



384344

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: 1/AE/3R

.

04/25/2019 06:25 PM

.

.

Senator Simpson moved the following:

Senate Amendment (with title amendment)

Delete line 104

and insert:

Section 2. Effective October 1, 2019, section 316.306,
Florida Statutes, is created to read:

316.306 School and work zones; prohibition on the use of a
wireless communications device in a handheld manner.-

(1) For purposes of this section, the term "wireless
communications device" has the same meaning as provided in s.
316.305(3) (a). The term includes, but is not limited to, a cell



384344

12 phone, a tablet, a laptop, a two-way messaging device, or an
13 electronic game that is used or capable of being used in a
14 handheld manner. The term does not include a safety, security,
15 or convenience feature built into a motor vehicle which does not
16 require the use of a handheld device.

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

18 (a) Improve roadway safety in school and work zones for all
19 vehicle operators, vehicle passengers, bicyclists, pedestrians,
20 and other road users.

21 (b) Prevent crashes related to the act of driving while
22 using a wireless communications device in a handheld manner when
23 operating a motor vehicle while the vehicle is in motion.

24 (c) Reduce injuries, deaths, property damage, health care
25 costs, health insurance rates, and automobile insurance rates
26 related to motor vehicle crashes.

27 (d) Authorize law enforcement officers to stop motor
28 vehicles and issue citations to persons who are driving in
29 school or work zones while using a wireless communications
30 device in a handheld manner as provided in subsection (3).

31 (3) (a) 1. A person may not operate a motor vehicle while
32 using a wireless communications device in a handheld manner in a
33 designated school crossing, school zone, or work zone area as
34 defined in s. 316.003(101). This subparagraph shall only be
35 applicable to work zone areas if construction personnel are
36 present or are operating equipment on the road or immediately
37 adjacent to the work zone area. For the purposes of this
38 paragraph, a motor vehicle that is stationary is not being
39 operated and is not subject to the prohibition in this
40 paragraph.



384344

41 2.a. During the period from October 1, 2019, through
42 December 31, 2019, a law enforcement officer may stop motor
43 vehicles to issue verbal or written warnings to persons who are
44 in violation of subparagraph (a)1. for the purposes of informing
45 and educating such persons of this section. This sub-
46 subparagraph shall stand repealed on October 1, 2020.

47 b. Effective January 1, 2020, a law enforcement officer may
48 stop motor vehicles and issue citations to persons who are
49 driving while using a wireless communications device in a
50 handheld manner in violation of subparagraph (a)1.

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.

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 in a hands-free manner for
67 navigation purposes.

68 5. Using a wireless communications device hands-free or
69 hands-free in voice-operated mode, including, but not limited



384344

70 to, a factory-installed or after-market Bluetooth device.
71 6. Operating an autonomous vehicle, as defined in s.
72 316.003, in autonomous mode.
73 (c) A law enforcement officer who stops a motor vehicle for
74 a violation of paragraph (a) must inform the motor vehicle
75 operator of his or her right to decline a search of his or her
76 wireless communications device and may not:
77 1. Access the wireless communications device without a
78 warrant.
79 2. Confiscate the wireless communications device while
80 awaiting issuance of a warrant to access such device.
81 3. Obtain consent from the motor vehicle operator to search
82 his or her wireless communications device through coercion or
83 other improper method. Consent to search a motor vehicle
84 operator's wireless communications device must be voluntary and
85 unequivocal.
86 (d) Only in the event of a crash resulting in death or
87 serious bodily injury, as defined in s. 316.027, may a user's
88 billing records for a wireless communications device, or the
89 testimony of or written statements from appropriate authorities
90 receiving such messages, be admissible as evidence in any
91 proceeding to determine whether a violation of subparagraph
92 (a)1. has been committed.
93 (e) Law enforcement officers must indicate the type of
94 wireless communications device in the comment section of the
95 uniform traffic citation.
96 (4) (a) Any person who violates this section commits a
97 noncriminal traffic infraction, punishable as a moving
98 violation, as provided in chapter 318, and shall have 3 points



384344

99 assessed against his or her driver license as set forth in s.
100 322.27(3)(d)7. For a first offense under this section, in lieu
101 of the penalty specified in s. 318.18 and the assessment of
102 points, a person who violates this section may elect to
103 participate in a wireless communications device driving safety
104 program approved by the Department of Highway Safety and Motor
105 Vehicles. Upon completion of such program, the penalty specified
106 in s. 318.18 and associated costs may be waived by the clerk of
107 the court and the assessment of points must be waived.

108 (b) The clerk of the court may dismiss a case and assess
109 court costs in accordance with s. 318.18(11)(a) for a nonmoving
110 traffic infraction for a person who is cited for a first time
111 violation of this section if the person shows the clerk proof of
112 purchase of equipment that enables his or her personal wireless
113 communications device to be used in a hands-free manner.

114 (5) Notwithstanding s. 318.21, all proceeds collected
115 pursuant to s. 318.18 for violations of this section must be
116 remitted to the Department of Revenue for deposit into the
117 Emergency Medical Services Trust Fund of the Department of
118 Health.

119 (6) When a law enforcement officer issues a citation for a
120 violation of this section, the law enforcement officer must
121 record the race and ethnicity of the violator. All law
122 enforcement agencies must maintain such information and must
123 report such information to the department in a form and manner
124 determined by the department. Beginning February 1, 2020, the
125 department shall annually report the data collected under this
126 subsection to the Governor, the President of the Senate, and the
127 Speaker of the House of Representatives. The data collected must



384344

128 be reported at least by statewide totals for local law
129 enforcement agencies, state law enforcement agencies, and state
130 university law enforcement agencies. The statewide total for
131 local law enforcement agencies must combine the data for the
132 county sheriffs and the municipal law enforcement agencies.

133 Section 3. (1) The Department of Highway Safety and Motor
134 Vehicles, in consultation with the Department of Transportation,
135 may implement a statewide campaign to raise awareness of and
136 encourage compliance with ss. 316.305 and 316.306, Florida
137 Statutes. The Department of Highway Safety and Motor Vehicles
138 may use television messaging, radio broadcasts, print media,
139 digital strategies, social media, and any other form of
140 messaging deemed necessary and appropriate by the department to
141 implement the campaign.

142 (2) The Department of Highway Safety and Motor Vehicles may
143 contract with counties, local law enforcement agencies, safety
144 councils, and public schools to assist with planning and
145 conducting the statewide campaign.

146 Section 4. Except as otherwise expressly provided in this
147 act, this act shall take effect July 1, 2019.

148
149 ===== T I T L E A M E N D M E N T =====

150 And the title is amended as follows:

151 Delete lines 2 - 14

152 and insert:

153 An act relating to wireless communications while
154 driving; amending s. 316.305, F.S.; revising
155 legislative intent; requiring a law enforcement
156 officer to inform a motor vehicle operator of certain



384344

157 rights; prohibiting certain actions by such officer;
158 requiring such officer to record the race and
159 ethnicity of a violator when issuing a citation;
160 requiring law enforcement agencies to report such
161 information to the Department of Highway Safety and
162 Motor Vehicles; requiring the department to annually
163 report certain data to the Governor and Legislature;
164 removing the requirement that enforcement be
165 accomplished as a secondary action; creating s.
166 316.306, F.S.; defining the term "wireless
167 communications device"; providing legislative intent;
168 prohibiting a person from operating a motor vehicle
169 while using a wireless communications device in a
170 handheld manner in a designated school crossing,
171 school zone, or work zone; providing applicability;
172 providing construction; authorizing a law enforcement
173 officer during a specified period to stop motor
174 vehicles to issue warnings to persons who are driving
175 while using a wireless communications device in a
176 handheld manner in a designated school crossing,
177 school zone, or work zone; providing for repeal of
178 that authorization; authorizing a law enforcement
179 officer, on and after a specified date, to stop motor
180 vehicles and issue citations to persons who are
181 driving while using a wireless communications device
182 in a handheld manner in a designated school crossing,
183 school zone, or work zone; providing exceptions to
184 such prohibition; requiring a law enforcement officer
185 who stops a motor vehicle for a violation of driving



384344

186 while using a wireless communications device in a
187 handheld manner in a designated school crossing,
188 school zone, or work zone to inform the motor vehicle
189 operator of his or her right to decline a search of
190 his or her wireless communications device; prohibiting
191 the law enforcement officer from taking specified
192 actions; requiring certain consent to search a motor
193 vehicle operator's wireless communications device;
194 providing that a user's billing records for a wireless
195 communications device or the testimony of or written
196 statements from certain authorities are admissible as
197 evidence in crashes resulting in death or serious
198 bodily injury for certain purposes; requiring that law
199 enforcement officers indicate specified information in
200 the uniform traffic citation; providing penalties for
201 driving while using a wireless communications device
202 in a handheld manner in a designated school crossing,
203 school zone, or work zone; authorizing first-time
204 offenders to participate in a wireless communications
205 device driving safety program, in lieu of the
206 imposition of penalties; authorizing a clerk of the
207 court to dismiss a case and assess court costs under
208 certain circumstances; requiring the deposit of fines
209 into the Emergency Medical Services Trust Fund of the
210 Department of Health; requiring law enforcement
211 officers to record the race and ethnicity of violators
212 when issuing a citation for a violation of this
213 section; requiring all law enforcement agencies to
214 maintain such information and report it to the



384344

215 Department of Highway Safety and Motor Vehicles in a
216 form and manner determined by the department;
217 beginning on a specified date, requiring the
218 department to annually report the data to the Governor
219 and Legislature; providing requirements for the
220 report; authorizing the department, in consultation
221 with the Department of Transportation, to implement a
222 statewide campaign to raise awareness of and encourage
223 compliance with the prohibitions on operating a motor
224 vehicle while using a wireless communications device;
225 authorizing the department to use certain messaging to
226 implement the campaign; authorizing the department to
227 contract with certain entities for certain purposes;
228 providing effective dates.