A bill to be entitled
An act relating to texting 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; providing an effective date.

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

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

316.305 Wireless communications devices; prohibition.—
(2) It is the intent of the Legislature to:
(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 on 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 activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle.
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) 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) (e) 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.

(5) 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 report
the 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 shall combine the data for the
county sheriffs and the municipal law enforcement agencies.
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. This act shall take effect July 1, 2019.