

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 Transportation Committee

BILL: SB 680

INTRODUCER: Senator Bullard

SUBJECT: Cellular Telephones in School Zones

DATE: March 7, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paradise	Meyer	TR	Pre-meeting
2.			CU	
3.			TA	
4.				
5.				
6.				

I. Summary:

Senate Bill 680 (“the bill”) prohibits a person driving in a school zone from operating a cellular telephone. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318, but with a fine double that provided for such nonmoving violations.

This bill creates section 316.305 in the Florida Statutes.

II. Present Situation:

Regulation of the use of electronic communications devices is expressly preempted to the state. See s. 316.0075, F.S. Currently, the use of electronic communications devices such as cellular telephones while driving is allowed in Florida.

Section 316.304, F.S., prohibits any person wearing a headset, headphone, or other listening device from operating a vehicle, aside from a hearing aid or other instrument to improve defective human hearing. However, this section does not apply to any:

- law enforcement officer equipped with any necessary communication device, or emergency vehicle operator with an ear protection device;
- applicant for a license to operate a motorcycle while taking the required examination;
- person operating a motorcycle, using a helmet headset worn so as to prevent the speakers from making direct contact with the ears, allowing the user to hear surrounding sounds; and,
- person using a headset that only provides sound through one ear and allows surrounding sounds to be heard with the other ear, such as a headset in conjunction with a cellular telephone.

A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318, F.S., with a \$30 fine (plus court costs).

School zones are established and detailed in s. 316.1895, F.S., which also establishes school zone speed limits, effective only during certain times. Penalties for speeding are doubled when in a school zone. See s. 318.18(3), F.S.

III. Effect of Proposed Changes:

The bill prohibits the operation of a cellular telephone while driving a motor vehicle in a school zone.

The bill treats a violation as a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S. However, a violator would pay a fine double the normal amount. Currently, this would make the fine for this offense \$60 (plus court costs).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

Individuals who violate the new offense will have to pay a civil penalty of double the normal amount for a nonmoving violation (which would currently result in a \$60 fine).

C. Government Sector Impact:

Local and state governments may receive additional fine revenue, in an indeterminate amount.

The Department of Highway Safety and Motor Vehicles (department) must undertake programming modifications to the Driver License Software Information Systems, with a minimal cost.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The proposed legislation does not define a school zone. The department recommends a specific definition of the term “school zone” should be provided, or possibly a reference to s. 316.1895, F.S., be included for clarification.

The department is also concerned the bill may be unclear on whether a driver may use a cellular telephone in a school zone when the restrictive times for motor vehicle travel do not apply, such as the restrictive speed limits during school hours.

Accordingly, the department suggests language taken from s. 316.1895(5) could be added as follows:

“A person may not operate a cellular telephone while driving a motor vehicle in a school zone in this state during those times 30 minutes before, during, and 30 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session.”

The department also suggests the proposed legislation could make it clear it is not acceptable to make or receive cellular telephone calls while driving in a school zone, including cellular calls with a hands-free device, such as an earpiece or other device. This could clarify the prohibition if the legislative intent is to prohibit operators from using a cellular telephone while driving a motor vehicle in a school zone.

The department also recommends the provisions of this proposed legislation should not apply to an individual who uses a cellular telephone to contact a: law enforcement agency, emergency response operator, physician’s office, health clinic, or hospital in an emergency situation or in any other circumstance which may be deemed an emergency.

The department also recommends excepting on-duty law enforcement officers or emergency fire and medical personnel while performing official duties from the prohibition.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
