



[HF 392](#) – Distracted Driving (LSB1179HV)  
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 Fiscal Note Version – New

**Description**

[House File 392](#) prohibits any use of an electronic device while driving. The Bill defines an electronic device as being capable of sending or receiving messages and storing or displaying videos. The Bill increases the scheduled fine for using an electronic device from \$45 to \$100. Under the Bill, use of an electronic device would be a moving violation. A moving violation can be considered for purposes of administrative suspension of a driver’s license or to establish habitual offender status.

The Bill allows use of an electronic device under the following circumstances:

- Use in voice-activated or hands-free mode.
- Use by members of a public safety agency performing official duties.
- Use by health care professionals in the course of emergency situations.
- Use for the purpose of receiving safety-related information.
- Use for the purpose of reporting an emergency situation, including maintaining communication with emergency personnel during the emergency situation, or public transit personnel responding to a transit-specific situation.
- Use by certain radio operators.
- Use by members of a public transit system performing official duties in a vehicle that is not in motion.
- A utility maintenance employee or contractor using an electronic device while in a utility maintenance vehicle for the purpose of providing utility services.
- A transportation network company driver engaged in a prearranged ride, provided the vehicle is not in motion.

A peace officer is required to issue a warning memorandum in lieu of a citation for violations that occur during the period of time between July 1, 2021, the effective date of the Bill, and January 1, 2022.

**Background**

Current law prohibits the use of hand-held electronic communication devices to write, send, or view electronic messages while driving a motor vehicle. The fine for this violation is \$45. The violation is not considered a moving violation. Persons under the age of 18 are currently prohibited from using an electronic communication device while driving a motor vehicle (Iowa Code section [321.178](#)). For FY 2019, convictions under Iowa Code section [321.276](#) for using an electronic communication device while driving a motor vehicle totaled 1,770. FY 2019 is used for calculations due

<b>Table 1 — Cost of Single Citation</b>	
<b>Current Law</b>	
Penalty	\$ 45.00
Surcharge (15.0%)	6.75
Court Cost	55.00
<b>Total</b>	<b>\$ 106.75</b>
<b>HF 392</b>	
Penalty	\$ 100.00
Surcharge (15.0%)	15.00
Court Cost	55.00
<b>Total</b>	<b>\$ 170.00</b>

to the COVID-19 pandemic limiting traffic in FY 2020.

Under Iowa Code section [602.8106\(4\)\(b\)](#), scheduled fine revenue for a State law violation is distributed as follows: 91.0% to the State and 9.0% to the general fund of the county in which the violation occurred. For the State share of citations, 1.3% is distributed to the Emergency Medical Services (EMS) Fund and 98.7% is distributed to the State General Fund.

In addition to the scheduled fine, a Crime Services Surcharge, equal to 15.0% of the fine, and a \$55 fee for court costs are also imposed. The Crime Services Surcharge is remitted to the State Court Administrator and is distributed as follows: 46.0% to the Juvenile Detention Home Fund; 32.0% to the Victim Compensation Fund; 20.0% to the Criminalistics Laboratory Fund; and 2.0% to the Drug Abuse Resistance Education Fund. The fee assessed for court costs is deposited into the State General Fund.

**Correctional Impact**

House File 392 is estimated to have minimal correctional impact. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 22, 2021, for information related to the correctional system.

**Minority Impact**

Convictions issued under Iowa Code section [321.276](#) are displayed in **Table 2**. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 27, 2021, for information related to minorities in the criminal justice system.

**Table 2**

	<b>Iowa Code Section 321.726 Convictions by Ethnicity</b>							
	White	Black	Hispanic	Asian	Native Am.	Other	Unknown	Total
FY 2018	1286	68	11	33	9	33	294	1734
FY 2019	1315	70	23	35	3	45	279	1770
FY 2020	1144	73	18	24	1	37	279	1576

**Assumptions**

- The state of Utah enacted a similar law beginning in May 2014. From 2016 to 2019, the state averaged 2,667 convictions per year for operating an electronic communication device while driving. Utah has 1.9 million drivers. Utah’s citation rate was 133.7 per 100,000 licensed drivers.
- The number of citations under current law for FY 2021 are estimated to total 1,700, which is similar to the average number of citations over the previous three years.
- For estimation purposes, it is assumed that the number of annual citations issued under HF 392 will total 3,000, which is similar to the rate of citations issued annually in Utah from 2016 to 2019. However, the estimated number of citations issued during FY 2022, will total 1,500 as a result of the requirement in HF 392 that warning memorandums be issued in lieu of citations of FY 2022.
- A delay of six months is expected until fines are collected. The collection rate for the scheduled violation is estimated to be 58.0%.

**Fiscal Impact**

House file 392 is estimated to reduce General Fund revenue by \$47,000 in FY 2022, and increase revenue by \$100,500 beginning in FY 2023. The fiscal impact on other funding sources and the counties is shown on **Table 3**.

**Table 3** displays the estimated fiscal impact of the changes enacted in the Bill.

<b>Table 3 — Estimated Revenue Current Law vs HF 392</b>					
	Current Law		HF 392		
	FY 2021	FY 2022	FY 2022 vs 2021	FY 2023	FY 2023 vs 2021
<b>General Fund</b>					
Penalty Revenue	\$ 40,000	\$ 20,000	\$ -20,000	\$156,000	\$116,000
Court Fee	54,000	27,000	-27,000	96,000	42,000
<b>Subtotal</b>	<b>\$ 94,000</b>	<b>\$ 47,000</b>	<b>\$ -47,000</b>	<b>\$252,000</b>	<b>\$158,000</b>
<b>Surcharge Revenue</b>					
Juvenile Detention	\$ 3,100	\$ 1,600	\$ -1,500	\$ 12,000	\$ 8,900
Victim Comp.	2,100	1,100	-1,000	8,300	6,200
Crime Lab	1,300	700	-600	5,200	3,900
DARE	100	50	-50	500	400
<b>Subtotal</b>	<b>\$ 6,600</b>	<b>\$ 3,450</b>	<b>\$ -3,150</b>	<b>\$ 26,000</b>	<b>\$ 19,400</b>
<b>Other</b>					
County General Funds	\$ 4,000	\$ 2,000	\$ -2,000	\$ 16,000	\$ 12,000
EMS Fund	500	300	-200	2,000	1,500
<b>Grand Total</b>	<b>\$ 105,100</b>	<b>\$ 52,750</b>	<b>\$ -52,350</b>	<b>\$ 296,000</b>	<b>\$ 190,900</b>

DARE= Drug Abuse Resistance Education

**Sources**

LSA calculations

Criminal and Juvenile Justice Planning Division, Department of Human Rights

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.