

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/SB 522

INTRODUCER: Transportation Committee and Senator Gelber

SUBJECT: Electronic Wireless Communications Device/Driving

DATE: April 13, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/CS
2.			CU	
3.			TA	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

Senate Bill 522 (“the bill”) creates the “You Talk, You Walk Act” which prohibits any person under the age of 18 years from operating a motor vehicle, while using an electronic communications device or telephone. This restriction does not apply when an electronic communication device is used to report illegal activity, summon medical or emergency help, or prevent injury to a person or property.

Violation of the ban is a noncriminal, nonmoving offense and may be enforced as a secondary action only. A person who violates this section shall have his or her driver’s license suspended for 30 days.

This bill substantially amends s. 322.27 and creates s. 316.3035 of the Florida Statutes.

**II. Present Situation:**

Regulation of the use of electronic communications devices is expressly preempted to the state. See s. 316.0075, F.S. Currently, the use of electronic communications devices such as cellular telephones while driving is allowed in Florida.

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(1), F.S., details the circumstances where an individual's driver's license may be suspended.

### **III. Effect of Proposed Changes:**

The bill creates the "You Talk, You Walk Act" which prohibits a person under the age of 18 years from operating a motor vehicle while using an electronic wireless communications device or 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.

Violation of the ban is a noncriminal, nonmoving offense and may be enforced as a secondary action only. A person who violates this section shall have his or her driver's license suspended for 30 days.

The bill amends s. 322.27(1), F.S., to include the new prohibition, and adds a 30 day driver's license suspension to anyone under the age of 18 years who violates the new prohibition.

The act shall take effect October 1, 2010.

### **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:

This bill will affect persons under the age of 18 using electronic communications devices or telephones while operating a motor vehicle.

C. Government Sector Impact:

The bill may generate revenues 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 of which could be accomplished as part of the normal workload.

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.)

**CS by Transportation on April 13, 2010:**

Amendment 330834 created the “You Walk, You Talk Act,” which prohibits any person under the age of 18 from operating a motor vehicle while using a wireless communications device or telephone in any manner. A violation is a noncriminal, nonmoving violation which may be enforced as a secondary act. A person who violates the ban will have his or her driver’s license suspended for 30 days.

B. Amendments:

None.