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A bill to be entitled  
 An act relating to hands-free driving; amending s.  
 316.305, F.S.; revising a short title; providing  
 definitions; prohibiting a person from operating a  
 motor vehicle while using a wireless communications  
 device in a handheld manner; providing an exception;  
 requiring sustained use of a wireless communications  
 device by a person operating a motor vehicle to be  
 conducted through a hands-free accessory until such  
 use is terminated; removing obsolete provisions;  
 providing penalties; amending s. 316.306, F.S.;  
 conforming provisions to changes made by the act;  
 providing an effective date.

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

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

316.305 Wireless communications devices; use in a handheld  
 manner prohibited ~~prohibition.~~—

(1) This section may be cited as the "Anthony Branca and  
 Anita Neal Act ~~Florida Ban on Texting While Driving Law.~~"

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

(a) Improve roadway safety for all vehicle operators,  
 vehicle passengers, bicyclists, pedestrians, and other road

26 users.

27 (b) Prevent crashes related to the use of a wireless  
 28 communications device in a handheld manner ~~act of text messaging~~  
 29 while driving a motor vehicle.

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

33 (d) Authorize law enforcement officers to stop motor  
 34 vehicles and issue citations to persons who are using wireless  
 35 communications devices in a handheld manner ~~texting~~ while  
 36 driving.

37 (3) As used in this section, the term:

38 (a) "Handheld manner" means holding a wireless  
 39 communications device in one or both hands or physically  
 40 supporting the device with any other part of the body.

41 (b) "Hands-free accessory" means an attachment to or  
 42 built-in feature of a wireless communications device which  
 43 allows the operator of a motor vehicle to engage in  
 44 interpersonal communication or otherwise use such device other  
 45 than in a handheld manner.

46 (c) "Wireless communications device" means a handheld  
 47 device used or capable of being used in a handheld manner to:

48 1. Transmit or receive a voice message; initiate, receive,  
 49 or maintain a telephone call; or otherwise engage in  
 50 interpersonal voice communication;

51 2. Receive or transmit text-based or character-based  
 52 messages or otherwise engage in interpersonal nonvoice  
 53 communication;

54 3. Record or display videos or images;

55 4. Enter, access, or store data; or

56 5. Connect to the Internet or any communications service  
 57 as defined in s. 812.15(1).

58  
 59 The term includes, but is not limited to, a cellular telephone,  
 60 smartphone, tablet computer, laptop computer, two-way messaging  
 61 device, electronic gaming device, or device capable of  
 62 displaying videos or images. The term does not include a  
 63 citizens band radio, citizens band radio hybrid, commercial two-  
 64 way radio communication device or its functional equivalent,  
 65 subscription-based emergency communications device, prescribed  
 66 medical device, amateur or ham radio device, or in-vehicle  
 67 security, navigation, communications, or remote diagnostics  
 68 system.

69 (4)~~(3)~~(a) A person may not operate a motor vehicle while  
 70 using manually typing or entering multiple letters, numbers,  
 71 symbols, or other characters into a wireless communications  
 72 device in a handheld manner except to activate, deactivate,  
 73 initiate, or terminate a feature or function of the device,  
 74 including a hands-free accessory. Sustained use of a wireless  
 75 communications device by a person operating a motor vehicle must

76 be conducted through a hands-free accessory until such use is  
77 terminated. ~~or while sending or reading data on such a device~~  
78 ~~for the purpose of nonvoice interpersonal communication,~~  
79 ~~including, but not limited to, communication methods known as~~  
80 ~~texting, e-mailing, and instant messaging. As used in this~~  
81 ~~section, the term "wireless communications device" means any~~  
82 ~~handheld device used or capable of being used in a handheld~~  
83 ~~manner, that is designed or intended to receive or transmit text~~  
84 ~~or character-based messages, access or store data, or connect to~~  
85 ~~the Internet or any communications service as defined in s.~~  
86 ~~812.15 and that allows text communications. For the purposes of~~  
87 ~~this paragraph,~~ A motor vehicle that is stationary is not being  
88 operated and is not subject to the prohibition in this  
89 paragraph.

90 (b) Paragraph (a) does not apply to a motor vehicle  
91 operator who is:

92 1. Performing official duties as an operator of an  
93 authorized emergency vehicle as defined in s. 322.01, a law  
94 enforcement or fire service professional, or an emergency  
95 medical services professional.

96 2. Reporting an emergency or criminal or suspicious  
97 activity to law enforcement authorities.

98 3. Receiving messages that are:

99 a. Related to the operation or navigation of the motor  
100 vehicle;

101           b. Safety-related information, including emergency,  
 102 traffic, or weather alerts;

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

104           d. Radio broadcasts.

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

106           ~~5. Conducting wireless interpersonal communication that~~  
 107 ~~does not require manual entry of multiple letters, numbers, or~~  
 108 ~~symbols, except to activate, deactivate, or initiate a feature~~  
 109 ~~or function.~~

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

113           5.7. Operating an autonomous vehicle, as defined in s.  
 114 316.003(3), with the automated driving system engaged.

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

119           1. Access the wireless communications device without a  
 120 warrant.

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

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

126 vehicle operator's wireless communications device must be  
127 voluntary and unequivocal.

128 (d) Only in the event of a crash resulting in death or  
129 personal injury, a user's billing records for a wireless  
130 communications device or the testimony of or written statements  
131 from appropriate authorities receiving such messages may be  
132 admissible as evidence in any proceeding to determine whether a  
133 violation of paragraph (a) has been committed.

134 ~~(5)-(4)~~(a) A ~~Any~~ person who violates paragraph (4) (a)  
135 ~~(3)-(a)~~ commits a noncriminal traffic infraction, punishable as a  
136 nonmoving violation as provided in chapter 318.

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

142 ~~(6)-(5)~~ When a law enforcement officer issues a citation  
143 for a violation of this section, the law enforcement officer  
144 must record the race and ethnicity of the violator. All law  
145 enforcement agencies must maintain such information and report  
146 the information to the department by April 1 annually in a form  
147 and manner determined by the department. Beginning July 1, 2023,  
148 the department shall annually report the data collected under  
149 this subsection to the Governor, the President of the Senate,  
150 and the Speaker of the House of Representatives. The data

151 collected must be reported at least by statewide totals for  
 152 local law enforcement agencies, state law enforcement agencies,  
 153 and state university law enforcement agencies. The statewide  
 154 total for local law enforcement agencies shall combine the data  
 155 for the county sheriffs and the municipal law enforcement  
 156 agencies.

157 Section 2. Section 316.306, Florida Statutes, is amended  
 158 to read:

159 316.306 School and work zones; penalties for prohibition  
 160 ~~on the~~ use of a wireless communications device in a handheld  
 161 manner.—

162 ~~(1) For purposes of this section, the term "wireless~~  
 163 ~~communications device" has the same meaning as provided in s.~~  
 164 ~~316.305(3)(a). The term includes, but is not limited to, a cell~~  
 165 ~~phone, a tablet, a laptop, a two-way messaging device, or an~~  
 166 ~~electronic game that is used or capable of being used in a~~  
 167 ~~handheld manner. The term does not include a safety, security,~~  
 168 ~~or convenience feature built into a motor vehicle which does not~~  
 169 ~~require the use of a handheld device.~~

170 ~~(2) It is the intent of the Legislature to:~~

171 ~~(a) Improve roadway safety in school and work zones for~~  
 172 ~~all vehicle operators, vehicle passengers, bicyclists,~~  
 173 ~~pedestrians, and other road users.~~

174 ~~(b) Prevent crashes related to the act of driving while~~  
 175 ~~using a wireless communications device in a handheld manner when~~

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176 ~~operating a motor vehicle while the vehicle is in motion.~~

177 ~~(c) Reduce injuries, deaths, property damage, health care~~  
178 ~~costs, health insurance rates, and automobile insurance rates~~  
179 ~~related to motor vehicle crashes.~~

180 ~~(d) Authorize law enforcement officers to stop motor~~  
181 ~~vehicles and issue citations to persons who are driving in~~  
182 ~~school or work zones while using a wireless communications~~  
183 ~~device in a handheld manner as provided in subsection (3).~~

184 ~~(3)(a)1. A person may not operate a motor vehicle while~~  
185 ~~using a wireless communications device in a handheld manner in a~~  
186 ~~designated school crossing, school zone, or work zone area as~~  
187 ~~defined in s. 316.003(111). This subparagraph shall only be~~  
188 ~~applicable to work zone areas if construction personnel are~~  
189 ~~present or are operating equipment on the road or immediately~~  
190 ~~adjacent to the work zone area. For the purposes of this~~  
191 ~~paragraph, a motor vehicle that is stationary is not being~~  
192 ~~operated and is not subject to the prohibition in this~~  
193 ~~paragraph.~~

194 ~~2. 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. Using a wireless communications device hands-free or~~  
 216 ~~hands-free in voice-operated mode, including, but not limited~~  
 217 ~~to, a factory-installed or after-market Bluetooth device.~~

218 ~~6. Operating an autonomous vehicle, as defined in s.~~  
 219 ~~316.003, in autonomous mode.~~

220 ~~(c) A law enforcement officer who stops a motor vehicle~~  
 221 ~~for a violation of paragraph (a) must inform the motor vehicle~~  
 222 ~~operator of his or her right to decline a search of his or her~~  
 223 ~~wireless communications device and may not:~~

224 ~~1. Access the wireless communications device without a~~  
 225 ~~warrant.~~

226 ~~2. Confiscate the wireless communications device while~~  
 227 ~~awaiting issuance of a warrant to access such device.~~

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

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

240 ~~(e) Law enforcement officers must indicate the type of~~  
 241 ~~wireless communications device in the comment section of the~~  
 242 ~~uniform traffic citation.~~

243 (1)(4)(a) A Any person who violates s. 316.305(4)(a) in a  
 244 designated school crossing, in a school zone, or in a work zone  
 245 area as defined in s. 316.003, if construction personnel are  
 246 present or are operating equipment on the road or immediately  
 247 adjacent to the work zone area, this section commits a  
 248 noncriminal traffic infraction, punishable as a moving  
 249 violation, as provided in chapter 318, and shall have 3 points  
 250 assessed against his or her driver license as set forth in s.

251 322.27(3)(d)7.

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

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

266 (2)~~(5)~~ Notwithstanding s. 318.21, all proceeds collected  
 267 pursuant to s. 318.18 for violations under ~~of~~ this section must  
 268 be remitted to the Department of Revenue for deposit into the  
 269 Emergency Medical Services Trust Fund of the Department of  
 270 Health.

271 (3)~~(6)~~ When a law enforcement officer issues a citation  
 272 for a violation under ~~of~~ this section, the law enforcement  
 273 officer must:

274 (a) Indicate in the comment section of the uniform traffic  
 275 citation the type of wireless communications device that was

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276 | used to commit the violation.

277 |       **(b)** Record the race and ethnicity of the violator. All law  
278 | enforcement agencies must maintain such information and must  
279 | report such information to the department in a form and manner  
280 | determined by the department. Beginning February 1, 2020, the  
281 | department shall annually report the data collected under this  
282 | paragraph ~~subsection~~ to the Governor, the President of the  
283 | Senate, and the Speaker of the House of Representatives. The  
284 | data collected must be reported at least by statewide totals for  
285 | local law enforcement agencies, state law enforcement agencies,  
286 | and state university law enforcement agencies. The statewide  
287 | total for local law enforcement agencies must combine the data  
288 | for the county sheriffs and the municipal law enforcement  
289 | agencies.

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