

By Senator Grall

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A bill to be entitled
An act relating to traffic offenses; amending s. 316.305, F.S.; revising a short title; revising legislative intent; defining terms; prohibiting a person from operating a motor vehicle while using a wireless communications device in a handheld manner; providing an exception; requiring that sustained use of a wireless communications device by a person operating a motor vehicle be conducted through a hands-free accessory until such use is terminated; revising exceptions to the prohibition; deleting obsolete provisions; providing penalties; amending s. 316.306, F.S.; revising penalty provisions relating to the use of wireless communications devices in a handheld manner in certain circumstances; conforming provisions to changes made by the act; providing an effective date.

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

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

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

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

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

(a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road

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30 users.

31 (b) Prevent crashes related to the use of a wireless
32 communications device in a handheld manner ~~act of text messaging~~
33 while driving a motor vehicle.34 (c) Reduce injuries, deaths, property damage, health care
35 costs, health insurance rates, and automobile insurance rates
36 related to motor vehicle crashes.37 (d) Authorize law enforcement officers to stop motor
38 vehicles and issue citations to persons who are using wireless
39 communications devices in a handheld manner ~~texting~~ while
40 driving.41 (3) As used in this section, the term:42 (a) "Handheld manner" means holding a wireless
43 communications device in one or both hands or physically
44 supporting the device with any other part of the body.45 (b) "Hands-free accessory" means an attachment to or a
46 built-in feature of a wireless communications device which
47 allows the operator of a motor vehicle to engage in
48 interpersonal communication or otherwise use such device other
49 than in a handheld manner.50 (c) "Wireless communications device":51 1. Means a handheld device used or capable of being used in
52 a handheld manner to:53 a. Transmit or receive a voice message; initiate, receive,
54 or maintain a telephone call; or otherwise engage in
55 interpersonal voice communication;56 b. Receive or transmit text-based or character-based
57 messages or otherwise engage in interpersonal nonvoice
58 communication;

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59 c. Record or display videos or images;
60 d. Enter, access, or store data; or
61 e. Connect to the Internet or any communications service as
62 defined in s. 812.15(1).

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

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

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

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

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

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

102 3. Receiving messages that are:

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

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

107 c. Data used primarily by the motor vehicle; or
108 d. Radio broadcasts.

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

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

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

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117 7. Operating an autonomous vehicle, as defined in s.
118 316.003(3), with the automated driving system engaged.

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

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

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

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

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

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

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

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146 (6)-(5) When a law enforcement officer issues a citation for
147 a violation of this section, the law enforcement officer must
148 record the race and ethnicity of the violator. All law
149 enforcement agencies must maintain such information and report
150 the information to the department by April 1 annually in a form
151 and manner determined by the department. Beginning July 1, 2023,
152 the department shall annually report the data collected under
153 this subsection to the Governor, the President of the Senate,
154 and the Speaker of the House of Representatives. The data
155 collected must be reported at least by statewide totals for
156 local law enforcement agencies, state law enforcement agencies,
157 and state university law enforcement agencies. The statewide
158 total for local law enforcement agencies shall combine the data
159 for the county sheriffs and the municipal law enforcement
160 agencies.

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

163 316.306 Penalties for School and work zones; prohibition on
164 the use of a wireless communications device in a handheld manner
165 on any roadway when construction personnel are present or
166 operating equipment or in a school zone while flashing beacons
167 are activated.—

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

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175 require the use of a handheld device.

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

177 (a) Improve roadway safety in school and work zones for all
178 vehicle operators, vehicle passengers, bicyclists, pedestrians,
179 and other road users.

180 (b) Prevent crashes related to the act of driving while
181 using a wireless communications device in a handheld manner when
182 operating a motor vehicle while the vehicle is in motion.

183 (c) Reduce injuries, deaths, property damage, health care
184 costs, health insurance rates, and automobile insurance rates
185 related to motor vehicle crashes.

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

190 (3) (a) 1. A person may not operate a motor vehicle while
191 using a wireless communications device in a handheld manner in a
192 designated school crossing, school zone, or work zone area as
193 defined in s. 316.003(112). This subparagraph shall only be
194 applicable to work zone areas if construction personnel are
195 present or are operating equipment on the road or immediately
196 adjacent to the work zone area. For the purposes of this
197 paragraph, a motor vehicle that is stationary is not being
198 operated and is not subject to the prohibition in this
199 paragraph.

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

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204 (b) Paragraph (a) does not apply to a motor vehicle
205 operator who is:

206 1. Performing official duties as an operator of an
207 authorized emergency vehicle as defined in s. 322.01, a law
208 enforcement or fire service professional, or an emergency
209 medical services professional.

210 2. Reporting an emergency or criminal or suspicious
211 activity to law enforcement authorities.

212 3. Receiving messages that are:

213 a. Related to the operation or navigation of the motor
214 vehicle;

215 b. Safety related information, including emergency,
216 traffic, or weather alerts;

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

218 d. Radio broadcasts.

219 4. Using a device or system in a hands-free manner for
220 navigation purposes.

221 5. Using a wireless communications device hands-free or
222 hands-free in voice operated mode, including, but not limited
223 to, a factory installed or after market Bluetooth device.

224 6. Operating an autonomous vehicle, as defined in s.
225 316.003, in autonomous mode.

226 (e) A law enforcement officer who stops a motor vehicle for
227 a violation of paragraph (a) must inform the motor vehicle
228 operator of his or her right to decline a search of his or her
229 wireless communications device and may not:

230 1. Access the wireless communications device without a
231 warrant.

232 2. Confiscate the wireless communications device while

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233 awaiting issuance of a warrant to access such device.

234 3. Obtain consent from the motor vehicle operator to search
235 his or her wireless communications device through coercion or
236 other improper method. Consent to search a motor vehicle
237 operator's wireless communications device must be voluntary and
238 unequivocal.

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

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

249 (4) (a) A Any person who violates s. 316.305(4) (a) on any
250 roadway when construction personnel are present or are operating
251 equipment on the road or immediately adjacent to the work zone
252 area, or in a school zone during a period in which the
253 restrictive speed limit is enforced and flashing beacons are
254 activated, this section commits a noncriminal traffic
255 infraction, punishable as a moving violation, as provided in
256 chapter 318, and shall pay a fine of \$150 and have 3 points
257 assessed against his or her driver license. A person who commits
258 a second violation shall pay a fine of \$250 and have 3 points
259 assessed against his or her driver license. A person who commits
260 a third violation shall pay a fine of \$500, have 4 points
261 assessed against his or her driver license, and have his or her

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262 ~~driver license suspended for 90 days, and shall have 3 points~~
263 ~~assessed against his or her driver license as set forth in s.~~
264 ~~322.27(3)(d)8.~~

265 (a) For a first ~~violation offense under this section, in~~ in
266 ~~lieu of the penalty specified in s. 318.18 and the assessment of~~
267 ~~points, a person who violates this section may elect to~~
268 ~~participate in a wireless communications device driving safety~~
269 ~~program approved by the Department of Highway Safety and Motor~~
270 ~~Vehicles. Upon completion of such program, the ~~penalties~~ ~~penalty~~~~
271 ~~specified in this section and s. 318.18 and associated costs may~~
272 ~~be waived by the clerk of the court and the assessment of points~~
273 ~~must be waived.~~

274 (b) The clerk of the court may dismiss a case and assess
275 court costs in accordance with s. 318.18(12)(a) for a nonmoving
276 traffic infraction for a person who is cited for a first ~~time~~
277 ~~violation of this section~~ if the person shows the clerk proof of
278 purchase of equipment that enables his or her personal wireless
279 communications device to be used in a hands-free manner.

280 (2)-(5) Notwithstanding s. 318.21, all proceeds collected
281 pursuant to s. 318.18 for violations ~~under~~ ~~of~~ this section must
282 be remitted to the Department of Revenue for deposit into the
283 Emergency Medical Services Trust Fund of the Department of
284 Health.

285 (3)-(6) When a law enforcement officer issues a citation for
286 a violation ~~under~~ ~~of~~ this section, the law enforcement officer
287 must:

288 (a) ~~Indicate in the comment section of the uniform traffic~~
289 ~~citation the type of wireless communications device that was~~
290 ~~used to commit the violation.~~

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291 (b) Record the race and ethnicity of the violator. All law
292 enforcement agencies must maintain such information and must
293 report such information to the department in a form and manner
294 determined by the department. Beginning February 1, 2020, the
295 department shall annually report the data collected under this
296 paragraph subsection to the Governor, the President of the
297 Senate, and the Speaker of the House of Representatives. The
298 data collected must be reported at least by statewide totals for
299 local law enforcement agencies, state law enforcement agencies,
300 and state university law enforcement agencies. The statewide
301 total for local law enforcement agencies is a combination of
302 ~~must combine~~ the data for the county sheriffs and the municipal
303 law enforcement agencies.

304 Section 3. This act shall take effect October 1, 2026.