

Section 316.304, F.S., prohibits any person wearing a headset, headphone, or other listening device from operating a vehicle, aside from a hearing aid or other instrument to improve defective human hearing. However, this section does not apply to any:

- law enforcement officer equipped with any necessary communication device, or emergency vehicle operator with an ear protection device;
- applicant for a license to operate a motorcycle while taking the required examination;
- person operating a motorcycle, using a helmet headset worn so as to prevent the speakers from making direct contact with the ears, allowing the user to hear surrounding sounds; and,
- person using a headset that only provides sound through one ear and allows surrounding sounds to be heard with the other ear, such as a headset in conjunction with a cellular telephone.

A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S., with a \$30 fine (plus court costs).

Section 322.27(3), F.S., details the point system used to evaluate the qualification of any person to operate a motor vehicle after convictions for violations of motor vehicle laws.

III. Effect of Proposed Changes:

The bill prohibits a person under the age of 18 years from operating a motor vehicle while using an electronic wireless communications device (such as a cellular telephone).

The bill does not apply to persons using an electronic wireless communications device to:

- report illegal activity;
- summon medical or emergency help; or
- prevent injury to a person or property.

The bill requires that the ban can only be enforced by law enforcement agencies as a secondary action. Violation of the ban is punishable as a moving violation, with a fine of \$60 (plus court costs) and assessment of one point against the offender's drivers license.

The bill amends the point system in s. 322.27(3), F.S., to include the new prohibition, and adds 1 point to the license of anyone under the age of 18 years who violates the new prohibition.

The act shall take effect October 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An individual under the age of 18 years violating the ban would be subject to a civil penalty of \$60 (plus court costs).

C. Government Sector Impact:

The bill may generate civil fine revenue for state and local governments, in an amount that is indeterminate.

According to the department, the bill would require programming modification to the Driver License Software Information Systems at the cost of \$11,000.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

Barcode 683652 by Transportation:

The amendment added a provision prohibiting any person operating a motor vehicle on a state highway from manually writing a text message. Exceptions are provided for a person writing a text message to:

- report illegal activity;
- summon medical or other emergency help; or
- prevent injury or damage to a person or property.

Violations are punishable as a moving violation, and can only be enforced as a secondary action by law enforcement.

The amendment also made technical changes to better conform the language with that used in s. 316.0075, F.S. (WITH TITLE AMENDMENT).

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
