

1 A bill to be entitled
 2 An act relating to the use of wireless communications
 3 devices while driving; amending s. 316.305, F.S.;
 4 revising a short title and legislative intent;
 5 providing definitions; prohibiting the operation of a
 6 motor vehicle while holding or touching a wireless
 7 communications device; providing exceptions; providing
 8 penalties; requiring a law enforcement officer who
 9 issues a traffic citation to record certain
 10 information on the citation; requiring law enforcement
 11 agencies to provide such information to the Department
 12 of Highway Safety and Motor Vehicles; requiring the
 13 department to report such information to the Governor
 14 and Legislature; deleting a requirement that
 15 enforcement be accomplished only as a secondary
 16 action; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 316.305, Florida Statutes, is amended
 21 to read:

22 316.305 Wireless communications devices; prohibition.—

23 (1) This section may be cited as the "Hands-free Florida
 24 ~~Ban on Texting While Driving~~ Law."

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

26 (a) Improve roadway safety for all vehicle operators,
 27 vehicle passengers, bicyclists, pedestrians, and other road
 28 users.

29 (b) Prevent crashes related to the act of using a wireless
 30 communications device ~~text messaging~~ while driving a motor
 31 vehicle.

32 (c) Reduce injuries, deaths, property damage, health care
 33 costs, health insurance rates, and automobile insurance rates
 34 related to motor vehicle crashes.

35 (d) Authorize law enforcement officers to stop motor
 36 vehicles and issue citations ~~as a secondary offense~~ to persons
 37 who are using a wireless communications device ~~texting~~ while
 38 driving.

39 (3) For purposes of this section, the term:

40 (a) "Hands-free device" means an internal feature or
 41 function of, or an attachment or addition to, a wireless
 42 communications device which does not require the device to be
 43 manually held or otherwise touched, except to activate,
 44 deactivate, or initiate the feature, function, attachment, or
 45 addition.

46 (b) "Wireless communications device" means a device used
 47 or capable of being used while manually held or otherwise
 48 touched, which device is designed or intended to facilitate
 49 interpersonal voice communications, receive or transmit text or
 50 character-based messages, access or store data, or connect to

51 the Internet or any communications service as defined in s.
52 812.15 and which allows text or voice communications.

53 (4)-(3)(a) Except as provided in paragraph (b), a person
54 may not operate a motor vehicle while manually holding or
55 otherwise touching ~~typing or entering multiple letters, numbers,~~
56 ~~symbols, or other characters into~~ a wireless communications
57 device ~~or while sending or reading data on such a device for the~~
58 ~~purpose of nonvoice interpersonal communication, including, but~~
59 ~~not limited to, communication methods known as texting, e-~~
60 ~~mailing, and instant messaging. As used in this section, the~~
61 ~~term "wireless communications device" means any handheld device~~
62 ~~used or capable of being used in a handheld manner, that is~~
63 ~~designed or intended to receive or transmit text or character-~~
64 ~~based messages, access or store data, or connect to the Internet~~
65 ~~or any communications service as defined in s. 812.15 and that~~
66 ~~allows text communications.~~ For the purposes of this paragraph,
67 a motor vehicle that is stationary is not being operated and is
68 not subject to the prohibition in this paragraph.

69 (b) Paragraph (a) does not apply to a motor vehicle
70 operator who is:

71 1. Performing official duties as an operator of an
72 authorized emergency vehicle as defined in s. 322.01, a law
73 enforcement or fire service professional, or an emergency
74 medical services professional.

75 2. Reporting an emergency or criminal or suspicious

76 activity to law enforcement authorities.

77 3. Receiving messages that are:

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

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

82 c. Data used primarily by the motor vehicle; or

83 d. Radio broadcasts.

84 4. Using a device or system for navigation purposes.

85 5. Conducting wireless interpersonal communication through
86 the use of a hands-free device that does not require manual
87 entry of multiple letters, numbers, or symbols, except to
88 activate, deactivate, or initiate a feature or function.

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

92 ~~6.7.~~ Operating an autonomous vehicle, as defined in s.
93 316.003, in autonomous mode.

94 (c) Only in the event of a crash resulting in death or
95 personal injury, a user's billing records for a wireless
96 communications device or the testimony of or written statements
97 from appropriate authorities receiving such communications
98 ~~messages~~ may be admissible as evidence in any proceeding to
99 determine whether a violation of paragraph (a) has been
100 committed.

101 (5)-(4) (a) A ~~Any~~ person who violates paragraph (4) (a)
102 ~~(3)-(a)~~ commits a noncriminal traffic infraction, punishable as a
103 nonmoving violation as provided in chapter 318.

104 (b) A ~~Any~~ person who commits a second or subsequent
105 violation of paragraph (4) (a) ~~(3)-(a)~~ within 5 years after the
106 date of a prior conviction for a violation of paragraph (4) (a)
107 ~~(3)-(a)~~ commits a noncriminal traffic infraction, punishable as a
108 moving violation as provided in chapter 318.

109 (6) A law enforcement officer who issues a citation for a
110 violation of paragraph (4) (a) must record on the citation the
111 race of the person to whom the citation is issued. Each law
112 enforcement agency in this state must maintain such information
113 and must provide such information to the department in a form
114 and manner determined by the department. The department shall
115 collect such information by jurisdiction and shall submit an
116 annual report to the Governor, the President of the Senate, and
117 the Speaker of the House of Representatives which shows separate
118 statewide totals for the state's county sheriffs and municipal
119 law enforcement agencies, state law enforcement agencies, and
120 state university law enforcement agencies.

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

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Section 2. This act shall take effect October 1, 2019.