

**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

580-02753-19

201976c2

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

580-02753-19

201976c2

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:

580-02753-19

201976c2

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.

580-02753-19

201976c2

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.

580-02753-19

201976c2

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.

580-02753-19

201976c2

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

580-02753-19

201976c2

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

580-02753-19

201976c2

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.