



FAQ: Texting While Driving

Q: What is the functional difference between a secondary and primary offense?

A: A primary offense is an offense for which a law enforcement officer can stop a car and issue a citation. Some examples of primary offenses are driving over the speed limit, failure to stop at a stop sign, or failure to signal a lane change. By contrast, a secondary offense is an offense for which a driver or a passenger can receive a citation but only after a driver has been pulled over for a primary offense.

Q: Can someone be pulled over for using their GPS or finding a song to play on their phone?

A: Current law specifically prohibits a person from driving and manually typing or entering letters, numbers, symbols, etc., for the purpose of nonvoice interpersonal communication. This specifically includes texting, emailing, and instant messaging while driving. The bill maintains these prohibitions. However, neither GPS nor choosing a song is nonvoice interpersonal communication and, as such, is not a restricted action under the bill. In addition, both current law and the bill specifically exclude from the ban the use of a device or system for navigation purposes. A law enforcement officer may pull over a motor vehicle if the officer has reason to believe the driver is texting, emailing, or instant messaging.

Q: Will law enforcement officers be allowed to search someone's phone?

A: The bill specifically prohibits law enforcement officers from accessing any wireless communications device without a warrant. Furthermore, the bill prohibits law enforcement officers from confiscating a wireless communications device while awaiting issuance of a warrant or using intimidation tactics to coerce an individual to provide access to a device without a warrant.

Q: How can a law enforcement officer prove someone was texting while driving if the officer cannot access the person's phone without their consent or a warrant?

A: Most traffic laws, including seatbelt violations, rely on law enforcement officers witnessing the infraction and writing a police report. If a law enforcement officer has reason to believe a motor vehicle operator is texting while driving, the officer will likely include all relevant information in his or her police report documenting such behavior and will testify to such in court.

Q: What happens if the officer searches someone's phone without a warrant or their consent?

A: The United States Supreme Court has held that searching a phone without a warrant is illegal and violates the Fourth Amendment of the U.S. Constitution. Further, the bill specifically prohibits a law enforcement officer from accessing the driver's phone without a warrant.

Q: Won't this just provide another opportunity for police to target people based off their appearance?

A: Current law requires every sheriff and every municipal law enforcement agency to have an antiracial or other anti-discriminatory profiling policy. Anti-profiling policies must include traffic stop procedures, community education and awareness efforts, and policies for handling complaints from the public. The Florida Highway Patrol also has policies against profiling.