

1                                   A bill to be entitled  
 2           An act relating to texting while driving; amending s.  
 3           316.305, F.S.; revising legislative intent; requiring  
 4           a law enforcement officer to inform a motor vehicle  
 5           operator of certain rights; prohibiting certain  
 6           actions by such officer; requiring such officer to  
 7           record the race and ethnicity of a violator when  
 8           issuing a citation; requiring law enforcement agencies  
 9           to report such information to the Department of  
 10          Highway Safety and Motor Vehicles; requiring the  
 11          department to annually report certain data to the  
 12          Governor and Legislature; removing the requirement  
 13          that enforcement be accomplished as a secondary  
 14          action; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:  
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18           Section 1. Paragraph (d) of subsection (2) and subsections  
 19           (3) and (5) of section 316.305, Florida Statutes, are amended to  
 20           read:

21           316.305 Wireless communications devices; prohibition.—

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

23           (d) Authorize law enforcement officers to stop motor  
 24           vehicles and issue citations ~~as a secondary offense~~ to persons  
 25           who are texting while driving.

26 (3) (a) A person may not operate a motor vehicle while  
27 manually typing or entering multiple letters, numbers, symbols,  
28 or other characters into a wireless communications device or  
29 while sending or reading data on such a device for the purpose  
30 of nonvoice interpersonal communication, including, but not  
31 limited to, communication methods known as texting, e-mailing,  
32 and instant messaging. As used in this section, the term  
33 "wireless communications device" means any handheld device used  
34 or capable of being used in a handheld manner, that is designed  
35 or intended to receive or transmit text or character-based  
36 messages, access or store data, or connect to the Internet or  
37 any communications service as defined in s. 812.15 and that  
38 allows text communications. For the purposes of this paragraph,  
39 a motor vehicle that is stationary is not being operated and is  
40 not subject to the prohibition in this paragraph.

41 (b) Paragraph (a) does not apply to a motor vehicle  
42 operator who is:

43 1. Performing official duties as an operator of an  
44 authorized emergency vehicle as defined in s. 322.01, a law  
45 enforcement or fire service professional, or an emergency  
46 medical services professional.

47 2. Reporting an emergency or criminal or suspicious  
48 activity to law enforcement authorities.

49 3. Receiving messages that are:

50 a. Related to the operation or navigation of the motor

51 | vehicle;

52 |       b. Safety-related information, including emergency,

53 | traffic, or weather alerts;

54 |       c. Data used primarily by the motor vehicle; or

55 |       d. Radio broadcasts.

56 |       4. Using a device or system for navigation purposes.

57 |       5. Conducting wireless interpersonal communication that

58 | does not require manual entry of multiple letters, numbers, or

59 | symbols, except to activate, deactivate, or initiate a feature

60 | or function.

61 |       6. Conducting wireless interpersonal communication that

62 | does not require reading text messages, except to activate,

63 | deactivate, or initiate a feature or function.

64 |       7. Operating an autonomous vehicle, as defined in s.

65 | 316.003, in autonomous mode.

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

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

68 | operator of his or her right to decline a search of his or her

69 | wireless communications device and may not:

70 |       1. Access the wireless communications device without a

71 | warrant.

72 |       2. Confiscate the wireless communications device while

73 | awaiting issuance of a warrant to access such device.

74 |       3. Obtain consent from the motor vehicle operator to

75 | search his or her wireless communications device through

76 coercion or other improper method. Consent to search a motor  
77 vehicle operator's wireless communications device must be  
78 voluntary and unequivocal.

79 ~~(d)(e)~~ Only in the event of a crash resulting in death or  
80 personal injury, a user's billing records for a wireless  
81 communications device or the testimony of or written statements  
82 from appropriate authorities receiving such messages may be  
83 admissible as evidence in any proceeding to determine whether a  
84 violation of paragraph (a) has been committed.

85 (5) When a law enforcement officer issues a citation for a  
86 violation of this section, the law enforcement officer must  
87 record the race and ethnicity of the violator. All law  
88 enforcement agencies must maintain such information and report  
89 the information to the department in a form and manner  
90 determined by the department. Beginning February 1, 2020, the  
91 department shall annually report the data collected under this  
92 subsection to the Governor, the President of the Senate, and the  
93 Speaker of the House of Representatives. The data collected must  
94 be reported at least by statewide totals for local law  
95 enforcement agencies, state law enforcement agencies, and state  
96 university law enforcement agencies. The statewide total for  
97 local law enforcement agencies shall combine the data for the  
98 county sheriffs and the municipal law enforcement agencies.  
99 ~~Enforcement of this section by state or local law enforcement~~  
100 ~~agencies must be accomplished only as a secondary action when an~~

101 | ~~operator of a motor vehicle has been detained for a suspected~~  
102 | ~~violation of another provision of this chapter, chapter 320, or~~  
103 | ~~chapter 322.~~

104 |       Section 2. This act shall take effect July 1, 2019.