

PCS for HB 41

ORIGINAL

YEAR

1 A bill to be entitled  
 2 An act relating to use of wireless communications devices;  
 3 creating s. 316.305, F.S.; prohibiting the use of wireless  
 4 communications devices by motor vehicle operators;  
 5 providing exceptions; providing penalties; amending s.  
 6 322.27, F.S.; providing for points to be assessed against  
 7 a driver's license for unlawful use of wireless  
 8 communications device resulting in a crash; providing an  
 9 effective date.

10

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

12

13 Section 1. Section 316.305, Florida Statutes, is created  
 14 to read:

15 316.305 Wireless communications devices; prohibition.-

16 (1) This section may be cited as the "Florida Ban on  
 17 Texting While Driving Law."

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

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

21 (b) Prevent crashes related to the act of text messaging  
 22 while driving a motor vehicle.

23 (c) Reduce injuries, death, property damage, health care  
 24 costs, health insurance, and automobile insurance rates related  
 25 to motor vehicle crashes.

26 (d) Authorize law enforcement officers to stop vehicles  
 27 and issue citations to persons texting while driving as a  
 28 secondary offense.

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

43           (b) This subsection does not apply to a motor vehicle  
 44 operator who is:

45           1. A law enforcement, fire service, or emergency medical  
 46 services professional performing official duties.

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.

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57 5. Conducting wireless interpersonal communication that  
 58 does not require manual entry of multiple letters, numbers, or  
 59 symbols or reading text messages, except to activate,  
 60 deactivate, or initiate a feature or function.

61 (c) A user's billing records for a wireless communications  
 62 device or the testimony or written statements from appropriate  
 63 authorities receiving such messages may be admissible as  
 64 evidence in any proceeding to determine whether an infraction of  
 65 this section has been committed.

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

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

74 (4) Enforcement of this section by state or local law  
 75 enforcement agencies must be accomplished only as a secondary  
 76 action when a driver of a motor vehicle has been detained for a  
 77 suspected violation of another section of this chapter, chapter  
 78 320, or chapter 322.

79 Section 2. Paragraph (d) of subsection (3) of section  
 80 322.27, Florida Statutes, is amended to read:

81 322.27 Authority of department to suspend or revoke  
 82 license.—

83 (3) There is established a point system for evaluation of  
 84 convictions of violations of motor vehicle laws or ordinances,

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85 and violations of applicable provisions of s. 403.413(6) (b) when  
 86 such violations involve the use of motor vehicles, for the  
 87 determination of the continuing qualification of any person to  
 88 operate a motor vehicle. The department is authorized to suspend  
 89 the license of any person upon showing of its records or other  
 90 good and sufficient evidence that the licensee has been  
 91 convicted of violation of motor vehicle laws or ordinances, or  
 92 applicable provisions of s. 403.413(6) (b), amounting to 12 or  
 93 more points as determined by the point system. The suspension  
 94 shall be for a period of not more than 1 year.

95 (d) The point system shall have as its basic element a  
 96 graduated scale of points assigning relative values to  
 97 convictions of the following violations:

- 98 1. Reckless driving, willful and wanton—4 points.
- 99 2. Leaving the scene of a crash resulting in property  
 100 damage of more than \$50—6 points.
- 101 3. Unlawful speed or unlawful use of wireless  
 102 communication device, resulting in a crash—6 points.
- 103 4. Passing a stopped school bus—4 points.
- 104 5. Unlawful speed:
  - 105 a. Not in excess of 15 miles per hour of lawful or posted  
 106 speed—3 points.
  - 107 b. In excess of 15 miles per hour of lawful or posted  
 108 speed—4 points.
- 109 6. A violation of a traffic control signal device as  
 110 provided in s. 316.074(1) or s. 316.075(1) (c)1.—4 points.
- 111 7. All other moving violations (including parking on a  
 112 highway outside the limits of a municipality)—3 points. However,

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113 no points shall be imposed for a violation of s. 316.0741 or s.  
 114 316.2065(12).

115 8. Any moving violation covered above, excluding unlawful  
 116 speed and unlawful use of wireless communication device,  
 117 resulting in a crash—4 points.

118 9. Any conviction under s. 403.413(6)(b)—3 points.

119 10. Any conviction under s. 316.0775(2)—4 points.

120 Section 3. This act shall take effect October 1, 2010.