

By Senator Detert

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

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30 while driving a motor vehicle.

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

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

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

51 (b) Paragraph (a) does not apply to a motor vehicle
52 operator who is:

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

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

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59 3. Receiving messages that are:

60 a. Related to the operation or navigation of the motor
61 vehicle;

62 b. Safety-related information, including emergency,
63 traffic, or weather alerts;

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

65 d. Radio broadcasts.

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

67 5. Conducting wireless interpersonal communication that
68 does not require manual entry of multiple letters, numbers, or
69 symbols, except to activate, deactivate, or initiate a feature
70 or function.

71 6. Conducting wireless interpersonal communication that
72 does not require reading text messages, except to activate,
73 deactivate, or initiate a feature or function.

74 (c) A user's billing records for a wireless communications
75 device or the testimony of or written statements from
76 appropriate authorities receiving such messages may be
77 admissible as evidence in any proceeding to determine whether a
78 violation of paragraph (a) has been committed.

79 (4) (a) Any person who violates paragraph (3) (a) commits a
80 noncriminal traffic infraction, punishable as a nonmoving
81 violation as provided in chapter 318.

82 (b) Any person who commits a second or subsequent violation
83 of paragraph (3) (a) within 5 years after the date of a prior
84 conviction for a violation of paragraph (3) (a) commits a
85 noncriminal traffic infraction, punishable as a moving violation
86 as provided in chapter 318.

87 (5) Enforcement of this section by state or local law

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88 enforcement agencies must be accomplished only as a secondary
89 action when an operator of a motor vehicle has been detained for
90 a suspected violation of another provision of this chapter,
91 chapter 320, or chapter 322.

92 Section 2. Paragraph (d) of subsection (3) of section
93 322.27, Florida Statutes, is amended to read:

94 322.27 Authority of department to suspend or revoke driver
95 license or identification card.-

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

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

- 111 1. Reckless driving, willful and wanton-4 points.
- 112 2. Leaving the scene of a crash resulting in property
113 damage of more than \$50-6 points.
- 114 3. Unlawful speed, or unlawful use of a wireless
115 communications device, resulting in a crash-6 points.
- 116 4. Passing a stopped school bus-4 points.

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- 117 5. Unlawful speed:
- 118 a. Not in excess of 15 miles per hour of lawful or posted
- 119 speed—3 points.
- 120 b. In excess of 15 miles per hour of lawful or posted
- 121 speed—4 points.
- 122 6. A violation of a traffic control signal device as
- 123 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.
- 124 However, no points shall be imposed for a violation of s.
- 125 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
- 126 stop at a traffic signal and when enforced by a traffic
- 127 infraction enforcement officer. In addition, 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 may not be used for purposes of
- 131 setting motor vehicle insurance rates.
- 132 7. All other moving violations (including parking on a
- 133 highway outside the limits of a municipality)—3 points. However,
- 134 no points shall be imposed for a violation of s. 316.0741 or s.
- 135 316.2065(11); and points shall be imposed for a violation of s.
- 136 316.1001 only when imposed by the court after a hearing pursuant
- 137 to s. 318.14(5).
- 138 8. Any moving violation covered in this paragraph above,
- 139 excluding unlawful speed and unlawful use of a wireless
- 140 communications device, resulting in a crash—4 points.
- 141 9. Any conviction under s. 403.413(6)(b)—3 points.
- 142 10. Any conviction under s. 316.0775(2)—4 points.
- 143 11. Any moving violation covered in this paragraph
- 144 committed in conjunction with the unlawful use of a wireless
- 145 communications device within a school safety zone—2 points.

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