

By Senator Sachs

34-00105A-13

201374

1 A bill to be entitled
2 An act relating to the use of hand-held wireless
3 communications devices while driving; creating s.
4 316.305, F.S.; creating the "Florida Ban on
5 Communicating While Driving Law"; providing
6 legislative intent; defining the term "hand-held
7 wireless communications device"; prohibiting the
8 operation of a motor vehicle while using a hand-held
9 wireless communications device for certain purposes;
10 providing exceptions; specifying information that is
11 admissible as evidence of a violation; providing
12 penalties; amending s. 322.27, F.S.; providing for
13 points to be assessed against a driver license for the
14 unlawful use of a hand-held wireless communications
15 device within a school safety zone or unlawful use
16 resulting in a crash; providing an effective date.

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

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

22 316.305 Wireless communications devices; prohibition.-

23 (1) This section may be cited as the "Florida Ban on
24 Communicating 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 text messaging or

34-00105A-13

201374

30 using hand-held wireless communications devices while driving a
31 motor 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 texting or using
37 hand-held wireless communications devices while driving.

38 (3) As used in this section, the term "hand-held wireless
39 communications device" means a device that is designed or
40 intended to receive or transmit text or character-based
41 messages, access or store data, connect to the Internet, or
42 interpersonal communications or a communications service as
43 defined in s. 812.15 and that allows text communications.

44 (4) (a) A person may not operate a motor vehicle while
45 manually typing or entering multiple letters, numbers, symbols,
46 or other characters into a hand-held wireless communications
47 device or while sending or reading data in such a device for the
48 purpose of nonvoice interpersonal communication, including, but
49 not limited to, communication methods known as texting, e-
50 mailing, and instant messaging.

51 (b) A person may not operate a motor vehicle while using a
52 hand-held wireless communication device unless the device is
53 specifically designed and configured to allow hands-free
54 listening and talking and is used in that manner while driving.

55 (5) (a) Paragraph (4) (a) or paragraph (4) (b) does not apply
56 to a motor vehicle operator who is:

57 1. Performing official duties as an operator of an
58 authorized emergency vehicle as defined in s. 322.01, a law

34-00105A-13

201374

59 enforcement or fire service professional, or an emergency
60 medical services professional.

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

63 3. Receiving messages that are:

64 a. Related to the operation or navigation of the motor
65 vehicle;

66 b. Safety-related information, including emergency,
67 traffic, or weather alerts;

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

69 d. Radio broadcasts.

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

71 5. Conducting wireless interpersonal communication that
72 does not require manual entry of multiple letters, numbers, or
73 symbols, except to activate, deactivate, or initiate a feature
74 or function.

75 6. Conducting wireless interpersonal communication that
76 does not require reading text messages, except to activate,
77 deactivate, or initiate a feature or function.

78 (b) A motor vehicle that is legally parked is not being
79 operated and is not subject to the prohibitions in subsection
80 (4).

81 (6) A user's billing records for a hand-held wireless
82 communications device or the testimony of or written statements
83 from appropriate authorities receiving such messages may be
84 admissible as evidence in a proceeding to determine whether a
85 violation of paragraph (4) (a) or paragraph (4) (b) has been
86 committed.

87 (7) (a) A person who violates paragraph (4) (a) or paragraph

34-00105A-13

201374__

88 (4) (b) commits a noncriminal traffic infraction, punishable as a
89 nonmoving violation as provided in chapter 318.

90 (b) A person who commits a second or subsequent violation
91 of paragraph (4) (a) or paragraph (4) (b) within 5 years after the
92 date of a prior conviction for a violation of paragraph (4) (a)
93 or paragraph (4) (b) commits a noncriminal traffic infraction,
94 punishable as a moving violation as provided in chapter 318.

95 Section 2. Paragraph (d) of subsection (3) of section
96 322.27, Florida Statutes, is amended to read:

97 322.27 Authority of department to suspend or revoke driver
98 license or identification card.—

99 (3) There is established a point system for evaluation of
100 convictions of violations of motor vehicle laws or ordinances,
101 and violations of applicable provisions of s. 403.413(6) (b) when
102 such violations involve the use of motor vehicles, for the
103 determination of the continuing qualification of any person to
104 operate a motor vehicle. The department is authorized to suspend
105 the license of any person upon showing of its records or other
106 good and sufficient evidence that the licensee has been
107 convicted of violation of motor vehicle laws or ordinances, or
108 applicable provisions of s. 403.413(6) (b), amounting to 12 or
109 more points as determined by the point system. The suspension
110 shall be for a period of not more than 1 year.

111 (d) The point system shall have as its basic element a
112 graduated scale of points assigning relative values to
113 convictions of the following violations:

- 114 1. Reckless driving, willful and wanton—4 points.
115 2. Leaving the scene of a crash resulting in property
116 damage of more than \$50—6 points.

34-00105A-13

201374

117 3. Unlawful speed, or unlawful use of a hand-held wireless
118 communications device, resulting in a crash—6 points.

119 4. Passing a stopped school bus—4 points.

120 5. Unlawful speed:

121 a. Not in excess of 15 miles per hour of lawful or posted
122 speed—3 points.

123 b. In excess of 15 miles per hour of lawful or posted
124 speed—4 points.

125 6. A violation of a traffic control signal device as
126 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.
127 However, no points shall be imposed for a violation of s.
128 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
129 stop at a traffic signal and when enforced by a traffic
130 infraction enforcement officer. In addition, a violation of s.
131 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
132 stop at a traffic signal and when enforced by a traffic
133 infraction enforcement officer may not be used for purposes of
134 setting motor vehicle insurance rates.

135 7. All other moving violations (including parking on a
136 highway outside the limits of a municipality)—3 points. However,
137 no points shall be imposed for a violation of s. 316.0741 or s.
138 316.2065(11); and points shall be imposed for a violation of s.
139 316.1001 only when imposed by the court after a hearing pursuant
140 to s. 318.14(5).

141 8. Any moving violation covered in this paragraph above,
142 excluding unlawful speed and unlawful use of a hand-held
143 wireless communications device, resulting in a crash—4 points.

144 9. Any conviction under s. 403.413(6)(b)—3 points.

145 10. Any conviction under s. 316.0775(2)—4 points.

34-00105A-13

201374__

146 11. Any moving violation covered in this paragraph
147 committed in conjunction with the unlawful use of a hand-held
148 wireless communications device within a school safety zone-2
149 points.

150 Section 3. This act shall take effect October 1, 2013.