

By Senator Grall

29-00133-26

20261152\_\_

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

29-00133-26

20261152\_\_

users.

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

(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 to persons who are using wireless communications devices in a handheld manner ~~texting~~ while driving.

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

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

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

(c) "Wireless communications device":

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

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

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

29-00133-26

20261152\_\_

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

29-00133-26

20261152\_\_

~~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.

(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 for navigation purposes.~~

~~5. 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.~~

29-00133-26

20261152\_\_

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.

29-00133-26

20261152\_\_

146        ~~(6)~~<sup>(5)</sup> 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~~

29-00133-26

20261152\_\_

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.~~

29-00133-26

20261152\_\_

~~(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.~~

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

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

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

~~2. Confiscate the wireless communications device while~~



29-00133-26

20261152\_\_

awaiting issuance of a warrant to access such device.

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

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

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

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

29-00133-26

20261152\_\_

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

(a) For a first violation ~~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 penalties ~~penalty~~ specified in this section and s. 318.18 and associated costs may be waived by the clerk of the court and the assessment of points must be waived.

(b) The clerk of the court may dismiss a case and assess court costs in accordance with s. 318.18(12)(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.

~~(2)(5)~~ Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations under ~~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.

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

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

29-00133-26

20261152\_\_

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.