handheld manner.-

43 (3) (a) 1. A person may not operate a motor vehicle while  
44 using a wireless communications device in a handheld manner in a  
45 designated school crossing, school zone, or work zone area as  
46 defined in s. 316.003(105). This subparagraph shall only be  
47 applicable to work zone areas if construction personnel are  
48 present or are operating equipment on the road or immediately  
49 adjacent to the work zone area. For the purposes of this  
50 paragraph, a motor vehicle that is stationary is not being  
51 operated and is not subject to the prohibition in this  
52 paragraph, except when a motor vehicle is stopped and remains in  
53 position until an authorized emergency vehicle has passed as  
54 required by s. 316.126(1) (a).

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

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

65 (4) (a) Any person who violates this section commits a  
66 noncriminal traffic infraction, punishable as a moving

Amendment No. 1a

67 violation, as provided in chapter 318, and shall have 3 points  
68 assessed against his or her driver license as set forth in s.  
69 322.27(3)(d)7. For a first offense under this section, in lieu  
70 of the penalty specified in s. 318.18 and the assessment of  
71 points, a person who violates this section may elect to  
72 participate in a wireless communications device driving safety  
73 program approved by the Department of Highway Safety and Motor  
74 Vehicles. Upon completion of such program, the penalty specified  
75 in s. 318.18 and associated costs may be waived by the clerk of  
76 the court and the assessment of points must be waived.

77 (b) The clerk of the court may dismiss a case and assess  
78 court costs in accordance with s. 318.18(11)(a) for a nonmoving  
79 traffic infraction for a person who is cited for a first time  
80 violation of this section if the person shows the clerk proof of  
81 purchase of equipment that enables his or her personal wireless  
82 communications device to be used in a hands-free manner.

83 Section 6. Section 316.307, Florida Statutes, is created  
84 to read:

85 316.307 Immediate vicinity of first responders;  
86 prohibition on the use of a wireless communications device in a  
87 handheld manner.-

88 (1) This section shall be known as the "First Responder  
89 Protection Act."

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

Amendment No. 1a

91 (a) "First responder" means a law enforcement officer or  
92 correctional officer as defined in s. 943.10, a firefighter as  
93 defined in s. 633.102, or an emergency medical technician or  
94 paramedic as defined in s. 401.23 who is a full-time paid  
95 employee, part-time paid employee, or unpaid volunteer.

96 (b) "In the line of duty" means:

- 97 1. Engaging in law enforcement activities;  
98 2. Performing an activity relating to fire suppression and  
99 prevention;  
100 3. Responding to a hazardous material emergency;  
101 4. Performing rescue activity;  
102 5. Providing emergency medical services;  
103 6. Performing disaster relief activity; or  
104 7. Otherwise engaging in emergency response activity.

105 (c) "Wireless communications device" has the same meaning  
106 as provided in s. 316.305(3)(a). The term includes, but is not  
107 limited to, a cell phone, a tablet, a laptop, a two-way  
108 messaging device, or an electronic game that is used or capable  
109 of being used in a handheld manner. The term does not include a  
110 safety, security, or convenience feature built into a motor  
111 vehicle which does not require the use of a handheld device.

112 (3) It is the intent of the Legislature to:

113 (a) Improve roadway safety for all first responders,  
114 vehicle operators, vehicle passengers, bicyclists, pedestrians,  
115 and other road users.

Amendment No. 1a

116 (b) Prevent crashes related to the act of driving while  
117 using a wireless communications device in a handheld manner when  
118 operating a motor vehicle while the vehicle is in motion.

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

122 (d) Authorize law enforcement officers to stop motor  
123 vehicles and issue citations to persons who are driving in the  
124 immediate vicinity of first responders who are in the line of  
125 duty while using a wireless communications device in a handheld  
126 manner as provided in subsection (3).

127 (4) (a)1. A person may not operate a motor vehicle while  
128 using a wireless communications device in a handheld manner in  
129 the immediate vicinity of first responders who are in the line  
130 of duty. This subparagraph shall only be applicable to areas  
131 where first responders are present or are carrying out their  
132 duties on the road or immediately adjacent to such areas. For  
133 the purposes of this paragraph, a motor vehicle that is  
134 stationary is not being operated and is not subject to the  
135 prohibition in this paragraph, except when a motor vehicle is  
136 stopped and remains in position until an authorized emergency  
137 vehicle has passed as required by s. 316.126(1) (a).

138 2.a. During the period from July 1, 2021, through  
139 September 30, 2021, a law enforcement officer may stop motor  
140 vehicles to issue verbal or written warnings to persons who are

Amendment No. 1a

141 in violation of subparagraph 1. for the purposes of informing  
142 and educating such persons of this section. This sub-  
143 subparagraph shall stand repealed on July 1, 2022.

144 b. Effective October 1, 2021, a law enforcement officer  
145 may stop motor vehicles and issue citations to persons who are  
146 driving while using a wireless communications device in a  
147 handheld manner in violation of subparagraph 1.

148 (b) Paragraph (a) does not apply to a motor vehicle  
149 operator who is:

150 1. Performing official duties as an operator of an  
151 authorized emergency vehicle as defined in s. 322.01, a law  
152 enforcement or fire service professional, or an emergency  
153 medical services professional.

154 2. Reporting criminal or suspicious activity to law  
155 enforcement authorities.

156 3. Receiving messages that are:

157 a. Related to the operation or navigation of the motor  
158 vehicle;

159 b. Safety-related information, including emergency,  
160 traffic, or weather alerts;

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

162 d. Radio broadcasts.

163 4. Using a device or system in a hands-free manner for  
164 navigation purposes.

Amendment No. 1a

165 5. Using a wireless communications device hands-free or  
166 hands-free in voice-operated mode, including, but not limited  
167 to, a factory-installed or after-market Bluetooth device.

168 6. Operating an autonomous vehicle, as defined in s.  
169 316.003, in autonomous mode.

170 (c) A law enforcement officer who stops a motor vehicle  
171 for a violation of paragraph (a) must inform the motor vehicle  
172 operator of his or her right to decline a search of his or her  
173 wireless communications device and may not:

174 1. Access the wireless communications device without a  
175 warrant.

176 2. Confiscate the wireless communications device while  
177 awaiting issuance of a warrant to access such device.

178 3. Obtain consent from the motor vehicle operator to  
179 search his or her wireless communications device through  
180 coercion or other improper method. Consent to search a motor  
181 vehicle operator's wireless communications device must be  
182 voluntary and unequivocal.

183 (d) Only in the event of a crash resulting in death or  
184 serious bodily injury, as defined in s. 316.027, may a user's  
185 billing records for a wireless communications device, or the  
186 testimony of or written statements from appropriate authorities  
187 receiving such messages, be admissible as evidence in any  
188 proceeding to determine whether a violation of subparagraph  
189 (a)1. has been committed.

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Amendment No. 1a

190 (e) Law enforcement officers must indicate the type of  
191 wireless communications device in the comment section of the  
192 uniform traffic citation.

193 (5) (a) A person who violates this section commits a  
194 noncriminal traffic infraction, punishable as a moving  
195 violation, as provided in chapter 318, and shall have 3 points  
196 assessed against his or her driver license as set forth in s.  
197 322.27(3)(d)7. For a first offense under this section, in lieu  
198 of the penalty specified in s. 318.18 and the assessment of  
199 points, a person who violates this section may elect to  
200 participate in a wireless communications device driving safety  
201 program approved by the Department of Highway Safety and Motor  
202 Vehicles. Upon completion of such program, the penalty specified  
203 in s. 318.18 and associated costs may be waived by the clerk of  
204 the court and the assessment of points must be waived.

205 (b) The clerk of the court may dismiss a case and assess  
206 court costs in accordance with s. 318.18(11)(a) for a nonmoving  
207 traffic infraction for a person who is cited for a first-time  
208 violation of this section if the person shows the clerk proof of  
209 purchase of equipment that enables his or her personal wireless  
210 communications device to be used in a hands-free manner.

211 (6) Notwithstanding s. 318.21, all proceeds collected  
212 pursuant to s. 318.18 for violations of this section must be  
213 remitted to the Department of Revenue for deposit into the

Amendment No. 1a

214 Emergency Medical Services Trust Fund of the Department of  
215 Health.

216 (7) When a law enforcement officer issues a citation for a  
217 violation of this section, the law enforcement officer must  
218 record the race and ethnicity of the violator. All law  
219 enforcement agencies must maintain such information and must  
220 report such information to the department in a form and manner  
221 determined by the department. Beginning March 1, 2022, the  
222 department shall annually report the data collected under this  
223 subsection to the Governor, the President of the Senate, and the  
224 Speaker of the House of Representatives. The data collected must  
225 be reported at least by statewide totals for local law  
226 enforcement agencies, state law enforcement agencies, and state  
227 university law enforcement agencies. The statewide total for  
228 local law enforcement agencies must combine the data for the  
229 county sheriffs and the municipal law enforcement agencies.

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232 **T I T L E A M E N D M E N T**

233 Remove line 389 of the amendment and insert:  
234 flashing lights; amending ss. 316.305 and 316.606,  
235 F.S.; applying the prohibition against texting while  
236 driving and the prohibition against using a wireless  
237 communications device in a handheld manner in a  
238 designated school crossing, school zone, or work zone

495985 - h0057-line 68a1.docx

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Amendment No. 1a

239 area to a motor vehicle that is stopped and remains in  
240 position until an authorized emergency vehicle has  
241 passed; providing penalties; creating s. 316.307,  
242 F.S.; providing a short title; providing definitions;  
243 providing legislative intent; prohibiting a person  
244 from operating a motor vehicle while using a wireless  
245 communications device in a handheld manner in the  
246 immediate vicinity of certain first responders;  
247 providing applicability; providing construction;  
248 authorizing a law enforcement officer during a  
249 specified period to stop motor vehicles to issue  
250 warnings; authorizing a law enforcement officer, on  
251 and after a specified date, to stop motor vehicles and  
252 issue citations; providing exceptions to such  
253 prohibition; requiring a law enforcement officer who  
254 stops a motor vehicle for a violation to inform the  
255 motor vehicle operator of his or her right to decline  
256 a search of his or her wireless communications device;  
257 prohibiting the law enforcement officer from taking  
258 specified actions; requiring certain consent to search  
259 a motor vehicle operator's wireless communications  
260 device; providing that a user's billing records for a  
261 wireless communications device or the testimony of or  
262 written statements from certain authorities are  
263 admissible as evidence in crashes resulting in death

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Amendment No. 1a

264 or serious bodily injury for certain purposes;  
265 requiring that law enforcement officers indicate  
266 specified information in the uniform traffic citation;  
267 providing penalties; authorizing first-time offenders  
268 to participate in a wireless communications device  
269 driving safety program; authorizing a clerk of the  
270 court to dismiss a case and assess court costs under  
271 certain circumstances; requiring the deposit of fines  
272 into the Emergency Medical Services Trust Fund of the  
273 Department of Health; requiring law enforcement  
274 officers to record the race and ethnicity of violators  
275 when issuing a citation for a violation; requiring all  
276 law enforcement agencies to maintain such information  
277 and report it to the Department of Highway Safety and  
278 Motor Vehicles in a form and manner determined by the  
279 department; requiring the department to annually  
280 report the data to the Governor and Legislature;  
281 providing report requirements; amending s. 337.025,  
282 F.S.; revising the