

1 A bill to be entitled
 2 An act relating to the use of wireless communications
 3 devices while driving; amending s. 316.305, F.S.;
 4 revising a short title and legislative intent;
 5 providing definitions; prohibiting the operation of a
 6 motor vehicle while holding or touching a wireless
 7 communications device; providing exceptions; revising
 8 information that may be admissible as evidence in a
 9 proceeding to determine whether a violation has been
 10 committed; providing penalties; revising procedures
 11 for the collection and reporting by the Department of
 12 Highway Safety and Motor Vehicles of information
 13 recorded on a citation; amending s. 316.306, F.S.;
 14 conforming provisions relating to the use of wireless
 15 communications devices in school and work zones;
 16 providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 316.305, Florida Statutes, is amended
 21 to read:

22 316.305 Wireless communications devices; prohibition.—

23 (1) This section may be cited as the "Dori Slosberg Hands-
 24 free Florida Ban on Texting While Driving Law."

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

26 (a) Improve roadway safety for all vehicle operators,
27 vehicle passengers, bicyclists, pedestrians, and other road
28 users.

29 (b) Prevent crashes related to the act of using a wireless
30 communications device ~~text messaging~~ while driving a motor
31 vehicle.

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

35 (d) Authorize law enforcement officers to stop motor
36 vehicles and issue citations to persons who are using a wireless
37 communications device ~~texting~~ while driving.

38 (3) For purposes of this section, the term:

39 (a) "Hands-free device" means an internal feature or
40 function of, or an attachment or addition to, a wireless
41 communications device which allows the device to be used without
42 being manually held or otherwise touched, except to activate,
43 deactivate, or initiate the feature, function, attachment, or
44 addition.

45 (b) "Wireless communications device" means a device used
46 or capable of being used while manually held or otherwise
47 touched, which device is designed or intended to facilitate
48 interpersonal voice communications, receive or transmit text or
49 character-based messages, access or store data, or connect to
50 the Internet or any communications service as defined in s.

51 812.15 and which allows text or voice communications.

52 (4)-(3)(a) Except as provided in paragraph (b), a person
53 may not operate a motor vehicle while manually holding or
54 otherwise touching typing or entering multiple letters, numbers,
55 symbols, or other characters into a wireless communications
56 device or while sending or reading data on such a device for the
57 purpose of nonvoice interpersonal communication, including, but
58 not limited to, communication methods known as texting, e-
59 mailing, and instant messaging. As used in this section, the
60 term "wireless communications device" means any handheld device
61 used or capable of being used in a handheld manner, that is
62 designed or intended to receive or transmit text or character-
63 based messages, access or store data, or connect to the Internet
64 or any communications service as defined in s. 812.15 and that
65 allows text communications. For the purposes of this paragraph,
66 a motor vehicle that is stationary is not being operated and is
67 not subject to the prohibition in this paragraph.

68 (b) Paragraph (a) does not apply to a motor vehicle
69 operator who is:

70 1. Performing official duties as an operator of an
71 authorized emergency vehicle as defined in s. 322.01, a law
72 enforcement or fire service professional, or an emergency
73 medical services professional.

74 2. Reporting an emergency or criminal or suspicious
75 activity to law enforcement authorities.

- 76 3. Receiving messages that are:
- 77 a. Related to the operation or navigation of the motor
- 78 vehicle;
- 79 b. Safety-related information, including emergency,
- 80 traffic, or weather alerts;
- 81 c. Data used primarily by the motor vehicle; or
- 82 d. Radio broadcasts.
- 83 4. Using a device or system for navigation purposes.
- 84 5. Conducting wireless interpersonal communication through
- 85 the use of a hands-free device ~~that does not require manual~~
- 86 ~~entry of multiple letters, numbers, or symbols, except to~~
- 87 ~~activate, deactivate, or initiate a feature or function.~~
- 88 ~~6. Conducting wireless interpersonal communication that~~
- 89 ~~does not require reading text messages, except to activate,~~
- 90 ~~deactivate, or initiate a feature or function.~~
- 91 ~~6.7.~~ Operating an autonomous vehicle, as defined in s.
- 92 316.003(3), with the automated driving system engaged.
- 93 (c) A law enforcement officer who stops a motor vehicle
- 94 for a violation of paragraph (a) must inform the motor vehicle
- 95 operator of his or her right to decline a search of his or her
- 96 wireless communications device and may not:
- 97 1. Access the wireless communications device without a
- 98 warrant.
- 99 2. Confiscate the wireless communications device while
- 100 awaiting issuance of a warrant to access such device.

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101 3. Obtain consent from the motor vehicle operator to
102 search his or her wireless communications device through
103 coercion or other improper method. Consent to search a motor
104 vehicle operator's wireless communications device must be
105 voluntary and unequivocal.

106 (d) Only in the event of a crash resulting in death or
107 personal injury, a user's billing records for a wireless
108 communications device or the testimony of or written statements
109 from appropriate authorities receiving ~~such~~ messages related to
110 such crash may be admissible as evidence in a any proceeding to
111 determine whether a violation of paragraph (a) has been
112 committed.

113 ~~(5)-(4)~~ (a) A ~~Any~~ person who violates paragraph (4) (a)
114 ~~(3)-(a)~~ commits a noncriminal traffic infraction, punishable as a
115 nonmoving violation as provided in chapter 318.

116 (b) A ~~Any~~ person who commits a second or subsequent
117 violation of paragraph (4) (a) ~~(3)-(a)~~ within 5 years after the
118 date of a prior conviction for a violation of paragraph (4) (a)
119 ~~(3)-(a)~~ commits a noncriminal traffic infraction, punishable as a
120 moving violation as provided in chapter 318.

121 ~~(6)-(5)~~ ~~When~~ A law enforcement officer who issues a
122 citation for a violation of paragraph (4) (a) ~~this section, the~~
123 ~~law enforcement officer~~ must record on the citation the race and
124 ethnicity of the person to whom the citation is issued ~~violate~~.
125 Each ~~All~~ law enforcement agency in this state ~~agencies~~ must

126 maintain such information and must provide such ~~report the~~
 127 information to the department in a form and manner determined by
 128 the department. The department shall collect such information by
 129 jurisdiction and shall submit an annual report by ~~Beginning~~
 130 February 1 of each year, ~~2020,~~ ~~the department shall annually~~
 131 ~~report the data collected under this subsection~~ to the Governor,
 132 the President of the Senate, and the Speaker of the House of
 133 Representatives which shows separate. ~~The data collected must be~~
 134 ~~reported at least by~~ statewide totals for the state's county
 135 sheriffs and municipal ~~local~~ law enforcement agencies, state law
 136 enforcement agencies, and state university law enforcement
 137 agencies. ~~The statewide total for local law enforcement agencies~~
 138 ~~shall combine the data for the county sheriffs and the municipal~~
 139 ~~law enforcement agencies.~~

140 Section 2. Section 316.306, Florida Statutes, is amended
 141 to read:

142 316.306 School and work zones; ~~prohibition on the use of a~~
 143 wireless communications devices; prohibition device in a
 144 ~~handheld manner.~~

145 (1) For purposes of this section, the term:

146 (a) "Hands-free device" means an internal feature or
 147 function of, or an attachment or addition to, a wireless
 148 communications device which allows the device to be used without
 149 being manually held or otherwise touched, except to activate,
 150 deactivate, or initiate the feature, function, attachment, or

151 addition.

152 (b) "Wireless communications device" has the same meaning
153 as provided in s. 316.305(3)(b) ~~s. 316.305(3)(a)~~. The term
154 includes, but is not limited to, a cell phone, a tablet, a
155 laptop, a two-way messaging device, or an electronic game that
156 is used or capable of being used in a handheld manner. The term
157 does not include a safety, security, or convenience feature
158 built into a motor vehicle which does not require the use of a
159 handheld device.

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

161 (a) Improve roadway safety in school and work zones for
162 all vehicle operators, vehicle passengers, bicyclists,
163 pedestrians, and other road users.

164 (b) Prevent crashes related to the act of ~~driving while~~
165 using a wireless communications device while driving ~~in a~~
166 ~~handheld manner when operating~~ a motor vehicle in a school or
167 work zone ~~while the vehicle is in motion.~~

168 (c) Reduce injuries, deaths, property damage, health care
169 costs, health insurance rates, and automobile insurance rates
170 related to motor vehicle crashes in school and work zones.

171 (d) Authorize law enforcement officers to stop motor
172 vehicles and issue citations to persons who are using a wireless
173 communications device while driving in a school or work zone
174 ~~zones while using a wireless communications device in a handheld~~
175 ~~manner as provided in subsection (3).~~

176 (3) (a) ~~1.~~ Except as provided in paragraph (b), a person may
 177 not operate a motor vehicle ~~while using a wireless~~
 178 ~~communications device in a handheld manner~~ in a designated
 179 school crossing, school zone, or work zone area as defined in s.
 180 316.003(105) while manually holding or otherwise touching a
 181 wireless communications device. This paragraph ~~subparagraph~~
 182 shall only be applicable to work zone areas if construction
 183 personnel are present or are operating equipment on the road or
 184 immediately adjacent to the work zone area. For the purposes of
 185 this paragraph, a motor vehicle that is stationary is not being
 186 operated and is not subject to the prohibition in this
 187 paragraph.

188 ~~2.a. During the period from October 1, 2019, through~~
 189 ~~December 31, 2019, a law enforcement officer may stop motor~~
 190 ~~vehicles to issue verbal or written warnings to persons who are~~
 191 ~~in violation of subparagraph 1. for the purposes of informing~~
 192 ~~and educating such persons of this section. This sub-~~
 193 ~~subparagraph shall stand repealed on October 1, 2020.~~

194 ~~b. Effective January 1, 2020, a law enforcement officer~~
 195 ~~may stop motor vehicles and issue citations to persons who are~~
 196 ~~driving while using a wireless communications device in a~~
 197 ~~handheld manner in violation of subparagraph 1.~~

198 (b) Paragraph (a) does not apply to a motor vehicle
 199 operator who is:

200 1. Performing official duties as an operator of an

201 authorized emergency vehicle as defined in s. 322.01, a law
 202 enforcement or fire service professional, or an emergency
 203 medical services professional.

204 2. Reporting an emergency or criminal or suspicious
 205 activity to law enforcement authorities.

206 3. Receiving messages that are:

207 a. Related to the operation or navigation of the motor
 208 vehicle;

209 b. Safety-related information, including emergency,
 210 traffic, or weather alerts;

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

212 d. Radio broadcasts.

213 4. Using a device or system ~~in a hands-free manner~~ for
 214 navigation purposes.

215 5. Conducting wireless interpersonal communication through
 216 the use of a hands-free ~~Using a wireless communications device~~
 217 ~~hands-free or hands-free in voice-operated mode, including, but~~
 218 ~~not limited to, a factory installed or after-market Bluetooth~~
 219 ~~device.~~

220 6. Operating an autonomous vehicle, as defined in s.
 221 316.003(3), with the automated driving system engaged ~~s.~~
 222 ~~316.003, in autonomous mode.~~

223 (c) A law enforcement officer who stops a motor vehicle
 224 for a violation of paragraph (a) must inform the motor vehicle
 225 operator of his or her right to decline a search of his or her

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226 wireless communications device and may not:

227 1. Access the wireless communications device without a
228 warrant.

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

231 3. Obtain consent from the motor vehicle operator to
232 search his or her wireless communications device through
233 coercion or other improper method. Consent to search a motor
234 vehicle operator's wireless communications device must be
235 voluntary and unequivocal.

236 (d) Only in the event of a crash resulting in death or
237 serious bodily injury, as defined in s. 316.027, may a user's
238 billing records for a wireless communications device, or the
239 testimony of or written statements from appropriate authorities
240 receiving ~~such~~ messages related to such crash, be admissible as
241 evidence in a any proceeding to determine whether a violation of
242 paragraph (a) subparagraph (a)1. has been committed.

243 (e) Law enforcement officers must indicate the type of
244 wireless communications device in the comment section of the
245 uniform traffic citation.

246 (4) (a) A ~~Any~~ person who violates paragraph (3) (a) ~~this~~
247 ~~section~~ commits a noncriminal traffic infraction, punishable as
248 a moving violation, as provided in chapter 318, and shall have 3
249 points assessed against his or her driver license as set forth
250 in s. 322.27(3) (d)7. For a first offense ~~under this section~~, in

251 lieu of the penalty specified in s. 318.18 and the assessment of
252 points, a person who violates paragraph (3)(a) ~~this section~~ may
253 elect to participate in a wireless communications device driving
254 safety program approved by the Department of Highway Safety and
255 Motor Vehicles. Upon completion of such program, the penalty
256 specified in s. 318.18 and associated costs may be waived by the
257 clerk of the court and the assessment of points must be waived.

258 (b) The clerk of the court may dismiss a case and assess
259 court costs in accordance with s. 318.18(11)(a) for a nonmoving
260 traffic infraction for a person who is cited for a first ~~time~~
261 violation of paragraph (3)(a) ~~this section~~ if the person shows
262 the clerk proof of purchase of equipment that enables him or her
263 to conduct wireless interpersonal communication through the use
264 of a hands-free device ~~his or her personal wireless~~
265 ~~communications device to be used in a hands-free manner.~~

266 (5) Notwithstanding s. 318.21, all proceeds collected
267 pursuant to s. 318.18 for violations of paragraph (3)(a) ~~this~~
268 ~~section~~ must be remitted to the Department of Revenue for
269 deposit into the Emergency Medical Services Trust Fund of the
270 Department of Health.

271 (6) ~~When~~ A law enforcement officer who issues a citation
272 for a violation of paragraph (3)(a) ~~this section~~, ~~the law~~
273 ~~enforcement officer~~ must record on the citation the race and
274 ethnicity of the person to whom the citation is issued ~~violator~~.
275 Each ~~All~~ law enforcement agency in this state ~~agencies~~ must

276 | maintain such information and must provide ~~report~~ such
 277 | information to the department in a form and manner determined by
 278 | the department. The department shall collect such information by
 279 | jurisdiction and shall submit an annual report by ~~Beginning~~
 280 | February 1 of each year, ~~2020,~~ ~~the department shall annually~~
 281 | ~~report the data collected under this subsection~~ to the Governor,
 282 | the President of the Senate, and the Speaker of the House of
 283 | Representatives which shows separate. ~~The data collected must be~~
 284 | ~~reported at least by~~ statewide totals for the state's county
 285 | sheriffs and municipal ~~local~~ law enforcement agencies, state law
 286 | enforcement agencies, and state university law enforcement
 287 | agencies. ~~The statewide total for local law enforcement agencies~~
 288 | ~~must combine the data for the county sheriffs and the municipal~~
 289 | ~~law enforcement agencies.~~

290 | Section 3. This act shall take effect October 1, 2021.