

1                                   A bill to be entitled  
2           An act relating to first responder roadway safety;  
3           amending ss. 316.305 and 316.606, F.S.; applying the  
4           prohibition against texting while driving and the  
5           prohibition against using a wireless communications  
6           device in a handheld manner in a designated school  
7           crossing, school zone, or work zone area to a motor  
8           vehicle that is stopped and remains in position until  
9           an authorized emergency vehicle has passed; providing  
10          penalties; creating s. 316.307, F.S.; providing a  
11          short title; providing definitions; providing  
12          legislative intent; prohibiting a person from  
13          operating a motor vehicle while using a wireless  
14          communications device in a handheld manner in the  
15          immediate vicinity of certain first responders;  
16          providing applicability; providing construction;  
17          authorizing a law enforcement officer during a  
18          specified period to stop motor vehicles to issue  
19          warnings; authorizing a law enforcement officer, on  
20          and after a specified date, to stop motor vehicles and  
21          issue citations; providing exceptions to such  
22          prohibition; requiring a law enforcement officer who  
23          stops a motor vehicle for a violation to inform the  
24          motor vehicle operator of his or her right to decline  
25          a search of his or her wireless communications device;

26 prohibiting the law enforcement officer from taking  
27 specified actions; requiring certain consent to search  
28 a motor vehicle operator's wireless communications  
29 device; providing that a user's billing records for a  
30 wireless communications device or the testimony of or  
31 written statements from certain authorities are  
32 admissible as evidence in crashes resulting in death  
33 or serious bodily injury for certain purposes;  
34 requiring that law enforcement officers indicate  
35 specified information in the uniform traffic citation;  
36 providing penalties; authorizing first-time offenders  
37 to participate in a wireless communications device  
38 driving safety program; authorizing a clerk of the  
39 court to waive certain penalties and costs under  
40 certain circumstances; authorizing a clerk of the  
41 court to dismiss a case and assess court costs under  
42 certain circumstances; requiring the deposit of fines  
43 into the Emergency Medical Services Trust Fund of the  
44 Department of Health; requiring law enforcement  
45 officers to record the race and ethnicity of violators  
46 when issuing a citation for a violation; requiring all  
47 law enforcement agencies to maintain such information  
48 and report it to the Department of Highway Safety and  
49 Motor Vehicles in a form and manner determined by the  
50 department; requiring the department to annually

51 report the data to the Governor and Legislature;  
 52 providing report requirements; providing an effective  
 53 date.

54  
 55 Be It Enacted by the Legislature of the State of Florida:

56  
 57 Section 1. Paragraph (a) of subsection (3) of section  
 58 316.305, Florida Statutes, is amended, and subsection (4) of  
 59 that section is republished, to read:

60 316.305 Wireless communications devices; prohibition.—

61 (3)(a) A person may not operate a motor vehicle while  
 62 manually typing or entering multiple letters, numbers, symbols,  
 63 or other characters into a wireless communications device or  
 64 while sending or reading data on such a device for the purpose  
 65 of nonvoice interpersonal communication, including, but not  
 66 limited to, communication methods known as texting, e-mailing,  
 67 and instant messaging. As used in this section, the term  
 68 "wireless communications device" means any handheld device used  
 69 or capable of being used in a handheld manner, that is designed  
 70 or intended to receive or transmit text or character-based  
 71 messages, access or store data, or connect to the Internet or  
 72 any communications service as defined in s. 812.15 and that  
 73 allows text communications. For the purposes of this paragraph,  
 74 a motor vehicle that is stationary is not being operated and is  
 75 not subject to the prohibition in this paragraph, except when a

76 | motor vehicle is stopped and remains in position until an  
77 | authorized emergency vehicle has passed as required by s.  
78 | 316.126(1) (a).

79 | (4) (a) Any person who violates paragraph (3) (a) commits a  
80 | noncriminal traffic infraction, punishable as a nonmoving  
81 | violation as provided in chapter 318.

82 | (b) Any person who commits a second or subsequent  
83 | violation of paragraph (3) (a) within 5 years after the date of a  
84 | prior conviction for a violation of paragraph (3) (a) commits a  
85 | noncriminal traffic infraction, punishable as a moving violation  
86 | as provided in chapter 318.

87 | Section 2. Paragraph (a) of subsection (3) of section  
88 | 316.306, Florida Statutes, is amended, and subsection (4) of  
89 | that section is republished, to read:

90 | 316.306 School and work zones; prohibition on the use of a  
91 | wireless communications device in a handheld manner.—

92 | (3) (a) 1. A person may not operate a motor vehicle while  
93 | using a wireless communications device in a handheld manner in a  
94 | designated school crossing, school zone, or work zone area as  
95 | defined in s. 316.003(109). This subparagraph shall only be  
96 | applicable to work zone areas if construction personnel are  
97 | present or are operating equipment on the road or immediately  
98 | adjacent to the work zone area. For the purposes of this  
99 | paragraph, a motor vehicle that is stationary is not being  
100 | operated and is not subject to the prohibition in this

101 paragraph, except when a motor vehicle is stopped and remains in  
102 position until an authorized emergency vehicle has passed as  
103 required by s. 316.126(1) (a).

104 2. Effective January 1, 2020, a law enforcement officer  
105 may stop motor vehicles and issue citations to persons who are  
106 driving while using a wireless communications device in a  
107 handheld manner in violation of subparagraph 1.

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(3) (d) 7. For a first offense under this section, in lieu  
113 of the penalty specified in s. 318.18 and the assessment of  
114 points, a person who violates this section may elect to  
115 participate in a wireless communications device driving safety  
116 program approved by the Department of Highway Safety and Motor  
117 Vehicles. Upon completion of such program, the penalty specified  
118 in s. 318.18 and associated costs may be waived by the clerk of  
119 the court and the assessment of points must be waived.

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

126 Section 3. Section 316.307, Florida Statutes, is created  
 127 to read:

128 316.307 Immediate vicinity of first responders;  
 129 prohibition on the use of a wireless communications device in a  
 130 handheld manner.-

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

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

134 (a) "First responder" means a law enforcement officer or  
 135 correctional officer as defined in s. 943.10, a firefighter as  
 136 defined in s. 633.102, or an emergency medical technician or  
 137 paramedic as defined in s. 401.23 who is a full-time paid  
 138 employee, part-time paid employee, or unpaid volunteer.

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

- 140 1. Engaging in law enforcement activity;
- 141 2. Performing an activity relating to fire suppression and  
 142 prevention;
- 143 3. Responding to a hazardous material emergency;
- 144 4. Engaging in rescue activity;
- 145 5. Providing emergency medical services;
- 146 6. Engaging in disaster relief activity; or
- 147 7. Otherwise engaging in emergency response activity.

148 (c) "Wireless communications device" has the same meaning  
 149 as provided in s. 316.305(3)(a). The term includes, but is not  
 150 limited to, a cellular telephone, a tablet, a laptop, a two-way

151 messaging device, or an electronic gaming device that is used or  
152 capable of being used in a handheld manner. The term does not  
153 include a safety, security, or convenience feature built into a  
154 motor vehicle which does not require the use of a handheld  
155 device.

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

157 (a) Improve roadway safety for all first responders,  
158 vehicle operators, vehicle passengers, bicyclists, pedestrians,  
159 and other road users.

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

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

166 (d) Authorize law enforcement officers to stop motor  
167 vehicles and issue citations to persons who are driving in the  
168 immediate vicinity of first responders who are in the line of  
169 duty while using a wireless communications device in a handheld  
170 manner as provided in subsection (4).

171 (4) (a) 1. A person may not operate a motor vehicle while  
172 using a wireless communications device in a handheld manner in  
173 the immediate vicinity of first responders who are in the line  
174 of duty. This subparagraph applies only to areas where first  
175 responders are present or are carrying out their duties on the

176 road or immediately adjacent to such areas. For the purposes of  
177 this paragraph, a motor vehicle that is stationary is not being  
178 operated and is not subject to the prohibition in this  
179 paragraph, except when a motor vehicle is stopped and remains in  
180 position until an authorized emergency vehicle has passed as  
181 required by s. 316.126(1) (a).

182 2.a. During the period from July 1, 2022, through  
183 September 30, 2022, a law enforcement officer may stop motor  
184 vehicles to issue verbal or written warnings to persons who are  
185 in violation of subparagraph 1. for the purposes of informing  
186 and educating such persons of this section. This sub-  
187 subparagraph shall stand repealed on July 1, 2023.

188 b. Effective October 1, 2022, a law enforcement officer  
189 may stop motor vehicles and issue citations to persons who are  
190 driving while using a wireless communications device in a  
191 handheld manner in violation of subparagraph 1.

192 (b) Paragraph (a) does not apply to a motor vehicle  
193 operator who is:

194 1. Performing official duties as an operator of an  
195 authorized emergency vehicle as defined in s. 322.01, a law  
196 enforcement or fire service professional, or an emergency  
197 medical services professional.

198 2. Reporting criminal or suspicious activity to law  
199 enforcement authorities.

200 3. Receiving messages that are:



201 a. Related to the operation or navigation of the motor  
 202 vehicle;

203 b. Safety-related information, including emergency,  
 204 traffic, or weather alerts;

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

206 d. Radio broadcasts.

207 4. Using a device or system in a hands-free manner for  
 208 navigation purposes.

209 5. Using a wireless communications device in a hands-free  
 210 manner or in hands-free voice-operated mode, including, but not  
 211 limited to, a factory-installed or after-market Bluetooth  
 212 device.

213 6. Operating an autonomous vehicle, as defined in s.  
 214 316.003, with the automated driving system engaged.

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

219 1. Access the wireless communications device without a  
 220 warrant.

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

223 3. Obtain consent from the motor vehicle operator to  
 224 search his or her wireless communications device through  
 225 coercion or other improper method. Consent to search a motor

226 vehicle operator's wireless communications device must be  
227 voluntary and unequivocal.

228 (d) Only in the event of a crash resulting in death or  
229 serious bodily injury, as defined in s. 316.027(1), may a user's  
230 billing records for a wireless communications device, or the  
231 testimony of or written statements from appropriate authorities  
232 receiving such messages, be admissible as evidence in any  
233 proceeding to determine whether a violation of subparagraph  
234 (a)1. has been committed.

235 (e) Law enforcement officers must indicate the type of  
236 wireless communications device used in violation of paragraph  
237 (a) in the comment section of the uniform traffic citation.

238 (5)(a) A person who violates this section commits a  
239 noncriminal traffic infraction, punishable as a moving  
240 violation, as provided in chapter 318, and shall have 3 points  
241 assessed against his or her driver license as set forth in s.  
242 322.27(3)(d)7. For a first offense under this section, in lieu  
243 of the penalty specified in s. 318.18 and the assessment of  
244 points, a person who violates this section may elect to  
245 participate in a wireless communications device driving safety  
246 program approved by the Department of Highway Safety and Motor  
247 Vehicles. Upon completion of such program, the penalty specified  
248 in s. 318.18 and associated costs may be waived by the clerk of  
249 the court and the assessment of points must be waived.

250 (b) The clerk of the court may dismiss a case and assess

251 court costs in accordance with s. 318.18(11)(a) for a nonmoving  
252 traffic infraction for a person who is cited for a first-time  
253 violation of this section if the person shows the clerk proof of  
254 purchase of equipment that enables his or her personal wireless  
255 communications device to be used in a hands-free manner.

256 (6) Notwithstanding s. 318.21, all proceeds collected  
257 pursuant to s. 318.18 for violations of this section must be  
258 remitted to the Department of Revenue for deposit into the  
259 Emergency Medical Services Trust Fund of the Department of  
260 Health.

261 (7) When a law enforcement officer issues a citation for a  
262 violation of this section, the law enforcement officer must  
263 record the race and ethnicity of the violator. All law  
264 enforcement agencies must maintain such information and must  
265 report such information to the department in a form and manner  
266 determined by the department. Beginning March 1, 2023, the  
267 department shall annually report the data collected under this  
268 subsection to the Governor, the President of the Senate, and the  
269 Speaker of the House of Representatives. The data collected must  
270 be reported at least by statewide totals for local law  
271 enforcement agencies, state law enforcement agencies, and state  
272 university law enforcement agencies. The statewide total for  
273 local law enforcement agencies must combine the data for the  
274 county sheriffs and the municipal law enforcement agencies.

275 Section 4. This act shall take effect July 1, 2022.