

1                                   A bill to be entitled  
 2           An act relating to texting while driving; amending s.  
 3           316.305, F.S.; revising legislative intent; requiring  
 4           a law enforcement officer to inform a motor vehicle  
 5           operator of certain rights; prohibiting certain  
 6           actions by such officer; removing the requirement that  
 7           enforcement be accomplished as a secondary action;  
 8           providing an effective date.

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

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 12           Section 1. Paragraph (d) of subsection (2) and subsections  
 13           (3) and (5) of section 316.305, Florida Statutes, are amended to  
 14           read:

15           316.305 Wireless communications devices; prohibition.—

16           (2) It is the intent of the Legislature to:

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

20           (3) (a) A person may not operate a motor vehicle while  
 21           manually typing or entering multiple letters, numbers, symbols,  
 22           or other characters into a wireless communications device or  
 23           while sending or reading data on such a device for the purpose  
 24           of nonvoice interpersonal communication, including, but not  
 25           limited to, communication methods known as texting, e-mailing,

26 | and instant messaging. As used in this section, the term  
27 | "wireless communications device" means any handheld device used  
28 | or capable of being used in a handheld manner, that is designed  
29 | or intended to receive or transmit text or character-based  
30 | messages, access or store data, or connect to the Internet or  
31 | any communications service as defined in s. 812.15 and that  
32 | allows text communications. For the purposes of this paragraph,  
33 | a motor vehicle that is stationary is not being operated and is  
34 | not subject to the prohibition in this paragraph.

35 | (b) Paragraph (a) does not apply to a motor vehicle  
36 | operator who is:

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

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

43 | 3. Receiving messages that are:

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

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

48 | c. Data used primarily by the motor vehicle; or

49 | d. Radio broadcasts.

50 | 4. Using a device or system for navigation purposes.

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

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

58           7. Operating an autonomous vehicle, as defined in s.  
 59 316.003, in autonomous mode.

60           (c) A law enforcement officer who stops a motor vehicle  
 61 for a violation of paragraph (a) must inform the motor vehicle  
 62 operator of his or her right to decline a search of his or her  
 63 wireless communications device and may not:

64           1. Access the wireless communications device without a  
 65 warrant.

66           2. Confiscate the wireless communications device while  
 67 awaiting issuance of a warrant to access such device.

68           3. Obtain consent from the motor vehicle operator to  
 69 search his or her wireless communications device through  
 70 coercion or other improper method. Consent to search a motor  
 71 vehicle operator's wireless communications device must be  
 72 voluntary and unequivocal.

73           (d)(e) Only in the event of a crash resulting in death or  
 74 personal injury, a user's billing records for a wireless  
 75 communications device or the testimony of or written statements

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

84 | Section 2. This act shall take effect July 1, 2018.