

By the Committees on Innovation, Industry, and Technology; and Infrastructure and Security; and Senators Simpson, Passidomo, Hooper, Mayfield, Book, Rouson, Berman, Perry, Taddeo, and Cruz

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1 A bill to be entitled
2 An act relating to driving while distracted; amending
3 s. 316.305, F.S.; revising the short title; defining
4 the term "driving while distracted"; redefining the
5 term "wireless communications device"; revising
6 legislative intent; prohibiting a person from
7 operating a motor vehicle when driving while
8 distracted; authorizing a law enforcement officer
9 during a specified period to stop motor vehicles to
10 issue warnings to persons who are driving while
11 distracted; providing for repeal of a provision;
12 authorizing a law enforcement officer, after a
13 specified date, to stop motor vehicles and issue
14 citations to persons who are driving while distracted;
15 revising exceptions to such prohibition; revising
16 crash results for which a user's billing records for a
17 wireless communications device or the testimony of or
18 written statements from certain authorities are
19 admissible as evidence; requiring that law enforcement
20 officers indicate specified information in the uniform
21 traffic citation; providing penalties for driving
22 while distracted; authorizing participation in a
23 distracted driving safety program for a first offense,
24 in lieu of specified penalties; authorizing a clerk of
25 the court to dismiss a case and assess court costs
26 under certain circumstances; requiring the deposit of
27 fines into the Emergency Medical Services Trust Fund;
28 deleting a provision requiring that enforcement of
29 this section be accomplished only as a secondary

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30 action; requiring a law enforcement officer to record
 31 the race and ethnicity of a violator when issuing a
 32 citation for a violation of this section; requiring
 33 all law enforcement agencies to maintain such
 34 information and report the information to the
 35 Department of Highway Safety and Motor Vehicles in a
 36 form and manner determined by the department;
 37 beginning on a specified date, requiring the
 38 department to annually report the data to the Governor
 39 and Legislature; providing requirements for the
 40 report; authorizing the Department of Highway Safety
 41 and Motor Vehicles, in consultation with the
 42 Department of Transportation, to implement a statewide
 43 campaign to raise awareness and prevent drivers from
 44 driving while distracted; authorizing the department
 45 to use certain messaging to implement the campaign;
 46 authorizing the department to contract with certain
 47 entities for certain purposes; providing contract
 48 authority; providing effective dates.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Effective October 1, 2019, section 316.305,
 53 Florida Statutes, is amended to read:

54 316.305 Driving while distracted ~~Wireless communications~~
 55 ~~devices~~; prohibition.—

56 (1) This section may be cited as the "Florida Driving Ban
 57 ~~on Texting~~ While Distracted Driving Law."

58 (2) For purposes of this section, the term:

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59 (a) "Driving while distracted" means the inattentive
60 operation of a motor vehicle while the vehicle is in motion.
61 Inattentive or distracted driving conduct includes reading,
62 writing, performing personal grooming, applying a beauty aid or
63 similar products, interacting with pets or unsecured cargo,
64 using a personal wireless communications device, or engaging in
65 any other activity, conduct, task, or action that causes
66 distraction.

67 (b) "Wireless communications device" means any handheld
68 device that is designed or intended to receive or transmit text-
69 or character-based messages, to record or view images, to access
70 or store data, or to connect to the Internet or any
71 communications service, as defined in s. 812.15, or which allows
72 text communications. The term includes, but is not limited to, a
73 cell phone, a tablet, a laptop, a two-way messaging device, or
74 an electronic game that is used or capable of being used in a
75 handheld manner. The term does not include a safety, security,
76 or convenience feature built into a motor vehicle which does not
77 require the use of a handheld device.

78 (3)(2) It is the intent of the Legislature to:

79 (a) Improve roadway safety for all vehicle operators,
80 vehicle passengers, bicyclists, pedestrians, and other road
81 users.

82 (b) Prevent crashes related to the act of driving while
83 distracted when operating text messaging while driving a motor
84 vehicle while the vehicle is in motion.

85 (c) Reduce injuries, deaths, property damage, health care
86 costs, health insurance rates, and automobile insurance rates
87 related to motor vehicle crashes.

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88 (d) Authorize law enforcement officers to stop motor
89 vehicles and issue citations ~~as a secondary offense~~ to persons
90 who are ~~texting while~~ driving while distracted as provided in
91 subsection (4).

92 (4)(3)(a)1. A person may not operate a motor vehicle when
93 driving while distracted ~~while manually typing or entering~~
94 ~~multiple letters, numbers, symbols, or other characters into a~~
95 ~~wireless communications device or while sending or reading data~~
96 ~~on such a device for the purpose of nonvoice interpersonal~~
97 ~~communication, including, but not limited to, communication~~
98 ~~methods known as texting, e-mailing, and instant messaging. As~~
99 ~~used in this section, the term "wireless communications device"~~
100 ~~means any handheld device used or capable of being used in a~~
101 ~~handheld manner, that is designed or intended to receive or~~
102 ~~transmit text or character-based messages, access or store data,~~
103 ~~or connect to the Internet or any communications service as~~
104 ~~defined in s. 812.15 and that allows text communications. For~~
105 the purposes of this paragraph, a motor vehicle that is
106 stationary is not being operated and is not subject to the
107 prohibition in this paragraph.

108 2.a. During the period of October 1, 2019, through December
109 31, 2019, a law enforcement officer may stop motor vehicles to
110 issue verbal or written warnings to persons who are driving
111 while distracted for the purposes of informing and educating
112 such persons. This sub-subparagraph shall stand repealed on
113 October 1, 2020.

114 b. After December 31, 2019, a law enforcement officer may
115 stop motor vehicles and issue citations to persons who are
116 driving while distracted.

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117 (b) Paragraph (a) does not apply to a motor vehicle
118 operator who is:

119 1. Performing official duties as an operator of an
120 authorized emergency vehicle as defined in s. 322.01, a law
121 enforcement or fire service professional, or an emergency
122 medical services professional.

123 2. Reporting an emergency or criminal or suspicious
124 activity to law enforcement authorities.

125 3. Receiving messages that are:

126 a. Related to the operation or navigation of the motor
127 vehicle;

128 b. Safety-related information, including emergency,
129 traffic, or weather alerts;

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

131 d. Radio broadcasts.

132 4. Using a device or system in a hands-free manner for
133 navigation purposes.

134 5. Using a wireless communications device hands-free or
135 hands-free in voice-operated mode, including, but not limited
136 to, a factory-installed or after-market Bluetooth device
137 ~~Conducting wireless interpersonal communication that does not~~
138 ~~require manual entry of multiple letters, numbers, or symbols,~~
139 ~~except to activate, deactivate, or initiate a feature or~~
140 ~~function.~~

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

144 6.7. Operating an autonomous vehicle, as defined in s.
145 316.003, in autonomous mode.

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146 (c) Only in the event of a crash resulting in death or
147 serious bodily injury, as defined in s. 316.027 ~~personal injury,~~
148 a user's billing records for a wireless communications device or
149 the testimony of or written statements from appropriate
150 authorities receiving such messages may be admissible as
151 evidence in any proceeding to determine whether a violation of
152 paragraph (a) has been committed.

153 (d) Law enforcement officers must indicate the type of
154 distraction in the comment section of the uniform traffic
155 citation.

156 (5) ~~(4)~~ (a) Any person who violates this section commits a
157 noncriminal traffic infraction, punishable as a moving
158 violation, as provided in chapter 318, and shall have 3 points
159 assessed against his or her driver license as set forth in s.
160 322.27. For a first offense under this section, in lieu of the
161 penalty specified in s. 318.18 and the assessment of points, a
162 person who violates this section may elect to participate in a
163 distracted driving safety program approved by the Department of
164 Highway Safety and Motor Vehicles. Upon completion of such
165 program, the penalty specified in s. 318.18 and associated costs
166 may be waived by the clerk of the court and the assessment of
167 points must be waived ~~Any person who violates paragraph (3)(a)~~
168 ~~commits a noncriminal traffic infraction, punishable as a~~
169 ~~nonmoving violation as provided in chapter 318.~~

170 (b) The clerk of the court may dismiss a case and assess
171 court costs in accordance with s. 318.18(11)(a) for a nonmoving
172 traffic infraction for a person who is cited for a first time
173 violation of this section if the inattentive or distracted
174 driving conduct resulting in the violation is for the use of a

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175 personal wireless communications device and the person shows the
176 clerk proof of purchase of equipment that enables his or her
177 personal wireless communications device to be used in a hands-
178 free manner ~~Any person who commits a second or subsequent~~
179 ~~violation of paragraph (3) (a) within 5 years after the date of a~~
180 ~~prior conviction for a violation of paragraph (3) (a) commits a~~
181 ~~noncriminal traffic infraction, punishable as a moving violation~~
182 ~~as provided in chapter 318.~~

183 (6)~~(5)~~ Notwithstanding s. 318.21, all proceeds collected
184 pursuant to s. 318.18 for violations of this section must be
185 remitted to the Department of Revenue for deposit into the
186 Emergency Medical Services Trust Fund of the Department of
187 Health ~~Enforcement of this section by state or local law~~
188 ~~enforcement agencies must be accomplished only as a secondary~~
189 ~~action when an operator of a motor vehicle has been detained for~~
190 ~~a suspected violation of another provision of this chapter,~~
191 ~~chapter 320, or chapter 322.~~

192 (7) When a law enforcement officer issues a citation for a
193 violation of this section, the law enforcement officer must
194 record the race and ethnicity of the violator. All law
195 enforcement agencies must maintain such information and must
196 report such information to the department in a form and manner
197 determined by the department. Beginning February 1, 2020, the
198 department shall annually report the data collected under this
199 subsection to the Governor, the President of the Senate, and the
200 Speaker of the House of Representatives. The data collected must
201 be reported at least by statewide totals for local law
202 enforcement agencies, state law enforcement agencies, and state
203 university law enforcement agencies. The statewide total for

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204 local law enforcement agencies must combine the data for the
205 county sheriffs and the municipal law enforcement agencies.

206 Section 2. (1) The Department of Highway Safety and Motor
207 Vehicles, in consultation with the Department of Transportation,
208 may implement a statewide campaign to raise awareness and
209 prevent drivers from driving while distracted. The Department of
210 Highway Safety and Motor Vehicles may use television messaging,
211 radio broadcasts, print media, digital strategies, social media,
212 and any other form of messaging deemed necessary and appropriate
213 by the department to implement the campaign.

214 (2) The Department of Highway Safety and Motor Vehicles may
215 contract with counties, local law enforcement agencies, safety
216 councils, and public schools to assist with planning and
217 conducting the statewide driving while distracted safety and
218 public awareness campaign in a manner that encourages compliance
219 with s. 316.305, Florida Statutes.

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