

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 circumstances under which certain information may be
 9 admissible as evidence in a proceeding to determine
 10 whether a violation has been committed; providing
 11 penalties; revising procedures for the collection and
 12 reporting by the Department of Highway Safety and
 13 Motor Vehicles of information recorded on a citation;
 14 amending s. 316.306, F.S.; conforming provisions
 15 relating to the use of wireless communications devices
 16 in school and work zones; 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 "Hands-free Florida
 24 ~~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.

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 may be~~
110 ~~admissible as evidence~~ In any proceeding to determine whether a
111 violation of paragraph (a) has been committed:

112 1. A user's billing records for a wireless communications
113 device may be admissible as evidence.

114 2. The testimony of or written statements from appropriate
115 authorities receiving such communications may be admissible as
116 evidence only in the event of a crash resulting in death or
117 personal injury.

118 ~~(5)(4)(a)~~ A ~~Any~~ person who violates paragraph (4)(a)
119 ~~(3)(a)~~ commits a noncriminal traffic infraction, punishable as a
120 nonmoving violation as provided in chapter 318.

121 (b) A ~~Any~~ person who commits a second or subsequent
122 violation of paragraph (4)(a) ~~(3)(a)~~ within 5 years after the
123 date of a prior conviction for a violation of paragraph (4)(a)
124 ~~(3)(a)~~ commits a noncriminal traffic infraction, punishable as a
125 moving violation as provided in chapter 318.

126 ~~(6)-(5) When~~ A law enforcement officer who issues a
127 citation for a violation of paragraph (4)(a) ~~this section, the~~
128 ~~law enforcement officer~~ must record on the citation the race and
129 ethnicity of the person to whom the citation is issued ~~violate~~.
130 Each ~~All~~ law enforcement agency in this state ~~agencies~~ must
131 maintain such information and must provide such ~~report the~~
132 information to the department in a form and manner determined by
133 the department. The department shall collect such information by
134 jurisdiction and shall submit an annual report by ~~Beginning~~
135 February 1 of each year, ~~2020,~~ ~~the department shall annually~~
136 ~~report the data collected under this subsection~~ to the Governor,
137 the President of the Senate, and the Speaker of the House of
138 Representatives which shows separate. ~~The data collected must be~~
139 ~~reported at least by~~ statewide totals for the state's county
140 sheriffs and municipal ~~local~~ law enforcement agencies, state law
141 enforcement agencies, and state university law enforcement
142 agencies. ~~The statewide total for local law enforcement agencies~~
143 ~~shall combine the data for the county sheriffs and the municipal~~
144 ~~law enforcement agencies.~~

145 Section 2. Section 316.306, Florida Statutes, is amended
146 to read:

147 316.306 School and work zones; ~~prohibition on the use of a~~
148 wireless communications devices; prohibition ~~device in a~~
149 ~~handheld manner.~~

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

151 (a) "Hands-free device" means an internal feature or
152 function of, or an attachment or addition to, a wireless
153 communications device which allows the device to be used without
154 being manually held or otherwise touched, except to activate,
155 deactivate, or initiate the feature, function, attachment, or
156 addition.

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

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

166 (a) Improve roadway safety in school and work zones for
167 all vehicle operators, vehicle passengers, bicyclists,
168 pedestrians, and other road users.

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

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

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

181 (3) (a) ~~1.~~ Except as provided in paragraph (b), a person may
 182 not operate a motor vehicle ~~while using a wireless~~
 183 ~~communications device in a handheld manner~~ in a designated
 184 school crossing, school zone, or work zone area as defined in s.
 185 316.003(104) while manually holding or otherwise touching a
 186 wireless communications device. This paragraph ~~subparagraph~~
 187 shall only be applicable to work zone areas if construction
 188 personnel are present or are operating equipment on the road or
 189 immediately adjacent to the work zone area. For the purposes of
 190 this paragraph, a motor vehicle that is stationary is not being
 191 operated and is not subject to the prohibition in this
 192 paragraph.

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

199 ~~b. Effective January 1, 2020, a law enforcement officer~~
 200 ~~may stop motor vehicles and issue citations to persons who are~~

201 ~~driving while using a wireless communications device in a~~
202 ~~handheld manner in violation of subparagraph 1.~~

203 (b) Paragraph (a) does not apply to a motor vehicle
204 operator who is:

205 1. Performing official duties as an operator of an
206 authorized emergency vehicle as defined in s. 322.01, a law
207 enforcement or fire service professional, or an emergency
208 medical services professional.

209 2. Reporting an emergency or criminal or suspicious
210 activity to law enforcement authorities.

211 3. Receiving messages that are:

212 a. Related to the operation or navigation of the motor
213 vehicle;

214 b. Safety-related information, including emergency,
215 traffic, or weather alerts;

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

217 d. Radio broadcasts.

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

220 5. Conducting wireless interpersonal communication through
221 the use of a hands-free ~~Using a wireless communications device~~
222 ~~hands-free or hands-free in voice-operated mode, including, but~~
223 ~~not limited to, a factory installed or after-market Bluetooth~~
224 ~~device.~~

225 6. Operating an autonomous vehicle, as defined in s.

226 316.003(3), with the automated driving system engaged s-
 227 316.003, in autonomous mode.

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

232 1. Access the wireless communications device without a
 233 warrant.

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

236 3. Obtain consent from the motor vehicle operator to
 237 search his or her wireless communications device through
 238 coercion or other improper method. Consent to search a motor
 239 vehicle operator's wireless communications device must be
 240 voluntary and unequivocal.

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

248 1. A user's billing records for a wireless communications
 249 device may be admissible as evidence.

250 2. The testimony of or written statements from appropriate

251 authorities receiving such communications may be admissible as
252 evidence only in the event of a crash resulting in death or
253 personal injury.

254 (e) Law enforcement officers must indicate the type of
255 wireless communications device in the comment section of the
256 uniform traffic citation.

257 (4) (a) A ~~Any~~ person who violates paragraph (3) (a) ~~this~~
258 ~~section~~ commits a noncriminal traffic infraction, punishable as
259 a moving violation~~7~~, as provided in chapter 318, and shall have 3
260 points assessed against his or her driver license as set forth
261 in s. 322.27(3)(d)7. For a first offense ~~under this section~~, in
262 lieu of the penalty specified in s. 318.18 and the assessment of
263 points, a person who violates paragraph (3) (a) ~~this section~~ may
264 elect to participate in a wireless communications device driving
265 safety program approved by the Department of Highway Safety and
266 Motor Vehicles. Upon completion of such program, the penalty
267 specified in s. 318.18 and associated costs may be waived by the
268 clerk of the court and the assessment of points must be waived.

269 (b) The clerk of the court may dismiss a case and assess
270 court costs in accordance with s. 318.18(11)(a) for a nonmoving
271 traffic infraction for a person who is cited for a first ~~time~~
272 violation of paragraph (3) (a) ~~this section~~ if the person shows
273 the clerk proof of purchase of equipment that enables him or her
274 to conduct wireless interpersonal communication through the use
275 of a hands-free device ~~his or her personal wireless~~

276 ~~communications device to be used in a hands-free manner.~~

277 (5) Notwithstanding s. 318.21, all proceeds collected
278 pursuant to s. 318.18 for violations of paragraph (3)(a) ~~this~~
279 ~~section~~ must be remitted to the Department of Revenue for
280 deposit into the Emergency Medical Services Trust Fund of the
281 Department of Health.

282 (6) ~~When~~ A law enforcement officer who issues a citation
283 for a violation of paragraph (3)(a) ~~this section, the law~~
284 ~~enforcement officer~~ must record on the citation the race and
285 ethnicity of the person to whom the citation is issued ~~violation~~.
286 Each ~~All~~ law enforcement agency in this state ~~agencies~~ must
287 maintain such information and must provide ~~report~~ such
288 information to the department in a form and manner determined by
289 the department. The department shall collect such information by
290 jurisdiction and shall submit an annual report by ~~Beginning~~
291 February 1 of each year, ~~2020, the department shall annually~~
292 ~~report the data collected under this subsection~~ to the Governor,
293 the President of the Senate, and the Speaker of the House of
294 Representatives which shows separate. ~~The data collected must be~~
295 ~~reported at least by~~ statewide totals for the state's county
296 sheriffs and municipal ~~local~~ law enforcement agencies, state law
297 enforcement agencies, and state university law enforcement
298 agencies. ~~The statewide total for local law enforcement agencies~~
299 ~~must combine the data for the county sheriffs and the municipal~~
300 ~~law enforcement agencies.~~

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301 Section 3. This act shall take effect October 1, 2020.