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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; defining the term "wireless communications device"; 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 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

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while driving a motor vehicle.

(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 handheld device used or capable of being used in a handheld manner, 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. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

(b) Paragraph (a) 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

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activity to law enforcement authorities.

3. Receiving messages that are:

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

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

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

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

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

7. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

(c) Only in the event of a crash resulting in death or personal injury, a user'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 in any proceeding to determine whether a violation of paragraph (a) has been committed.

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

(b) Any person who commits a second or subsequent violation of paragraph (3) (a) within 5 years after the date of a prior

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conviction for a violation of paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(5) Enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of this chapter, chapter 320, or chapter 322.

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

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

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

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

1. Reckless driving, willful and wanton—4 points.
2. Leaving the scene of a crash resulting in property

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117 damage of more than \$50—6 points.

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

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

121 5. Unlawful speed:

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

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

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

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

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

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

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146 10. Any conviction under s. 316.0775(2)–4 points.

147 11. A moving violation covered in this paragraph which is
148 committed in conjunction with the unlawful use of a wireless
149 communications device within a school safety zone–2 points, in
150 addition to the points assigned for the moving violation.

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