

By Senator Davis

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1 A bill to be entitled
2 An act relating to the prevention of distracted
3 driving; providing a short title; amending s. 316.305,
4 F.S.; revising a short title; prohibiting the
5 operation of a motor vehicle or commercial motor
6 vehicle in this state while performing certain
7 actions; defining the term "stand-alone electronic
8 device"; revising exceptions; revising penalties;
9 providing that persons who commit a specified
10 violation that results in a crash may elect, in lieu
11 of certain penalties, to participate in a certain
12 driver safety program; authorizing the clerk of the
13 court to waive fines, court costs, and points upon
14 completion of such program by such persons;
15 authorizing the clerk of the court to dismiss a case
16 and assess court costs for specified nonmoving
17 violations upon the clerk being provided proof of a
18 certain purchase; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. This act may be cited as the "Anthony Branca and
23 Anita Neal Act."

24 Section 2. Subsection (1), paragraphs (a) and (b) of
25 subsection (3), and subsection (4) of section 316.305, Florida
26 Statutes, are amended to read:

27 316.305 Wireless communications devices and stand-alone
28 electronic devices; prohibition.-

29 (1) This section may be cited as the "Florida Ban on

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30 ~~Distracted Texting While Driving Law.~~"

31 (3) (a) A person may not do any of the following while
32 operating a motor vehicle or commercial motor vehicle on any
33 roadway, street, or highway in this state:

34 1. Manually type or enter ~~operate a motor vehicle while~~
35 ~~manually typing or entering~~ multiple letters, numbers, symbols,
36 or other characters into a wireless communications device or
37 stand-alone electronic device or send or read ~~while sending or~~
38 ~~reading~~ data on such a device for the purpose of nonvoice
39 interpersonal communication, including, but not limited to,
40 communication methods known as texting, e-mailing, and instant
41 messaging. As used in this subsection ~~section~~, the term:

42 a. "Stand-alone electronic device" means a device other
43 than a wireless communications device which stores audio or
44 video data files to be retrieved on demand by a user.

45 b. "Wireless communications device" means any handheld
46 device used or capable of being used in a handheld manner, that
47 is designed or intended to receive or transmit text or
48 character-based messages, access or store data, or connect to
49 the Internet or any communications service as defined in s.
50 812.15 and that allows text communications. ~~For the purposes of~~
51 ~~this paragraph, a motor vehicle that is stationary is not being~~
52 ~~operated and is not subject to the prohibition in this~~
53 ~~paragraph.~~

54 2. Physically support or hold with any part of his or her
55 body a wireless communications device or stand-alone electronic
56 device. This subparagraph does not prohibit the use of an
57 earpiece, a headphone device, or a device worn on a wrist to
58 conduct voice-based communication.

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59 3. Watch a video or movie on a wireless communications
60 device or stand-alone electronic device.

61 4. Record or broadcast a video on a wireless communications
62 device or stand-alone electronic device. This section does not
63 prohibit the use of electronic devices for the sole purpose of
64 passively and continuously recording or broadcasting video
65 within or outside the motor vehicle.

66 5. Use more than a single button on a wireless
67 communications device to initiate or terminate a voice
68 communication.

69 6. Reach for a wireless communications device or stand-
70 alone electronic device in a manner that would require the
71 driver to unfasten a safety belt or raise up from a seated
72 driving position.

73 (b) Paragraph (a) does not apply to a motor vehicle
74 operator who is:

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

79 2. Reporting an emergency or criminal or suspicious
80 activity to law enforcement authorities.

81 3. Receiving messages that are:

82 a. Related to the operation or navigation of the motor
83 vehicle;

84 b. Safety-related information, including emergency,
85 traffic, or weather alerts;

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

87 d. Radio broadcasts.

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

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

93 6. Conducting wireless interpersonal communication that
94 does not require reading text messages, except to activate,
95 deactivate, or initiate a feature or function.

96 7. Operating an autonomous vehicle, as defined in s.
97 316.003(3), with the automated driving system engaged.

98 8. Sitting in a motor vehicle that is stationary, with the
99 engine stopped, and the ignition off.

100 (4) (a) Except as provided in paragraph (c), any person who
101 violates paragraph (3) (a) commits a noncriminal traffic
102 infraction, punishable as a nonmoving violation as provided in
103 chapter 318.

104 (b) Except as provided in paragraph (c), any person who
105 commits a second or subsequent violation of paragraph (3) (a)
106 within 5 years after the date of a prior conviction for a
107 violation of paragraph (3) (a) commits a noncriminal traffic
108 infraction, punishable as a moving violation as provided in
109 chapter 318.

110 (c) Any person who engages in an activity prohibited under
111 paragraph (3) (a) which results in a crash commits a noncriminal
112 traffic infraction, punishable as a moving violation as provided
113 in chapter 318, and 6 points must be assessed against his or her
114 driver license as set forth in s. 322.27(3) (d)3. For a first
115 offense under this section resulting in a crash, in lieu of any
116 penalty specified in s. 318.18 and the assessment of points,

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117 such person may elect to participate in a wireless
118 communications device driver safety program approved by the
119 department. Upon completion of such program, the penalty
120 specified in s. 318.18, associated costs, and the assessment of
121 points must be waived by the clerk of the court.

122 (d) The clerk of the court may dismiss the case and assess
123 court costs in accordance with s. 318.18(11)(a) for a nonmoving
124 traffic infraction for a person who is cited for a first-time
125 violation of paragraph (3)(a) if the person provides to the
126 clerk proof of purchase of equipment that enables his or her
127 personal wireless communications device to be used in a hands-
128 free manner.

129 Section 3. This act shall take effect July 1, 2024.