

House File 2074 - Introduced

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BY WINCKLER and LENSING

A BILL FOR

1 An Act relating to the use of wireless telecommunications
2 devices by motor vehicle operators and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 321.276 Use of wireless
2 telecommunications devices.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. *"Engage in a call"* means talking or listening on a
6 wireless telecommunications device.

7 b. *"Hands-free wireless telephone"* means a wireless
8 telecommunications device that has an internal feature or
9 function, or that is equipped with an attachment or addition,
10 whether or not permanently part of the telephone, by which a
11 user engages in a conversation without the use of either hand,
12 provided that this definition does not preclude the use of
13 either hand to activate, deactivate, or initiate a function of
14 the hands-free wireless telephone.

15 c. *"Wireless telecommunications device"* means a cellular
16 telephone, a text-messaging device, a personal digital
17 assistant, a stand-alone computer, or any other substantially
18 similar wireless device that is readily removable from
19 a motor vehicle and is designed to receive and transmit
20 voice communication or is capable of being used to write,
21 send, or read text or data through manual input. *"Wireless*
22 *telecommunications device"* does not include a citizens band
23 radio, a citizens band radio hybrid, a commercial two-way
24 radio communication device, an electronic communication device
25 with a push-to-talk function, or a device or component that is
26 permanently affixed to a motor vehicle.

27 d. *"Write, send, or read a text-based communication"*
28 means using a wireless telecommunications device to manually
29 communicate with any person by using a text-based communication
30 referred to as a text message, an instant message, or
31 electronic mail.

32 2. Except as provided in subsection 4, a person shall not
33 operate a motor vehicle on a highway while using a wireless
34 telecommunications device to engage in a call unless the
35 wireless telecommunications device is a hands-free wireless

1 telephone.

2 3. Except as provided in subsection 4, a person shall not
3 operate a motor vehicle on a highway while using a wireless
4 telecommunications device to write, send, or read a text-based
5 communication. For purposes of this subsection, a person is
6 not deemed to be writing, reading, or sending a text-based
7 communication if the person reads, selects, or enters a
8 telephone number or name in a hands-free wireless telephone for
9 the purpose of making a telephone call.

10 4. This section does not apply to the following:

11 a. A law enforcement officer, a firefighter, or the operator
12 of an authorized emergency vehicle while engaged in the
13 performance of the person's official duties.

14 b. The operator of a motor vehicle using a wireless
15 telecommunications device for any of the following purposes:

16 (1) To contact a public safety agency to report a motor
17 vehicle accident, a medical emergency, illegal activity, or a
18 serious road hazard.

19 (2) To report a situation in which the person believes the
20 person's safety is in jeopardy.

21 (3) To prevent injury to a person or property.

22 (4) To navigate using a global positioning system.

23 c. A physician or other health care provider using a
24 wireless telecommunications device to communicate with a
25 hospital, health clinic, or the office of the physician or
26 health care provider, or to otherwise provide for the health
27 care of an individual or respond to a medical emergency.

28 d. The operator of a motor vehicle using a wireless
29 telecommunications device when the motor vehicle is lawfully
30 parked.

31 5. a. A peace officer shall not stop a motor vehicle solely
32 for the purpose of enforcing this section. A peace officer
33 who detains a motor vehicle operator for an alleged violation
34 of another section of this chapter may issue a citation to
35 the motor vehicle operator for a violation of this section.

1 However, during the period beginning July 1, 2010, and ending
2 December 31, 2010, peace officers shall issue only warning
3 citations for violations of this section.

4 *b.* A peace officer investigating an accident as provided in
5 section 321.266 shall indicate on the accident report form if
6 a motor vehicle operator involved in the accident was using a
7 wireless telecommunications device at the time of the accident.

8 6. A person who is convicted of a violation of this section
9 is guilty of a simple misdemeanor punishable as a scheduled
10 violation under section 805.8A, subsection 6, paragraph "e".

11 Sec. 2. Section 805.8A, subsection 6, Code Supplement 2009,
12 is amended by adding the following new paragraph:

13 NEW PARAGRAPH. *e.* For a violation of section 321.276 by a
14 motor vehicle operator, the scheduled fine is as follows:

15 (1) If the violation is a first offense, the scheduled fine
16 is one hundred seventy-five dollars.

17 (2) If the violation is a second or subsequent violation of
18 the same section, the scheduled fine is five hundred dollars.

19 (3) If the operator of the motor vehicle was involved in
20 a traffic accident at the time the violation occurred, the
21 scheduled fine is double the amount in subparagraph (1) or (2),
22 as applicable.

23 Sec. 3. ACCIDENT REPORTS — STATISTICAL DATA. The
24 department of transportation shall collect and compile
25 ongoing statistical information on the number of motor vehicle
26 accidents which occur in this state involving the use of a
27 wireless telecommunications device to engage in a call or
28 write, send, or read a text message.

29 EXPLANATION

30 This bill addresses the use of a wireless telecommunications
31 device by a person operating a motor vehicle.

32 The bill prohibits a driver from using a wireless
33 telecommunications device to engage in a call unless the device
34 is a hands-free wireless telephone. The bill also prohibits a
35 person from operating a motor vehicle while using a wireless

1 telecommunications device to write, send, or read a text-based
2 communication. The act of reading, selecting, or entering a
3 telephone number or name in a hands-free wireless telephone for
4 the purpose of making a telephone call does not constitute a
5 violation.

6 The bill defines "wireless communications device" as a
7 cellular telephone, text-messaging device, personal digital
8 assistant, stand-alone computer, or any other substantially
9 similar wireless device that is readily removable from
10 the vehicle and is designed to receive and transmit voice
11 communication or is capable of being used to write, send,
12 or read text or data through manual input. The definition
13 excludes a citizens band radio, a citizens band radio hybrid,
14 a commercial two-way radio, an electronic device with a
15 push-to-talk function, and any device or component that
16 is permanently affixed to a motor vehicle. "Write, send,
17 or read a text-based communication" means using a wireless
18 telecommunications device to manually communicate with any
19 person by using a text-based communication referred to as a
20 text message, an instant message, or electronic mail.

21 "Engage in a call" is defined to mean talking or listening
22 on a wireless telecommunications device. "Hands-free wireless
23 telephone" means a wireless telecommunications device that
24 has an internal feature or function, or that is equipped
25 with an attachment or addition, by which a user engages in a
26 conversation without the use of either hand. However, the bill
27 specifies that the use of either hand to activate, deactivate,
28 or initiate a function of the hands-free wireless telephone is
29 not a violation of the bill.

30 The bill does not apply to law enforcement officers,
31 firefighters, and authorized emergency vehicle operators
32 engaged in official duties; to a motor vehicle operator using a
33 wireless telecommunications device to contact a public safety
34 agency to report a motor vehicle accident, a medical emergency,
35 illegal activity, a serious road hazard, or a situation in

1 which the person believes the person's safety is in jeopardy
2 or to prevent injury to a person or property; or to health care
3 providers communicating with a hospital, clinic, or the health
4 care provider's office. The bill does not apply to the use of
5 a global positioning system, and the bill does not apply to a
6 driver when the motor vehicle is lawfully parked.

7 The bill provides for secondary enforcement of the
8 text-messaging ban and the ban on the use of a hand-held
9 wireless telephone to engage in a call. A peace officer may
10 not stop a motor vehicle solely to enforce either provision,
11 but may issue a citation for a violation in conjunction with
12 a traffic stop for an alleged violation of another motor
13 vehicle law. However, during the six-month period from July
14 1, 2010, through December 31, 2010, only warning citations may
15 be issued for a violation. The bill requires a peace officer
16 investigating a traffic accident to indicate on the accident
17 report form if a driver involved in the accident was using a
18 wireless telecommunications device at the time of the accident.

19 A person who commits a violation of the bill commits a
20 simple misdemeanor punishable by a scheduled fine of \$175 for
21 a first offense, and \$500 for a second or subsequent offense.
22 If the violation occurred in conjunction with a motor vehicle
23 accident, the fine is doubled.

24 The bill requires the department of transportation to
25 collect and compile statistical data relating to motor vehicle
26 accidents involving the use of a cellular telephone or other
27 wireless telecommunications device.