

HB 1241

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A bill to be entitled
An act relating to hands-free driving; amending s. 316.305, F.S.; revising a short title; revising legislative intent; providing definitions; prohibiting a person from operating a motor vehicle while supporting the weight of 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; providing penalties; providing for the distribution and use of certain proceeds; authorizing a law enforcement officer to issue a warning during a specified time period; providing for future repeal; amending s. 316.306, F.S.; revising penalty provisions relating to the use of a wireless communications device in a handheld manner in certain circumstances; providing for the distribution and use of certain proceeds; 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:

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26 316.305 Wireless communications devices; use in a handheld
27 manner prohibited ~~prohibition~~.-

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

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

31 (a) Improve roadway safety for all vehicle operators,
32 vehicle passengers, bicyclists, pedestrians, and other road
33 users.

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

37 (c) Reduce injuries, deaths, property damage, health care
38 costs, health insurance rates, and automobile insurance rates
39 related to motor vehicle crashes.

40 (d) Authorize law enforcement officers to stop motor
41 vehicles and issue citations to persons who are supporting the
42 weight of a wireless communications device in a handheld manner
43 ~~texting~~ while driving.

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

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

49 (b) "Hands-free accessory" means an attachment to or a
50 built-in feature of a wireless communications device which

51 allows the operator of a motor vehicle to engage in
52 interpersonal communication or otherwise use such device other
53 than in a handheld manner.

54 (c) "Wireless communications device":

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

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

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

63 c. Record or display videos or images;

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

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

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

76 or remote diagnostics system.

77 (4) (3) (a) A person may not operate a motor vehicle while
78 supporting the weight of manually typing or entering multiple
79 letters, numbers, symbols, or other characters into a wireless
80 communications device in a handheld manner except to activate,
81 deactivate, initiate, or terminate a feature or function of the
82 device, including a hands-free accessory. Sustained use of a
83 wireless communications device by a person operating a motor
84 vehicle must be conducted through a hands-free accessory until
85 such use is terminated. or while sending or reading data on such
86 a device for the purpose of nonvoice interpersonal
87 communication, including, but not limited to, communication
88 methods known as texting, e-mailing, and instant messaging. As
89 used in this section, the term "wireless communications device"
90 means any handheld device used or capable of being used in a
91 handheld manner, that is designed or intended to receive or
92 transmit text or character-based messages, access or store data,
93 or connect to the Internet or any communications service as
94 defined in s. 812.15 and that allows text communications. For
95 the purposes of this paragraph, A motor vehicle that is
96 stationary is not being operated and is not subject to the
97 prohibition in this paragraph.

98 (b) Paragraph (a) does not apply to a motor vehicle
99 operator who is:

100 1. Performing official duties as an operator of an

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101 authorized emergency vehicle as defined in s. 322.01, a law
102 enforcement or fire service professional, or an emergency
103 medical services professional.

104 2. Reporting an emergency or criminal or suspicious
105 activity to law enforcement authorities.

106 3. Receiving messages that are:

107 a. Related to the operation or navigation of the motor
108 vehicle;

109 b. Safety-related information, including emergency,
110 traffic, or weather alerts;

111 c. Data used primarily by the motor vehicle; or
112 d. Radio broadcasts.

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

114 5. ~~Conducting wireless interpersonal communication that~~
115 ~~does not require manual entry of multiple letters, numbers, or~~
116 ~~symbols, except to activate, deactivate, or initiate a feature~~
117 ~~or function.~~

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

121 4.7. Operating an autonomous vehicle, as defined in s.
122 316.003(3), with the automated driving system engaged.

123 (c) A law enforcement officer who stops a motor vehicle
124 for a violation of paragraph (a) must inform the motor vehicle
125 operator of his or her right to decline a search of his or her

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126 wireless communications device and may not:

127 1. Access the wireless communications device without a
128 warrant.

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

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

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

142 (5)-(4)(a) A Any person who violates paragraph (4)(a)
143 ~~(3)(a)~~ commits a noncriminal traffic infraction, punishable as a
144 nonmoving violation as provided in chapter 318.

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

150 (6) Notwithstanding s. 318.21, of all proceeds collected

151 pursuant to s. 318.18 for violations of paragraph (4) (a):

152 (a) Fifty percent must be remitted to:

153 1. The county for any violations occurring in any
154 unincorporated areas of the county or to the municipality for
155 any violations occurring in the incorporated boundaries of the
156 municipality in which the violations occurred; or

157 2. If the citation for such violation is issued by an
158 officer of the Florida Highway Patrol or another state law
159 enforcement agency, the issuing state agency.

160 (b) Fifty percent must be used exclusively for educational
161 programs and activities related to driver safety and the
162 prevention of distracted driving, including, but not limited to:

163 1. Instructional programs in high schools, Florida College
164 System institutions, and state universities.

165 2. Educational outreach conducted in partnership with
166 public and private postsecondary institutions.

167 3. Programs directed toward members of the United States
168 Armed Forces and military communities.

169 4. Public awareness campaigns regarding the dangers and
170 economic costs associated with distracted driving.

171 5. Development of instructional materials and outreach
172 media promoting hands-free driving.

173 6. Supporting law enforcement agencies in conducting
174 public education and warning campaigns in conjunction with
175 enforcement-supported and compliance-oriented efforts to reduce

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176 violations of this section.

177 (7) (5) When a law enforcement officer issues a citation
178 for a violation of this section, the law enforcement officer
179 must record the race and ethnicity of the violator. All law
180 enforcement agencies must maintain such information and report
181 the information to the department by April 1 annually in a form
182 and manner determined by the department. Beginning July 1, 2023,
183 the department shall annually report the data collected under
184 this subsection to the Governor, the President of the Senate,
185 and the Speaker of the House of Representatives. The data
186 collected must be reported at least by statewide totals for
187 local law enforcement agencies, state law enforcement agencies,
188 and state university law enforcement agencies. The statewide
189 total for local law enforcement agencies shall combine the data
190 for the county sheriffs and the municipal law enforcement
191 agencies.

192 (8) Effective July 1, 2026, through December 31, 2026, a
193 law enforcement officer may stop a motor vehicle to issue a
194 verbal or written warning to a person who violates this section
195 for the purpose of informing and educating such person of this
196 section. This subsection is repealed January 1, 2027.

197 **Section 2. Section 316.306, Florida Statutes, is amended**
198 **to read:**

199 316.306 Penalties for school and work zones; prohibition
200 on the use of a wireless communications device in a handheld

201 manner or on any roadway when construction personnel are present
202 or operating equipment.—

203 (1) For purposes of this section, the term "wireless
204 communications device" has the same meaning as provided in s.
205 316.305(3)(a). The term includes, but is not limited to, a cell
206 phone, a tablet, a laptop, a two-way messaging device, or an
207 electronic game that is used or capable of being used in a
208 handheld manner. The term does not include a safety, security,
209 or convenience feature built into a motor vehicle which does not
210 require the use of a handheld device.

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

212 (a) Improve roadway safety in school and work zones for
213 all vehicle operators, vehicle passengers, bicyclists,
214 pedestrians, and other road users.

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

218 (c) Reduce injuries, deaths, property damage, health care
219 costs, health insurance rates, and automobile insurance rates
220 related to motor vehicle crashes.

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

225 (3)(a)1. A person may not operate a motor vehicle while

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226 using a wireless communications device in a handheld manner in a
227 designated school crossing, school zone, or work zone area as
228 defined in s. 316.003(112). This subparagraph shall only be
229 applicable to work zone areas if construction personnel are
230 present or are operating equipment on the road or immediately
231 adjacent to the work zone area. For the purposes of this
232 paragraph, a motor vehicle that is stationary is not being
233 operated and is not subject to the prohibition in this
234 paragraph.

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

239 (b) Paragraph (a) does not apply to a motor vehicle
240 operator who is:

241 1. Performing official duties as an operator of an
242 authorized emergency vehicle as defined in s. 322.01, a law
243 enforcement or fire service professional, or an emergency
244 medical services professional.

245 2. Reporting an emergency or criminal or suspicious
246 activity to law enforcement authorities.

247 3. Receiving messages that are:

248 a. Related to the operation or navigation of the motor
249 vehicle;

250 b. Safety related information, including emergency,

251 traffic, or weather alerts;

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

253 d. Radio broadcasts.

254 4. Using a device or system in a hands-free manner for

255 navigation purposes.

256 5. Using a wireless communications device hands-free or

257 hands-free in voice-operated mode, including, but not limited

258 to, a factory-installed or after-market Bluetooth device.

259 6. Operating an autonomous vehicle, as defined in s.

260 316.003, in autonomous mode.

261 (c) A law enforcement officer who stops a motor vehicle

262 for a violation of paragraph (a) must inform the motor vehicle

263 operator of his or her right to decline a search of his or her

264 wireless communications device and may not:

265 1. Access the wireless communications device without a

266 warrant.

267 2. Confiscate the wireless communications device while

268 awaiting issuance of a warrant to access such device.

269 3. Obtain consent from the motor vehicle operator to

270 search his or her wireless communications device through

271 coercion or other improper method. Consent to search a motor

272 vehicle operator's wireless communications device must be

273 voluntary and unequivocal.

274 (d) Only in the event of a crash resulting in death or

275 serious bodily injury, as defined in s. 316.027, may a user's

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276 ~~billing records for a wireless communications device, or the~~
277 ~~testimony of or written statements from appropriate authorities~~
278 ~~receiving such messages, be admissible as evidence in any~~
279 ~~proceeding to determine whether a violation of subparagraph~~
280 ~~(a)1. has been committed.~~

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

284 (1)-(4)(a) A Any person who violates s. 316.305(4)(a) in
285 any school zone as described in s. 316.1895 or on any roadway
286 when construction personnel are present or are operating
287 equipment on the road or immediately adjacent to the work zone
288 area this section commits a noncriminal traffic infraction,
289 punishable as a moving violation, as provided in chapter 318,
290 and shall pay a fine of \$150 and have 3 points assessed against
291 his or her driver license. A person who commits a second
292 violation shall pay a fine of \$250 and have 3 points assessed
293 against his or her driver license. A person who commits a third
294 violation shall pay a fine of \$500, have 4 points assessed
295 against his or her driver license, and have his or her driver
296 license suspended for 90 days, and shall have 3 points assessed
297 against his or her driver license as set forth in s.
298 ~~322.27(3)(d)8.~~

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

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301 points, a person ~~who violates this section~~ may elect to
302 participate in a wireless communications device driving safety
303 program approved by the Department of Highway Safety and Motor
304 Vehicles. Upon completion of such program, the penalties ~~penalty~~
305 specified in this subsection and s. 318.18 and associated costs
306 may be waived by the clerk of the court and the assessment of
307 points must be waived.

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

314 (2) Notwithstanding s. 318.21, of all proceeds
315 collected pursuant to subsection (1) and s. 318.18 for
316 violations of this section:

317 (a) Fifty percent must be remitted to:

318 1. The county for any violations occurring in any
319 unincorporated areas of the county or to the municipality for
320 any violations occurring in the incorporated boundaries of the
321 municipality in which the violations occurred; or

322 2. If the citation for such violation is issued by an
323 officer of the Florida Highway Patrol or another state law
324 enforcement agency, the issuing state agency.

325 (b) Fifty percent must be used exclusively for educational

326 programs and activities related to driver safety and the
327 prevention of distracted driving, including, but not limited to:

328 1. Instructional programs in high schools, Florida College
329 System institutions, and state universities.

330 2. Educational outreach conducted in partnership with
331 public and private postsecondary institutions.

332 3. Programs directed toward members of the United States
333 Armed Forces and military communities.

334 4. Public awareness campaigns regarding the dangers and
335 economic costs associated with distracted driving.

336 5. Development of instructional materials and outreach
337 media promoting hands-free driving.

338 6. Supporting law enforcement agencies in conducting
339 public education and warning campaigns in conjunction with
340 enforcement-supported and compliance-oriented efforts to reduce
341 violations of this section ~~Department of Revenue for deposit~~
342 ~~into the Emergency Medical Services Trust Fund of the Department~~
343 ~~of Health.~~

344 (3)(6) When a law enforcement officer issues a citation
345 for a violation of this section, the law enforcement officer
346 must:

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

350 (b) Record the race and ethnicity of the violator. All law

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351 enforcement agencies must maintain such information and must
352 report such information to the department in a form and manner
353 determined by the department. Beginning February 1, 2020, the
354 department shall annually report the data collected under this
355 paragraph subsection to the Governor, the President of the
356 Senate, and the Speaker of the House of Representatives. The
357 data collected must be reported at least by statewide totals for
358 local law enforcement agencies, state law enforcement agencies,
359 and state university law enforcement agencies. The statewide
360 total for local law enforcement agencies is a combination of
361 ~~must combine~~ the data for the county sheriffs and the municipal
362 law enforcement agencies.

363 **Section 3.** This act shall take effect July 1, 2026.