

**CHAPTER 77****OPEN CONTAINERS IN MOTOR VEHICLES**

S.F. 192

**AN ACT** relating to open containers in motor vehicles and providing a penalty.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 321.284, Code 1999, is amended to read as follows:

**321.284 OPEN CONTAINERS IN MOTOR VEHICLES — DRIVERS.**

~~A person driving a motor vehicle~~ driver of a motor vehicle upon a public street or highway shall not knowingly possess in a the passenger area of the motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, wine, or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway. ~~Evidence that an open or unsealed receptacle containing an alcoholic beverage, wine, or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage, wine, or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage, wine, or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.~~ A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

Sec. 2. **NEW SECTION. 321.284A OPEN CONTAINERS IN MOTOR VEHICLES — PASSENGERS.**

1. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage. "Passenger area" means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

2. This section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or a passenger being transported in the living quarters of a motor home, mobile home, travel trailer, or fifth-wheel travel trailer.

3. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

4. The department shall not include a conviction for a violation of this section on the individual driving record of the person committing the violation and the conviction shall not be considered by the department in any proceeding for suspension, revocation, barring, or denying of the person's driver's license or upon any application for renewal of driving privileges.

Sec. 3. Section 805.8, subsection 10, paragraph b, Code 1999, is amended to read as follows:

b. For violations of ~~section~~ under sections 321.284 and 321.284A, the scheduled fine is fifty dollars.

Approved April 28, 1999

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## CHAPTER 78

### INTERCEPTION OF COMMUNICATIONS

S.F. 309

**AN ACT** relating to the interception of communications and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 808B.1, subsections 1 and 2, Code 1999, are amended to read as follows:

1. "Aggrieved person" means a person who was a party to an intercepted wire, ~~communication~~ or oral, or electronic communication or a person against whom the interception was directed.

2. "Contents", when used with respect to a wire, ~~communication~~ or oral, or electronic communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purpose, or meaning of that communication.

Sec. 2. Section 808B.1, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 3A. "Electronic communication" means any transfer of signals, signs, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects intrastate, interstate, or foreign commerce, but excludes the following:

- a. Wire or oral communication.
- b. Communication made through a tone only paging device.
- c. Communication from a tracking device.

Sec. 3. Section 808B.1, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Electronic, mechanical, or other device" means a device or apparatus which can be used to intercept a wire, ~~communication~~ or oral, or electronic communication other than either of the following:

Sec. 4. Section 808B.1, subsection 5, Code 1999, is amended to read as follows:

5. "Intercept" or "interception" means the aural acquisition of the contents of a wire, ~~communication~~ or oral, or electronic communication through the use of an electronic, mechanical, or other device.

Sec. 5. Section 808B.1, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. "Pen register" means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached. However, such term excludes any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider