

ITEM #127

(HB 47 – Texting and Driving)

**ADDITIONAL MATERIAL
10:00 A.M. REGULAR MEETING**

AUGUST 22, 2017

**SUBMITTED AT THE REQUEST OF
VICE-MAYOR BEAM FURR**

1 A bill to be entitled
 2 An act relating to texting while driving; amending s.
 3 316.305, F.S.; revising penalties for violations of
 4 the Florida Ban on Texting While Driving Law;
 5 providing enhanced penalties for such violations when
 6 committed in a school zone or school crossing;
 7 removing requirement that specified provisions be
 8 enforced as a secondary action by a law enforcement
 9 agency; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

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 13 Section 1. Subsections (4) and (5) of section 316.305,
 14 Florida Statutes, are amended to read:

15 316.305 Wireless communications devices; prohibition.—

16 (3) (a) A person may not operate a motor vehicle while
 17 manually typing or entering multiple letters, numbers, symbols,
 18 or other characters into a wireless communications device or
 19 while sending or reading data on such a device for the purpose
 20 of nonvoice interpersonal communication, including, but not
 21 limited to, communication methods known as texting, e-mailing,
 22 and instant messaging. As used in this section, the term
 23 "wireless communications device" means any handheld device used
 24 or capable of being used in a handheld manner, that is designed
 25 or intended to receive or transmit text or character-based

26 messages, access or store data, or connect to the Internet or
 27 any communications service as defined in s. 812.15 and that
 28 allows text communications. For the purposes of this paragraph,
 29 a motor vehicle that is stationary is not being operated and is
 30 not subject to the prohibition in this paragraph.

31 (b) Paragraph (a) does not apply to a motor vehicle
 32 operator who is:

33 1. Performing official duties as an operator of an
 34 authorized emergency vehicle as defined in s. 322.01, a law
 35 enforcement or fire service professional, or an emergency
 36 medical services professional.

37 2. Reporting an emergency or criminal or suspicious
 38 activity to law enforcement authorities.

39 3. Receiving messages that are:

40 a. Related to the operation or navigation of the motor
 41 vehicle;

42 b. Safety-related information, including emergency,
 43 traffic, or weather alerts;

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

45 d. Radio broadcasts.

46 4. Using a device or system for navigation purposes.

47 5. Conducting wireless interpersonal communication that
 48 does not require manual entry of multiple letters, numbers, or
 49 symbols, except to activate, deactivate, or initiate a feature
 50 or function.

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51 6. Conducting wireless interpersonal communication that
52 does not require reading text messages, except to activate,
53 deactivate, or initiate a feature or function.

54 7. Operating an autonomous vehicle, as defined in s.
55 316.003, in autonomous mode.

56 (c) Only in the event of a crash resulting in death or
57 personal injury, a user's billing records for a wireless
58 communications device or the testimony of or written statements
59 from appropriate authorities receiving such messages may be
60 admissible as evidence in any proceeding to determine whether a
61 violation of paragraph (a) has been committed.

62 (4) (a) A ~~Any~~ person who violates paragraph (3) (a) commits
63 a noncriminal traffic infraction, punishable as a nonmoving
64 violation as provided in chapter 318. For a violation committed
65 in a legally posted school zone or designated school crossing,
66 the amount of the fine prescribed for the violation shall be
67 doubled.

68 (b) A ~~Any~~ person who commits a second or subsequent
69 violation of paragraph (3) (a) within 5 years after the date of a
70 prior conviction for a violation of paragraph (3) (a) commits a
71 noncriminal traffic infraction, punishable as a moving violation
72 as provided in chapter 318. For a violation committed in a
73 legally posted school zone or designated school crossing,
74 regardless of where the violation with respect to a prior
75 conviction was committed, the amount of the fine prescribed for

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76 the violation shall be doubled.

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

82 Section 2. This act shall take effect July 1, 2017.