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

A bill to be entitled
An act relating to driving while using a wireless communications device; amending s. 316.305, F.S.; revising a short title; redefining the term “wireless communications device”; revising legislative intent; prohibiting a person from operating a motor vehicle while using a wireless communications device; 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; 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; revising exceptions to such prohibition; 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 involving serious bodily injury; requiring that law enforcement officers indicate specified information in the uniform traffic citation; providing penalties for driving while using a wireless communications device; 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; deleting a provision requiring that enforcement be accomplished only as a secondary action; 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 prohibition 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.

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

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

316.305 Wireless communications devices; prohibition.—
(1) This section may be cited as the “Florida Hands-Free
Ban on Texting While Driving Law.”

(2) For purposes of this section, the term “wireless communications device” means any handheld device that is designed or intended to allow two-way voice communication, to receive or transmit text-based or character-based messages, to record or view images, to access or store data, or to connect to the Internet or to any communications service, as defined in s. 812.15, or that allows text communications. 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.

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

(a) Improve roadway safety 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 when operating text messaging while driving 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 as a secondary offense to persons who are texting while driving while using a wireless communications device as provided in subsection (4).
A person may not operate a motor vehicle while using a wireless communications device 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.

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 driving while using a wireless communications device 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.

(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 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.

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

(c) Only in the event of a crash resulting in death or serious bodily injury, as defined in s. 316.027 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
subparagraph (a)1. paragraph (a) has been committed.

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

(5)(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 Any person
who violates paragraph (3)(a) commits a noncriminal traffic
infraction, punishable as a nonmoving violation as provided in
chapter 318.

(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 Any
person who commits a second or subsequent violation of paragraph
(3)(a) within 5 years after the date of a prior conviction for a violation of paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(6)(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 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.

(7) 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 s. 316.305, 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.