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

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

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

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

(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 to persons who are driving in school or work zones while using a wireless communications device in a handheld manner as provided in subsection (3).

(3)(a)1. A person may not operate a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone area as defined in s. 316.003(101). 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.

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subparagraph shall stand repealed on October 1, 2020.

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

(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
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 in a hands-free manner for
navigation purposes.

5. Using a wireless communications device hands-free or
hands-free in voice-operated mode, including, but not limited
to, a factory-installed or after-market Bluetooth device.

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

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

1. Access the wireless communications device without a
warrant.

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

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

(d) Only in the event of a crash resulting in death or
serious bodily injury, as defined in s. 316.027, may a user’s
billing records for a wireless communications device, or the
testimony of or written statements from appropriate authorities
receiving such messages, be admissible as evidence in any
proceeding to determine whether a violation of subparagraph
(a)1. has been committed.

(e) Law enforcement officers must indicate the type of
wireless communications device in the comment section of the
uniform traffic citation.

(4)(a) Any person who violates this section commits a
noncriminal traffic infraction, punishable as a moving
violation, as provided in chapter 318, and shall have 3 points
assessed against his or her driver license as set forth in s.
322.27(3)(d)7. For a first offense under this section, in lieu
of the penalty specified in s. 318.18 and the assessment of
points, a person who violates this section may elect to
participate in a wireless communications device driving safety program approved by the Department of Highway Safety and Motor Vehicles. Upon completion of such program, the penalty specified in s. 318.18 and associated costs may be waived by the clerk of the court and the assessment of points must be waived.

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

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

(6) When a law enforcement officer issues a citation for a violation of this section, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and must report such information to the department in a form and manner determined by the department. Beginning February 1, 2020, the department shall annually report the data collected under this subsection to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies must combine the data for the
county sheriffs and the municipal law enforcement agencies.

Section 2. (1) The Department of Highway Safety and Motor Vehicles, in consultation with the Department of Transportation, may implement a statewide campaign to raise awareness of and encourage compliance with ss. 316.305 and 316.306, Florida Statutes. The Department of Highway Safety and Motor Vehicles may use television messaging, radio broadcasts, print media, digital strategies, social media, and any other form of messaging deemed necessary and appropriate by the department to implement the campaign.

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

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.

And the title is amended as follows:

Delete lines 2 – 14

and insert:

An act relating to wireless communications while driving; amending s. 316.305, F.S.; revising legislative intent; requiring a law enforcement officer to inform a motor vehicle operator of certain rights; prohibiting certain actions by such officer; requiring such officer to record the race and ethnicity of a violator when issuing a citation; requiring law enforcement agencies to report such
information to the Department of Highway Safety and Motor Vehicles; requiring the department to annually report certain data to the Governor and Legislature; removing the requirement that enforcement be accomplished as a secondary action; creating s. 316.306, F.S.; defining the term “wireless communications device”; providing legislative intent; prohibiting a person from operating a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone; providing construction; authorizing a law enforcement officer during a specified period to stop motor vehicles to issue warnings to persons who are driving while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone; providing for repeal of that authorization; authorizing a law enforcement officer, on and after a specified date, to stop motor vehicles and issue citations to persons who are driving while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone; providing exceptions to such prohibition; requiring a law enforcement officer who stops a motor vehicle for a violation of driving while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone to inform the motor vehicle operator of his or her right to decline a search of his or her wireless
communications device; prohibiting the law enforcement
officer from taking specified actions; requiring
certain consent to search a motor vehicle operator’s
wireless communications device; providing that a
user’s billing records for a wireless communications
device or the testimony of or written statements from
certain authorities are admissible as evidence in
crashes resulting in death or serious bodily injury
for certain purposes; requiring that law enforcement
officers indicate specified information in the uniform
traffic citation; providing penalties for driving
while using a wireless communications device in a
handheld manner in a designated school crossing,
school zone, or work zone; authorizing first-time
offenders to participate in a wireless communications
device driving safety program, in lieu of the
imposition of penalties; authorizing a clerk of the
court to dismiss a case and assess court costs under
certain circumstances; requiring the deposit of fines
into the Emergency Medical Services Trust Fund of the
Department of Health; requiring law enforcement
officers to record the race and ethnicity of violators
when issuing a citation for a violation of this
section; requiring all law enforcement agencies to
maintain such information and report it to the
Department of Highway Safety and Motor Vehicles in a
form and manner determined by the department;
beginning on a specified date, requiring the
department to annually report the data to the Governor
and Legislature; providing requirements for the report; authorizing the department, in consultation with the Department of Transportation, to implement a statewide campaign to raise awareness of and encourage compliance with the prohibitions on operating a motor vehicle while using a wireless communications device; authorizing the department to use certain messaging to implement the campaign; authorizing the department to contract with certain entities for certain purposes; providing effective dates.