

CS/SB 416 by **CU, Detert (CO-INTRODUCERS) Margolis, Lynn, Altman, Sachs;** (Similar to H 0299) Use of
Wireless Communications Devices While Driving

COMMITTEE MEETING EXPANDED AGENDA

**BUDGET SUBCOMMITTEE ON TRANSPORTATION,
TOURISM, AND ECONOMIC DEVELOPMENT
APPROPRIATIONS**

**Senator Benacquisto, Chair
Senator Margolis, Vice Chair**

MEETING DATE: Thursday, January 26, 2012
TIME: 10:30 a.m.—12:00 noon
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Benacquisto, Chair; Senator Margolis, Vice Chair; Senators Alexander, Bennett, Bogdanoff, Bullard, Dean, Diaz de la Portilla, Evers, Fasano, Gaetz, Gibson, Latvala, Norman, Sachs, Smith, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	CS/SB 416 Communications, Energy, and Public Utilities / Detert (Similar H 299, Compare H 39, H 187)	Use of Wireless Communications Devices While Driving; Creating the “Florida Ban on Texting While Driving Law”; prohibiting the operation of a motor vehicle while using a wireless communications device for certain purposes; specifying information that is admissible as evidence of a violation; providing penalties; providing for enforcement as a secondary action; providing for points to be assessed against a driver’s license for the unlawful use of a wireless communications device within a school safety zone or resulting in a crash, etc.	Favorable Yeas 14 Nays 1
		TR 12/07/2011 Favorable CU 01/12/2012 Fav/CS BTA 01/26/2012 Favorable BC	

Review and Discussion of Fiscal Year 2012-2013 Budget Issues relating to: Not Considered

- Department of Economic Opportunity
- Florida Housing Finance Corporation
- Department of Highway Safety and Motor Vehicles
- Department of Military Affairs
- Department of State
- Department of Transportation
- Orlando Orange County Expressway Authority
- Tampa Hillsborough County Expressway Authority
- EOG/Division of Emergency Management

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations

BILL: CS/SB 416

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Detert

SUBJECT: Use of Wireless Communications Devices While Driving

DATE: January 23, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Buford	TR	Favorable
2.	Wiehle	Carter	CU	Fav/CS
3.	Carey/Smith	Meyer, R.	BTA	Favorable
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill is the “Florida Ban on Texting While Driving Law”, modeled after a Sample Law promulgated by the United States Department of Transportation (USDOT). The bill prohibits the operation of a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication. The bill makes exceptions for emergency workers performing official duties, reporting emergencies or suspicious activities, and for receiving various types of navigation information, emergency traffic data, and radio broadcasts. The bill also makes an exception for interpersonal communications that can be conducted without the need to manually type messages.

The prohibition is enforceable as a secondary offense. A first violation is punishable as a nonmoving violation, with a fine of \$30 plus court costs which vary by county. A second violation committed within 5 years of the first is a moving violation punishable by a \$60 fine plus court costs.

In addition to these penalties, any violation of the ban which results in a crash will result in 6 points added to the offender’s driver’s license record and any violation of the ban committed in

conjunction with any moving violation for which points are assessed, when committed within a school safety zone, will result an assessment of 2 points.

This bill may generate additional revenues for local and state governments as a result of the penalties for using wireless communications devices for texting purposes while operating a motor vehicle.

The bill has an effective date of October 1, 2012.

This bill creates s. 316.305, F.S., and substantially amends s. 322.27, F.S.

II. Present Situation:

Laws in other states

Public concern over distracted driving has resulted in a number of jurisdictions making it illegal to use hand-held cellular telephones for talking and/or texting while driving. In November 2001, New York became the first state to implement a ban on hand-held cellular telephone use for drivers. The District of Columbia passed a ban in 2004. Connecticut's ban took effect in 2005. Thirty-five states and the District of Columbia have passed a ban on text-while-driving for all drivers. The National Conference of State Legislators has the following chart detailing each state's cellular telephone use laws.¹

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
Alabama	No	Drivers age 16 and 17 who have held an intermediate license for less than 6 months.	No	Not applicable
Alaska	No	No	All drivers	Primary
Arizona	No	School bus drivers	No	Primary
Arkansas	No	School bus drivers, drivers younger than 18	All drivers	Primary for texting by all drivers and cell phone use by school bus drivers; secondary for cell phone use by young drivers
California	All drivers	School and transit bus drivers and drivers younger than 18	All drivers	Primary
Colorado	No	Drivers younger than 18	All drivers	Primary
Connecticut	All drivers	Learner's permit holders, drivers younger than 18, and school bus drivers	All drivers	Primary
Delaware	All drivers (effective 01/02/11)	Learner's permit and intermediate license holders and school bus drivers	All drivers (effective 01/02/11)	Primary
District of Columbia	All drivers	School bus drivers and learner's permit holders	All drivers	Primary
Florida	No	No	No	Not applicable

¹ "Cell Phone Use and Texting While Driving Laws," updated November, 2011. Available online at, <http://www.ncsl.org/?tabid=17057>, Document No. 17057.

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
Georgia	Drivers younger than 18 (effective 07/01/10)	School bus drivers. Drivers younger than 18.	All drivers (effective 07/01/10)	Primary
Hawaii	No	No	No	Not applicable
Idaho	No	No	No	Not applicable
Illinois	Drivers in construction and school speed zones	Learner's permit holders younger than 19, drivers younger than 19, and school bus drivers	All drivers	Primary
Indiana	No	Drivers under the age of 18.	All drivers (effective 07/01/11).	Primary
Iowa	No	Learner's permit and intermediate license holders	All drivers	Secondary for texting
Kansas	No	Learner's permit and intermediate license holders	All drivers (effective 07/01/10).	Primary
Kentucky	No	Drivers younger than 18 (effective 07/13/10), school bus drivers	All drivers (effective 07/13/10)	Primary (effective 07/13/10)
Louisiana	No	School bus drivers, learner's permit and intermediate license holders, drivers under age 18	All drivers	Primary
Maine**	No	Learner's permit and intermediate license holders	All drivers (effective 09/13/11)	Primary
Maryland	All drivers (effective 10/01/10), School Bus Drivers.	Learner's permit and intermediate license holders under 18. School bus drivers	All drivers	Primary for texting
Massachusetts	Local option	School bus drivers, passenger bus drivers, drivers younger than 18	All drivers (effective 09/30/10)	Primary
Michigan	Local option	No	All drivers (effective 07/01/10)	Primary (effective 07/01/10)
Minnesota	No	School bus drivers, learner's permit holders, and provisional license holders during the first 12 months after licensing	All drivers	Primary
Mississippi	No	School bus drivers.	Learner's permit holders and intermediate license holders	Primary
Missouri	No	No	Drivers 21 years of age or younger	Primary
Montana	No	No	No	Not applicable
Nebraska	No	Learner's permit and intermediate license holders younger than 18	Learner's permit and intermediate license holders younger than 18 All drivers	Secondary
Nevada	All drivers (effective 01/01/12)	No	All drivers (effective 01/01/12)	Not applicable
New Hampshire	No	No	All drivers	Primary

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
New Jersey	All drivers	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary
New Mexico	Local option	Learners permit and intermediate license holders	No	Not applicable
New York	All drivers	No	All drivers	Primary
North Carolina	No	Drivers younger than 18 and school bus drivers	All drivers	Primary
North Dakota	Drivers younger than 18 (effective 01/01/12)	Drivers younger than 18 (effective 01/01/12)	All drivers (effective 08/01/11)	Primary (effective 08/01/11)
Ohio	Local option	No	No	Not applicable
Oklahoma	Learner's permit and intermediate license holders, school bus drivers and public transit drivers (effective 11/01/10)	School Bus Drivers and Public Transit Drivers (effective 11/01/10)	Learner's permit and intermediate license holders, school bus drivers and public transit drivers (effective 11/01/10)	Primary
Oregon	All drivers	Drivers younger than 18	All drivers	Primary
Pennsylvania	Local option	No	All drivers	Primary
Rhode Island	No	School bus drivers and drivers younger than 18	All drivers	Primary
South Carolina	No	No	No	Not applicable
South Dakota	No	No	No	Not applicable
Tennessee	No	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary
Texas	Drivers in school crossing zones	Bus drivers. Drivers younger than 18. (09/01/11)	Bus drivers when a passenger 17 and younger is present; intermediate license holders for first 12 months, drivers in school crossing zones	Primary
Utah	See footnote*	No	All drivers	Primary for texting; secondary for talking on hand-held phone
Vermont	No	Drivers younger than 18 shall not use any portable electronic device while driving	All drivers	Primary
Virginia	No	Drivers younger than 18 and school bus drivers	All drivers	Secondary; primary for school bus drivers
Washington	All drivers	Learners permit and intermediate license holders	All drivers	Primary
West Virginia	No	Drivers younger than 18 who hold either a learner's permit or an intermediate license	Drivers younger than 18 who hold either a learner's permit or an intermediate license	Primary
Wisconsin	No	No	All drivers (effective 12/01/10)	Primary (effective 12/01/10)

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
Wyoming	No	No	All drivers	Primary

* Utah considers speaking on a cell phone, without a hands-free device, to be an offense only if a driver is also committing some other moving violation (other than speeding).

** Maine has a law that makes driving while distracted a traffic infraction. 29-A M.R.S.A. Sec. 2117.

*** Listed as a part of contributing factors

Federal Sample Law

In February 2010, USDOT unveiled a “Sample Law” to be used as a starting point for states crafting new laws to prohibit texting while driving.² Recognizing states have had some difficulty drafting language prohibiting dangerous behaviors, but allowing certain minimal uses of technology, USDOT requested the participation of several national groups to draft language satisfactory to all. The Sample Law, prepared by the National Highway Traffic Safety Administration (NHTSA), and a cross-section of safety and industry organizations, would authorize law enforcement officers to stop a vehicle and issue a citation to drivers who are texting while driving.³ The sample state law is patterned on the Executive Order issued by President Obama on October 1, 2009, directing federal employees not to engage in text messaging while driving government-owned vehicles or with government-owned equipment. Federal employees were required to comply with the ban starting on December 30, 2009.⁴

Contributors to the Sample Law include: Advocates for Highway and Auto Safety, Alliance of Automobile Manufacturers, American Association of Motor Vehicle Administrators, American Association of State Highway and Transportation Officials, AAA, Centers for Disease Control and Prevention, CTIA- The Wireless Association, Governors Highway Safety Association, ITS America, International Association of Chiefs of Police, National Conference of State Legislatures, National Safety Council, The National Traffic Law Center of the National District Attorneys Association, and Safe Kids USA.⁵

Florida Law

The state has expressly preempted all regulation of the use of electronic communications devices in a motor vehicle.⁶ There are currently no prohibitions related to texting or talking while driving. However, existing laws may apply more generally to distracted operators of motor vehicles. Operators of motor vehicles are in violation of existing statutes when driving carelessly or recklessly.

Careless driving is the failure to drive the same as other operators of motor vehicles, in a careful and prudent manner, having regard to all attendant circumstances, so as not to endanger the life,

² “New Sample Bill Will Aid States in Banning Texting While Driving,” United States Department of Transportation, DOT 31-10. USDOT Secretary Ray LaHood, February 22, 2010. <http://www.dot.gov/affairs/2010/dot3110.htm>

³ *Id.*

⁴ *Id.*

⁵ http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Texting_Law_021910.pdf

⁶ s. 316.0075, F.S.

limb, or property of any person.⁷ Any person who violates the restriction against careless driving shall be cited for a moving violation.⁸

Reckless driving involves willful or wanton disregard for the safety of persons or property. Upon a first conviction, reckless driving is punishable by some combination of imprisonment,⁹ and at least a \$25 fine¹⁰ or by both such fine and imprisonment. A second or subsequent conviction requires a fine of at least \$50,¹¹ but may also result in imprisonment for not more than 6 months. Additionally, reckless driving that causes damage to the property or person of another commits a misdemeanor of the first degree.¹² Reckless driving that causes serious bodily injury¹³ to another commits a felony of the third degree.¹⁴

While prohibitions exist against vehicle operators wearing headsets, headphones, or other listening devices, there are exceptions.¹⁵ A driver is permitted to use a headset in conjunction with a cellular telephone that only provides sound through one ear and allows surrounding sounds to be heard with the other ear.¹⁶ The Department of Highway Safety and Motor Vehicles (DHSMV) is granted further rulemaking authority to detail the standards and specifications of radio equipment permitted by statute.¹⁷ DHSMV inspects and reviews all such devices submitted to it and publishes a list by name and type of approved equipment.

Section 322.27(3), F.S., provides a point system used to evaluate the qualifications of any person to operate a motor vehicle after accumulating multiple violations of motor vehicle laws. Moving violations typically result in assessment of three points, unless the infraction or offense is among those considered more serious. For example, pursuant to s. 322.27(3)(d), F.S., reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit all require assessment of four points. Leaving the scene of a crash and speeding resulting in a crash require assessment of six points.

DHSMV may suspend a driver for 30 days if the driver accumulates 12 or more points within a 12-month period,¹⁸ up to three months if the driver accumulates 18 points in 18 months,¹⁹ and up to one year if the driver accumulates 24 points within 36 months.²⁰

⁷ s. 316.1925, F.S.

⁸ Punishable as provided in ch. 318, F.S.

⁹ For period of not more than 90 days. Section 316.192(2)(a), F.S.

¹⁰ Not less than \$25 nor more than \$500. Section 316.192(2)(a), F.S.

¹¹ But no more than \$1,000. Section 316.192(2)(b), F.S.

¹² Punishable as provided in ss. 775.082 and 775.083, F.S.

¹³ The term “serious bodily injury” means an injury to another person, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Section 316.192(3)(c)(2), F.S.

¹⁴ Punishable as provided in ss. 775.082 - 775.084, F.S.

¹⁵ s. 316.304, F.S.

¹⁶ s. 316.304(2)(d), F.S.

¹⁷ s. 316.304(3), F.S.

¹⁸ s. 322.27(3)(a), F.S.

¹⁹ s. 322.27(3)(b), F.S.

²⁰ s. 322.27(3)(c), F.S.

III. Effect of Proposed Changes:

The bill draws heavily on the Sample Law promulgated by USDOT, particularly with regard to the express legislative intent and the prohibition itself. The penalties are modified somewhat to provide a graduated approach and to integrate with existing Florida Statutes.

Specific Intent

The bill's specific intention is to:

- Improve roadway safety for motor vehicle operators, passengers, bicyclists, pedestrians and all other road users;
- Prevent crashes related to the act of text messaging while driving;
- Reduce injuries, deaths, property damage, health care costs, health insurance, and automobile insurance rates related to motor vehicle crashes; and
- Authorize law enforcement officers to issue citations for text messaging while driving as a secondary offense.

Prohibition on Texting While Driving

To achieve these goals, the bill prohibits the operation of a motor vehicle “while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data in such a device for the purpose of nonvoice interpersonal communication.”

The bill defines the term “wireless communication device” as any device designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any other communications service²¹ and which allows text communications. The bill also specifies that for purposes of the prohibition on texting, a person is not operating a vehicle when legally parked.²² Violations are enforceable as secondary violations.

Exceptions

The bill makes exceptions for:

- Law enforcement, fire service, or emergency medical services personnel, or any operator of an authorized emergency vehicle as defined in s. 322.01, F.S.,²³ performing official duties;

²¹ “Communications service” itself is defined by reference to s. 812.15, F.S. In that statute, the term “communications service” means:

any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

²² Sections 316.194 and 316.1945, F.S., prohibit stopping, standing or parking in certain areas. Therefore, the driver of a vehicle stopped, standing, or parked in one of the prohibited locations may not be considered legally parked.

²³ Section 322.01(4), F.S., defines an “authorized emergency vehicle” as:

a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized by

- Reporting an emergency or criminal or suspicious activity to law enforcement;
- Receiving messages related to:
 - The operation or navigation of a motor vehicle;
 - Safety-related information including emergency, traffic, or weather alerts;
 - Data used primarily by the motor vehicle; or
 - Radio broadcasts;
- Using a device or system for navigation purposes; or
- Conducting wireless interpersonal communication that does *not* require manual entry of multiple letters, numbers, or symbols, or reading text messages (except to activate or deactivate or initiate a feature or function).

Penalties

Enforcement is only allowed as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision relating to the traffic code, motor vehicle licensing, or driver's license requirements.

In any proceeding to determine whether a violation of this section has been committed, a driver's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence.

A penalty for a first violation of the prohibition is a non-moving violation, punishable as provided in ch. 318, F.S. Non-moving violations result in a \$30 fine, plus court costs which vary by jurisdiction.

If a person commits a second violation of the prohibition within 5 years of the first violation, the penalty is increased to a moving violation resulting in 3 points being assigned to the person's driver license. Chapter 318, F.S., provides a \$60 fine plus court costs.

The bill provides DHSMV will assign 6 points to the driver's license of any driver whose use of a wireless communications device results in a crash (regardless of whether the offense is a first or subsequent offense). This is identical to the number of points that would apply to a driver's license when the operator caused a crash as a result of unlawful speed. Additionally, any violation of the ban committed in conjunction with any moving violation for which points are assessed, when committed within a school safety zone, will result in an assessment of 2 points.

The bill has an effective date of October 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

s. 316.2397 to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles. The term does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

An individual violating the prohibition on using wireless communications devices for texting purposes while operating a motor vehicle would be subject to a civil penalties and points being assigned to his or her driver license depending whether the violation is a first offense or a second or subsequent offense and whether it resulted in a crash.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of secondary violations issued by law enforcement officials and the frequency with which violators commit subsequent violations, incurring large penalties.

According to DHSMV, programming modifications will be required to implement the bill; however, the necessary hours can be incorporated into Information Systems Administration's (ISA) normal workload.²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Communications, Energy, and Public Utilities Committee on January 12, 2012:

²⁴ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 416* (Oct. 19, 2011, on file with the Senate Transportation Committee).

The committee substitute provides that any violation of the texting ban committed in conjunction with any moving violation for which points are assessed, when committed within a school safety zone, will result in an assessment of 2 points.

B. Amendments:

None.

By the Committee on Communications, Energy, and Public
Utilities; and Senator Detert

579-01836-12

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A bill to be entitled

An act relating to the use of wireless communications devices while driving; creating s. 316.305, F.S.; creating the "Florida Ban on Texting While Driving Law"; providing legislative intent; prohibiting the operation of a motor vehicle while using a wireless communications device for certain purposes; providing a definition; providing exceptions; specifying information that is admissible as evidence of a violation; providing penalties; providing for enforcement as a secondary action; amending s. 322.27, F.S.; providing for points to be assessed against a driver's license for the unlawful use of a wireless communications device within a school safety zone or resulting in a crash; providing an effective date.

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

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

316.305 Wireless communications devices; prohibition.-

(1) This section may be cited as the "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 users.

(b) Prevent crashes related to the act of text messaging while driving a motor vehicle.

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

(d) Authorize law enforcement officers to stop motor vehicles and issue citations as a secondary offense to persons who are texting while driving.

(3) (a) A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data in such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term "wireless communications device" means any device that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15 and that allows text communications. A motor vehicle that is legally parked is not being operated and is not subject to the prohibition in this paragraph.

(b) This subsection does not apply to a motor vehicle operator who is:

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

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

3. Receiving messages that are:

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- 59 a. Related to the operation or navigation of the motor
 60 vehicle;
 61 b. Safety-related information, including emergency,
 62 traffic, or weather alerts;
 63 c. Data used primarily by the motor vehicle; or
 64 d. Radio broadcasts.
 65 4. Using a device or system for navigation purposes.
 66 5. Conducting wireless interpersonal communication that
 67 does not require manual entry of multiple letters, numbers, or
 68 symbols or reading text messages, except to activate,
 69 deactivate, or initiate a feature or function.
 70 (c) A user's billing records for a wireless communications
 71 device or the testimony of or written statements from
 72 appropriate authorities receiving such messages may be
 73 admissible as evidence in any proceeding to determine whether a
 74 violation of this section has been committed.
 75 (4) (a) Any person who violates subsection (3) commits a
 76 noncriminal traffic infraction, punishable as a nonmoving
 77 violation as provided in chapter 318.
 78 (b) Any person who commits a second or subsequent violation
 79 of subsection (3) within 5 years after the date of a prior
 80 conviction for a violation of subsection (3) commits a
 81 noncriminal traffic infraction, punishable as a moving violation
 82 as provided in chapter 318.
 83 (5) Enforcement of this section by state or local law
 84 enforcement agencies must be accomplished only as a secondary
 85 action when an operator of a motor vehicle has been detained for
 86 a suspected violation of another provision of this chapter,
 87 chapter 320, or chapter 322.

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- 88 Section 2. Paragraph (d) of subsection (3) of section
 89 322.27, Florida Statutes, is amended to read:
 90 322.27 Authority of department to suspend or revoke
 91 license.—
 92 (3) There is established a point system for evaluation of
 93 convictions of violations of motor vehicle laws or ordinances,
 94 and violations of applicable provisions of s. 403.413(6) (b) when
 95 such violations involve the use of motor vehicles, for the
 96 determination of the continuing qualification of any person to
 97 operate a motor vehicle. The department is authorized to suspend
 98 the license of any person upon showing of its records or other
 99 good and sufficient evidence that the licensee has been
 100 convicted of violation of motor vehicle laws or ordinances, or
 101 applicable provisions of s. 403.413(6) (b), amounting to 12 or
 102 more points as determined by the point system. The suspension
 103 shall be for a period of not more than 1 year.
 104 (d) The point system shall have as its basic element a
 105 graduated scale of points assigning relative values to
 106 convictions of the following violations:
 107 1. Reckless driving, willful and wanton—4 points.
 108 2. Leaving the scene of a crash resulting in property
 109 damage of more than \$50—6 points.
 110 3. Unlawful speed, or unlawful use of a wireless
 111 communications device, resulting in a crash—6 points.
 112 4. Passing a stopped school bus—4 points.
 113 5. Unlawful speed:
 114 a. Not in excess of 15 miles per hour of lawful or posted
 115 speed—3 points.
 116 b. In excess of 15 miles per hour of lawful or posted

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117 speed-4 points.

118 6. A violation of a traffic control signal device as
119 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.
120 However, no points shall be imposed for a violation of s.
121 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
122 stop at a traffic signal and when enforced by a traffic
123 infraction enforcement officer. In addition, a violation of s.
124 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
125 stop at a traffic signal and when enforced by a traffic
126 infraction enforcement officer may not be used for purposes of
127 setting motor vehicle insurance rates.

128 7. All other moving violations (including parking on a
129 highway outside the limits of a municipality)-3 points. However,
130 no points shall be imposed for a violation of s. 316.0741 or s.
131 316.2065(12); and points shall be imposed for a violation of s.
132 316.1001 only when imposed by the court after a hearing pursuant
133 to s. 318.14(5).

134 8. Any moving violation covered in this paragraph ~~above~~,
135 excluding unlawful speed and unlawful use of a wireless
136 communications device, resulting in a crash-4 points.

137 9. Any conviction under s. 403.413(6)(b)-3 points.

138 10. Any conviction under s. 316.0775(2)-4 points.

139 11. Any moving violation covered in this paragraph
140 committed in conjunction with the unlawful use of a wireless
141 communication device within a school safety zone-2 points.

142 Section 3. This act shall take effect October 1, 2012.

S0416
GENERAL BILL/CS by CU; Detert; (CO-INTRODUCERS) Margolis; Lynn; Altman; Sachs; (Similar H 0299, Compare H 0039, H 0187)
Use of Wireless Communications Devices While Driving. EFFECTIVE DATE: 10/01/2012.
01/23/12 S On Committee agenda-- Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations, 01/26/12, 10:30 am, 110 Senate Office Building
01/26/12 S Favorable by Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; YEAS 14 NAYS 1 -SJ 279 ; Now in Budget -SJ 279

CourtSmart Tag Report

Room: EL 110

Case:

Type:

Caption: Budget Subcommittee on Transportation, Tourism and Economic Development Appropriations **Judge:**

Started: 1/26/2012 10:32:52 AM

Ends: 1/26/2012 10:43:44 AM **Length:** 00:10:53

10:32:56 AM Meeting called to order.
10:32:59 AM Roll call.
10:33:54 AM Senator Detert recognized to present CS/SB 416.
10:34:05 AM Senator Detert presents CS/SB 416.
10:35:42 AM Senator Latvala recognized.
10:36:05 AM Senator Detert responds.
10:36:45 AM Senator Sachs recognized.
10:37:13 AM Definition of motor vehicle may need to be re-defined.
10:37:25 AM Senator Detert responds.
10:38:03 AM Senator Bennett recognized.
10:38:29 AM Chairman Benacquisto recognizes Brian Pitts for public comment.
10:39:23 AM Brian Pitts speaks in favor of bill.
10:40:26 AM Kenya Cory waives in support
10:40:33 AM H. Lee Moffitt, AAA Auto Club, waives in support.
10:40:46 AM Laura Cantwell, AARP, waives in support.
10:40:58 AM Wes Watson, Florida Public Transportation Assoc., waives in support.
10:41:14 AM Eric Westfall, Florida Sheriff's Association, waives in support.
10:41:31 AM Senator Gaetz recognized.
10:41:38 AM Senator Detert responds.
10:41:45 AM Senator Gibson recognized.
10:41:59 AM Senator Bennett recognized for debate.
10:42:31 AM Senator Detert recognized for closing.
10:43:19 AM CS/SB 416 passes favorable.
10:43:32 AM Meeting adjourned.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/12

Meeting Date

Topic Ban on Texting while Driving

Bill Number 416
(if applicable)

Name Laura Cantwell

Amendment Barcode _____
(if applicable)

Job Title _____

Address 200 W College Av, Suite 304
Street
Lalophasse FL 32301
City State Zip

Phone 850-577-5163

E-mail lcantwell@aarpp.org

Speaking: For Against Information

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 26, 2012
Meeting Date

Topic Texting while driving

Bill Number SB416
(if applicable)

Name Keyna Cory

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 110 East college
Street
Tallahassee FL 32301
City State Zip

Phone 850 681 1065

E-mail keynacory@paconsultants
COM

Speaking: For Against Information

Representing National Solid Wastes Management Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01-26-2012

Meeting Date

Topic Texting

Bill Number SB 416
(if applicable)

Name H. Lee Moffitt

Amendment Barcode _____
(if applicable)

Job Title Legislative Counsel

Address 3225 South MacDill Avenue, Suite 129-336

Phone 813-831-1500

Street

Tampa FL 33629
City State Zip

E-mail mrspeaker@aol.com

Speaking: For Against Information

Representing AAA Auto Club

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1 / 26 / 2012

Meeting Date

Topic _____

Bill Number 416
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727/897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/12
Meeting Date

Topic Texting

Bill Number 416
(if applicable)

Name Wes Watson

Amendment Barcode _____
(if applicable)

Job Title Exec. Director

Address PO Bx 10168

Phone 228-3010

Talk, FL
City State Zip

E-mail WATSON@mail2embargo.com

Speaking: For Against Information

Representing FL. Public Transportation Assn

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/26/2012
Meeting Date

Topic USE OF WIRELESS COMMUNICATION DEVICES

Bill Number SB 416
(if applicable)

Name ERIC WESTFALL

Amendment Barcode _____
(if applicable)

Job Title LIEUTENANT

Address 123 W INDIANA AVE

Phone _____

DELAND FL 32720
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA SHERIFF'S ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget, *Chair*
Rules, *Vice Chair*
Agriculture
Banking and Insurance
Budget - Subcommittee on Finance and Tax
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Education Pre-K - 12
Rules - Subcommittee on Ethics and Elections

JOINT COMMITTEE:

Legislative Budget Commission, *Chair*

SENATOR JD ALEXANDER

17th District

January 25, 2012

Senator Lizbeth Benacquisto, Chair
Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development
Appropriations
326 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Benacquisto,

I respectfully request permission to be absent from the Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations, tomorrow, January 26, 2012. I will not be able to attend this meeting.

Thank you for your approval in this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "JD Alexander".

A handwritten signature consisting of the initials "JD" enclosed within a hand-drawn circle.

JD Alexander
Senator, District 17

Xc: Reynold Meyer

REPLY TO:

- 201 Central Avenue West, Suite 115, City Hall Complex, Lake Wales, Florida 33853 (863) 679-4847
- 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5044

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Agriculture, *Vice Chair*
Education Pre-K - 12, *Vice Chair*
Budget - Subcommittee on General Government
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Military Affairs, Space, and Domestic Security
Reapportionment
Rules
Transportation

SENATOR LARCENIA J. BULLARD

39th District

January 26, 2012

The Honorable LizBeth Benaquisto
Chair
Transportation, Tourism & Economic
Development Appropriations Committee
201 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Senator Benaquisto:

I humbly request an excused absence from today's Transportation, Tourism & Economic Development Appropriations Committee meeting.

Sincerely,

Handwritten initials "LJB" in a cursive script.

Handwritten signature of Larcenia Bullard in a cursive script.

Larcenia Bullard
39th District

LJB/al

Cc: Reynold Meyer, Staff Director
Joyce Randall, Committee Administrative Assistant

REPLY TO:

8603 South Dixie Highway, Suite 304, Miami, Florida 33143 (305) 668-7344
 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5127

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore