



HB 33 - Texting While Driving

The bill strengthens the current ban on texting, emailing, and instant messaging while driving by changing the current enforcement of the ban from a secondary offense to a primary offense.

What the bill does

HB 33 will change the enforcement of the ban on texting while driving from a secondary offense to a primary offense, allowing law enforcement officers to initiate a traffic stop solely on the basis of violating the ban. The bill protects individuals' privacy rights by ensuring that law enforcement officers follow certain protocols during a traffic stop for violating the ban. The bill requires a law enforcement officer who stops a motor vehicle for a violation of the ban to inform the driver of his or her right to decline a search of their wireless communications device. The bill also creates additional protections by prohibiting law enforcement officers from:

- Accessing a wireless communications device without a warrant.
- Confiscating the device while awaiting the issuance of a warrant to search the wireless communications device.
- Using coercion or other improper methods to convince the driver to provide access to such device without a warrant. The bill requires consent to be unequivocal and voluntary.

Penalties for violating the prohibition on texting, emailing, and instant messaging remain unchanged, and will be:

- A nonmoving violation and \$30 fine plus court costs (a total fine of up to \$108) for a first violation.
- A moving violation with three points added to the driver license record and a \$60 fine plus court costs (a total fine of up to \$158) for a second or subsequent violation committed within five years.
- Six points added to the driver license record for any violation of the ban that causes a crash.
- An additional two points added to the driver license record for any violation of the ban committed in conjunction with any moving violation for which points are assessed, when committed within a school safety zone.

The bill maintains the current exceptions to the texting ban. For example, the bill maintains that the texting ban does not apply to a stationary motor vehicle

The bill also requires a law enforcement officer to record the race and ethnicity of a person issued a citation for texting while driving. The Department of Highway Safety and Motor Vehicles (DHSMV) must annually report this information to the Governor, President of the Senate, and Speaker of the House of Representatives beginning February 1, 2019.

Background on Texting While Driving

Every person deserves access to a safe driving environment. According to the National Highway Safety Administration, 385 fatal crashes, which lead to **404 deaths**, involved the use of cell phones as distractions in 2014. It also reports that text messaging creates a crash risk **23 times worse** than driving while not distracted.



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REPRESENTATIVE RAY RODRIGUES, MAJORITY LEADER

Currently, there are 47 states plus the District of Columbia that have passed bans on texting while driving for all drivers. Of those 47 states, Florida is one of only four states where enforcement of the ban is a secondary offense.

Driving on our roads is a privilege that comes with the responsibility to do so in a safe manner. By cutting down on the distraction of texting while driving, this bill will make our roads safer for the millions of Floridians and visitors travelling on them every day.