

A bill to be entitled An act relating to the use of wireless communications devices while driving; amending s. 316.305, F.S.; revising the short title; revising legislative intent; prohibiting a person from operating a motor vehicle while using a wireless communications device for the purpose of nonvoice or voice interpersonal communication; redefining the term "wireless communications device" to include voice communications; conforming provisions to changes made by the act; requiring deposit of fines into the Emergency Medical Services Trust Fund; deleting a provision requiring that enforcement be accomplished only as a secondary action; providing an effective date.

Section 1. Subsection (1), paragraphs (b) and (d) of subsection (2), and subsections (3) and (5) of section 316.305, Florida Statutes, are amended to read:

316.305 Wireless communications devices; prohibition.— (NCOIL)

- (1) This section may be cited as the “Florida Ban on ~~Texting~~ **Wireless Communications Device** While Driving Law.” or “**Florida Distracted Driving Act**”
- (2) It is the intent of the Legislature to:
  - (a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.
  - (b) Prevent crashes related to the act of ~~text messaging~~ **using a wireless communications device** 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 as a ~~secondary offense~~ to persons who are **using a wireless communications device** ~~texting~~ while driving.
- (3)(a) A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data 1on such

**Commented [JS1]:** enables law enforcement to ticket drivers for holding a mobile device and limits use of a mounted or “hands-free” device while operating a motor vehicle, including texting, viewing videos or images, entering data, and talking or broadcasting content. Exceptions are provided for emergencies, for certain voice-activated technology, for navigation, and for “single swipe” activation as long as the device is not held by the driver or used to engage in viewing distracting content. The increased prevalence of smartphone technology and expansion of its capability and potential for use has exacerbated distraction behind the wheel.

a device for the purpose of nonvoice **or voice** interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is **designed** or intended to receive or transmit text 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 **and voice** 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. (NCOIL definitions)(NCOIL provisions)

(b) Paragraph (a) does not apply to a motor vehicle operator who is: (NCOIL exemptions)

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.~~
7. **5.** Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

(c) Only in the event of a crash resulting in death or personal injury, a user’s billing records for a wireless communications device or the testimony

**Commented [JS2]:**

**‘Wireless telecommunications device’** means one of the following portable devices:

- (1) a cellular telephone;<sup>117</sup>(2) a portable telephone;<sup>117</sup>(3) a text-messaging device; (4) a personal digital assistant;
- (5) a stand-alone computer, including but not limited to a tablet, laptop or notebook computer;
- (6) a global positioning system receiver;
- (7) a device capable of displaying a video, movie, broadcast television image, or visual image; or
- (8) Any substantially similar portable wireless device that is used to initiate or receive communication, information or data.

**‘Stand-alone electronic device’** means a portable device other than a wireless telecommunications device which stores audio or video data files to be retrieved on demand by a user.

**Commented [JS3]:** (D) While operating a motor vehicle on any street, highway, or property open to the public for vehicular traffic in this state, no individual shall:

- (1) Physically hold or support, with any part of his or her body a:
  - (a) Wireless telecommunications device; or (b) Stand-alone electronic device;
- (2) Write, send, or read any text-based communication, including but not limited to a text message, instant message, e-mail, or social media interaction on a wireless telecommunications device or stand-alone electronic device; provided, however, that such prohibition shall not apply to a voice-operated or hands-free communication feature which is automatically converted by such device to be sent as a message in a written form; or
- (3) Make any communication, including a phone call, voice message, or one-way voice communication; provided, however, that such prohibition shall not apply...

**Commented [JS4]:** Such term shall not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, communications or remote diagnostics system.

\* NCOIL provisions: this Act shall not apply when the prohibited conduct occurred:

- (1) While reporting to state, county or local authorities a traffic accident, medical emergency, fire, an actual or potential criminal or delinquent act, or road condition that causes an immediate and serious traffic or safety hazard;
- (2) By an employee or contractor of a utility services provider acting within the scope of his or her employment while responding to a utility emergency. ...

of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of paragraph (a) has been committed.

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

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

~~(5) Enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of this chapter, chapter 320, or chapter 322.~~

~~History.—s. 1, ch. 2013-58.~~

Section 2. This act shall take effect October 1, 2024.

**Commented [JS5]:** One more provision would be to add a warning period (6 months to 1 yr)