

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to hands-free driving; amending s.
3 316.305, F.S.; revising a short title; defining terms;
4 prohibiting a person from operating a motor vehicle
5 while using a wireless communications device in a
6 handheld manner; providing an exception; requiring
7 that sustained use of a wireless communications device
8 by a person operating a motor vehicle be conducted
9 through a hands-free accessory until such use is
10 terminated; revising exceptions to the prohibition;
11 removing obsolete provisions; providing penalties;
12 making a technical change; amending s. 316.306, F.S.;
13 revising penalty provisions relating to the use of
14 wireless communication devices; conforming provisions
15 to changes made by the act; making a technical change;
16 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 to
21 read:

22 316.305 Wireless communications devices; use in a handheld
23 manner prohibited ~~prohibition.~~—

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

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

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

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30 (b) Prevent crashes related to the use of a wireless
31 communications device in a handheld manner ~~act of text messaging~~
32 while driving a motor vehicle.

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

36 (d) Authorize law enforcement officers to stop motor
37 vehicles and issue citations to persons who are using wireless
38 communications devices in a handheld manner ~~texting~~ while
39 driving.

40 (3) As used in this section, the term:

41 (a) "Handheld manner" means holding a wireless
42 communications device in one or both hands or physically
43 supporting the device with any other part of the body.

44 (b) "Hands-free accessory" means an attachment to or built-
45 in feature of a wireless communications device which allows the
46 operator of a motor vehicle to engage in interpersonal
47 communication or otherwise use such device other than in a
48 handheld manner.

49 (c) "Wireless communications device":

50 1. Means a handheld device used or capable of being used in
51 a handheld manner to:

52 a. Transmit or receive a voice message; initiate, receive,
53 or maintain a telephone call; or otherwise engage in
54 interpersonal voice communication;

55 b. Receive or transmit text-based or character-based
56 messages or otherwise engage in interpersonal nonvoice
57 communication;

58 c. Record or display videos or images;

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59 d. Enter, access, or store data; or

60 e. Connect to the Internet or any communications service as
61 defined in s. 812.15(1).

62 2. Includes, but is not limited to, a cellular telephone,
63 smartphone, tablet computer, laptop computer, two-way messaging
64 device, electronic gaming device, or device capable of
65 displaying videos or images. The term does not include a
66 citizens band radio, citizens band radio hybrid, commercial two-
67 way radio communications device or its functional equivalent,
68 subscription-based emergency communications device, prescribed
69 medical device, amateur or ham radio device, or in-vehicle
70 security, navigation, communications, or remote diagnostics
71 system.

72 (4) (a) ~~(3) (a)~~ A person may not operate a motor vehicle while
73 using manually typing or entering multiple letters, numbers,
74 symbols, or other characters into a wireless communications
75 device in a handheld manner except to activate, deactivate,
76 initiate, or terminate a feature or function of the device,
77 including a hands-free accessory. Sustained use of a wireless
78 communications device by a person operating a motor vehicle must
79 be conducted through a hands-free accessory until such use is
80 terminated. ~~or while sending or reading data on such a device~~
81 ~~for the purpose of nonvoice interpersonal communication,~~
82 ~~including, but not limited to, communication methods known as~~
83 ~~texting, e-mailing, and instant messaging. As used in this~~
84 ~~section, the term "wireless communications device" means any~~
85 ~~handheld device used or capable of being used in a handheld~~
86 ~~manner, that is designed or intended to receive or transmit text~~
87 ~~or character-based messages, access or store data, or connect to~~

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88 ~~the Internet or any communications service as defined in s.~~
89 ~~812.15 and that allows text communications. For the purposes of~~
90 ~~this paragraph,~~ A motor vehicle that is stationary is not being
91 operated and is not subject to the prohibition in this
92 paragraph.

93 (b) Paragraph (a) does not apply to a motor vehicle
94 operator who is:

95 1. Performing official duties as an operator of an
96 authorized emergency vehicle as defined in s. 322.01, a law
97 enforcement or fire service professional, or an emergency
98 medical services professional.

99 2. Reporting an emergency or criminal or suspicious
100 activity to law enforcement authorities.

101 3. Receiving messages that are:

102 a. Related to the operation or navigation of the motor
103 vehicle;

104 b. Safety-related information, including emergency,
105 traffic, or weather alerts;

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

107 d. Radio broadcasts.

108 4. ~~Using a device or system for navigation purposes.~~

109 5. ~~Conducting wireless interpersonal communication that~~
110 ~~does not require manual entry of multiple letters, numbers, or~~
111 ~~symbols, except to activate, deactivate, or initiate a feature~~
112 ~~or function.~~

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

116 7. Operating an autonomous vehicle, as defined in s.

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117 316.003(3), with the automated driving system engaged.

118 (c) A law enforcement officer who stops a motor vehicle for
119 a violation of paragraph (a) must inform the motor vehicle
120 operator of his or her right to decline a search of his or her
121 wireless communications device and may not:

122 1. Access the wireless communications device without a
123 warrant.

124 2. Confiscate the wireless communications device while
125 awaiting issuance of a warrant to access such device.

126 3. Obtain consent from the motor vehicle operator to search
127 his or her wireless communications device through coercion or
128 other improper method. Consent to search a motor vehicle
129 operator's wireless communications device must be voluntary and
130 unequivocal.

131 (d) Only in the event of a crash resulting in death or
132 personal injury, a user's billing records for a wireless
133 communications device or the testimony of or written statements
134 from appropriate authorities receiving such messages may be
135 admissible as evidence in any proceeding to determine whether a
136 violation of paragraph (a) has been committed.

137 (5) (a) ~~(4) (a)~~ A Any person who violates paragraph (4) (a)
138 ~~(3) (a)~~ commits a noncriminal traffic infraction, punishable as a
139 nonmoving violation as provided in chapter 318.

140 (b) A Any person who commits a second or subsequent
141 violation of paragraph (4) (a) ~~(3) (a)~~ within 5 years after the
142 date of a prior conviction for a violation of paragraph (4) (a)
143 ~~(3) (a)~~ commits a noncriminal traffic infraction, punishable as a
144 moving violation as provided in chapter 318.

145 (6) (5) When a law enforcement officer issues a citation for

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146 a violation of this section, the law enforcement officer must
147 record the race and ethnicity of the violator. All law
148 enforcement agencies must maintain such information and report
149 the information to the department by April 1 annually in a form
150 and manner determined by the department. Beginning July 1, 2023,
151 the department shall annually report the data collected under
152 this subsection to the Governor, the President of the Senate,
153 and the Speaker of the House of Representatives. The data
154 collected must be reported at least by statewide totals for
155 local law enforcement agencies, state law enforcement agencies,
156 and state university law enforcement agencies. The statewide
157 total for local law enforcement agencies shall combine the data
158 for the county sheriffs and the municipal law enforcement
159 agencies.

160 Section 2. Section 316.306, Florida Statutes, is amended to
161 read:

162 316.306 Penalties for School and work zones; prohibition on
163 the use of a wireless communications device in a handheld manner
164 on any roadway.-

165 ~~(1) For purposes of this section, the term "wireless~~
166 ~~communications device" has the same meaning as provided in s.~~
167 ~~316.305(3)(a). The term includes, but is not limited to, a cell~~
168 ~~phone, a tablet, a laptop, a two-way messaging device, or an~~
169 ~~electronic game that is used or capable of being used in a~~
170 ~~handheld manner. The term does not include a safety, security,~~
171 ~~or convenience feature built into a motor vehicle which does not~~
172 ~~require the use of a handheld device.~~

173 ~~(2) It is the intent of the Legislature to:~~

174 ~~(a) Improve roadway safety in school and work zones for all~~

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175 ~~vehicle operators, vehicle passengers, bicyclists, pedestrians,~~
176 ~~and other road users.~~

177 ~~(b) Prevent crashes related to the act of driving while~~
178 ~~using a wireless communications device in a handheld manner when~~
179 ~~operating a motor vehicle while the vehicle is in motion.~~

180 ~~(c) Reduce injuries, deaths, property damage, health care~~
181 ~~costs, health insurance rates, and automobile insurance rates~~
182 ~~related to motor vehicle crashes.~~

183 ~~(d) Authorize law enforcement officers to stop motor~~
184 ~~vehicles and issue citations to persons who are driving in~~
185 ~~school or work zones while using a wireless communications~~
186 ~~device in a handheld manner as provided in subsection (3).~~

187 ~~(3)(a)1. A person may not operate a motor vehicle while~~
188 ~~using a wireless communications device in a handheld manner in a~~
189 ~~designated school crossing, school zone, or work zone area as~~
190 ~~defined in s. 316.003(111). This subparagraph shall only be~~
191 ~~applicable to work zone areas if construction personnel are~~
192 ~~present or are operating equipment on the road or immediately~~
193 ~~adjacent to the work zone area. For the purposes of this~~
194 ~~paragraph, a motor vehicle that is stationary is not being~~
195 ~~operated and is not subject to the prohibition in this~~
196 ~~paragraph.~~

197 ~~2. Effective January 1, 2020, a law enforcement officer may~~
198 ~~stop motor vehicles and issue citations to persons who are~~
199 ~~driving while using a wireless communications device in a~~
200 ~~handheld manner in violation of subparagraph 1.~~

201 ~~(b) Paragraph (a) does not apply to a motor vehicle~~
202 ~~operator who is:~~

203 ~~1. Performing official duties as an operator of an~~

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204 ~~authorized emergency vehicle as defined in s. 322.01, a law~~
205 ~~enforcement or fire service professional, or an emergency~~
206 ~~medical services professional.~~

207 ~~2. Reporting an emergency or criminal or suspicious~~
208 ~~activity to law enforcement authorities.~~

209 ~~3. Receiving messages that are:~~

210 ~~a. Related to the operation or navigation of the motor~~
211 ~~vehicle;~~

212 ~~b. Safety related information, including emergency,~~
213 ~~traffic, or weather alerts;~~

214 ~~c. Data used primarily by the motor vehicle; or~~

215 ~~d. Radio broadcasts.~~

216 ~~4. Using a device or system in a hands-free manner for~~
217 ~~navigation purposes.~~

218 ~~5. Using a wireless communications device hands-free or~~
219 ~~hands-free in voice-operated mode, including, but not limited~~
220 ~~to, a factory installed or after-market Bluetooth device.~~

221 ~~6. Operating an autonomous vehicle, as defined in s.~~
222 ~~316.003, in autonomous mode.~~

223 ~~(c) A law enforcement officer who stops a motor vehicle for~~
224 ~~a violation of paragraph (a) must inform the motor vehicle~~
225 ~~operator of his or her right to decline a search of his or her~~
226 ~~wireless communications device and may not:~~

227 ~~1. Access the wireless communications device without a~~
228 ~~warrant.~~

229 ~~2. Confiscate the wireless communications device while~~
230 ~~awaiting issuance of a warrant to access such device.~~

231 ~~3. Obtain consent from the motor vehicle operator to search~~
232 ~~his or her wireless communications device through coercion or~~

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233 ~~other improper method. Consent to search a motor vehicle~~
234 ~~operator's wireless communications device must be voluntary and~~
235 ~~unequivocal.~~

236 ~~(d) Only in the event of a crash resulting in death or~~
237 ~~serious bodily injury, as defined in s. 316.027, may a user's~~
238 ~~billing records for a wireless communications device, or the~~
239 ~~testimony of or written statements from appropriate authorities~~
240 ~~receiving such messages, be admissible as evidence in any~~
241 ~~proceeding to determine whether a violation of subparagraph~~
242 ~~(a)1. has been committed.~~

243 ~~(e) Law enforcement officers must indicate the type of~~
244 ~~wireless communications device in the comment section of the~~
245 ~~uniform traffic citation.~~

246 (1)(4)(a) A Any person who violates s. 316.305(4)(a) on any
247 roadway when construction personnel are present or are operating
248 equipment on the road or immediately adjacent to the work zone
249 area this section commits a noncriminal traffic infraction,
250 punishable as a moving violation, as provided in chapter 318,
251 and shall pay a fine of \$150 and have 3 points assessed against
252 his or her driver license. A person who commits a second
253 violation shall pay a fine of \$250 and have 3 points assessed
254 against his or her driver license. A person who commits a third
255 violation shall pay a fine of \$500, have 4 points assessed
256 against his or her driver license, and have his or her driver
257 license suspended for 90 days, and shall have 3 points assessed
258 against his or her driver license as set forth in s.
259 322.27(3)(d)7.

260 (a) For a first violation offense under this section, in
261 lieu of the penalty specified in s. 318.18 and the assessment of

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262 points, a person ~~who violates this section~~ may elect to
263 participate in a wireless communications device driving safety
264 program approved by the Department of Highway Safety and Motor
265 Vehicles. Upon completion of such program, the penalties ~~penalty~~
266 specified in this section and s. 318.18 and associated costs may
267 be waived by the clerk of the court and the assessment of points
268 must be waived.

269 (b) The clerk of the court may dismiss a case and assess
270 court costs in accordance with s. 318.18(11)(a) for a nonmoving
271 traffic infraction for a person who is cited for a first ~~time~~
272 violation ~~of this section~~ if the person shows the clerk proof of
273 purchase of equipment that enables his or her personal wireless
274 communications device to be used in a hands-free manner.

275 (2)~~(5)~~ Notwithstanding s. 318.21, all proceeds collected
276 pursuant to s. 318.18 for violations under ~~of~~ this section must
277 be remitted to the Department of Revenue for deposit into the
278 Emergency Medical Services Trust Fund of the Department of
279 Health.

280 (3)~~(6)~~ When a law enforcement officer issues a citation for
281 a violation under ~~of~~ this section, the law enforcement officer
282 must:

283 (a) Indicate in the comment section of the uniform traffic
284 citation the type of wireless communications device that was
285 used to commit the violation.

286 (b) Record the race and ethnicity of the violator. All law
287 enforcement agencies must maintain such information and must
288 report such information to the department in a form and manner
289 determined by the department. Beginning February 1, 2020, the
290 department shall annually report the data collected under this

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291 paragraph ~~subsection~~ to the Governor, the President of the
292 Senate, and the Speaker of the House of Representatives. The
293 data collected must be reported at least by statewide totals for
294 local law enforcement agencies, state law enforcement agencies,
295 and state university law enforcement agencies. The statewide
296 total for local law enforcement agencies is a combination of
297 ~~must combine~~ the data for the county sheriffs and the municipal
298 law enforcement agencies.

299 Section 3. This act shall take effect July 1, 2024.