

**House File 412 - Introduced**

HOUSE FILE 412

BY THEDE, HANSON, and HUNTER

**A BILL FOR**

1 An Act concerning the use of a mobile telephone while driving  
2 and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.1, Code 2013, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 39. *"Mobile telephone"* means as defined in  
4 49 C.F.R. § 383.5.

5 Sec. 2. Section 321.210, subsection 2, paragraph e, Code  
6 2013, is amended to read as follows:

7 e. Violations of ~~section~~ sections 321.276 and 321.276A.

8 Sec. 3. Section 321.276, subsection 1, paragraph a, Code  
9 2013, is amended by striking the paragraph and inserting in  
10 lieu thereof the following:

11 a. *"Fixed unit global positioning system or navigation*  
12 *system"* means an electronic device that is mounted inside a  
13 motor vehicle and is capable of providing navigation directions  
14 to a driver based on data entered into the device prior to  
15 operating the motor vehicle.

16 Sec. 4. Section 321.276, subsection 2, paragraph a, Code  
17 2013, is amended to read as follows:

18 a. A person does not violate this section by using a fixed  
19 unit global positioning system or navigation system ~~or when,~~  
20 ~~for the purpose of engaging in a call, the person selects~~  
21 ~~or enters a telephone number or name in a hand-held mobile~~  
22 ~~telephone or activates, deactivates, or initiates a function of~~  
23 ~~a hand-held mobile telephone~~ to receive navigation directions,  
24 provided that the person does not manually enter data into the  
25 fixed unit global positioning system or navigation system while  
26 operating the motor vehicle.

27 Sec. 5. NEW SECTION. 321.276A **Use of mobile telephone while**  
28 **driving.**

29 1. A person shall not drive a motor vehicle while using a  
30 mobile telephone unless the mobile telephone is specifically  
31 designed and configured to allow hands-free listening and  
32 talking and is used in that manner while driving.

33 2. This section does not apply to the following persons:

34 a. A member of a public safety agency, as defined in section  
35 34.1, performing official duties.

1     *b.* A health care professional in the course of an emergency  
2 situation.

3     *c.* A person receiving safety-related information including  
4 emergency, traffic, or weather alerts.

5     *d.* The driver of a motor vehicle when the motor vehicle is  
6 at a complete stop off the traveled portion of the roadway.

7     3. Nothing in this section shall be construed to authorize a  
8 peace officer to confiscate a mobile telephone from the driver  
9 or occupant of a motor vehicle.

10    4. *a.* A person convicted of a violation of this section  
11 is guilty of a simple misdemeanor punishable as a scheduled  
12 violation under section 805.8A, subsection 14, paragraph "m".

13    *b.* A violation of this section shall not be considered a  
14 moving violation for purposes of this chapter or rules adopted  
15 pursuant to this chapter.

16    5. A peace officer shall not stop or detain a person solely  
17 for a suspected violation of this section. This section is  
18 enforceable by a peace officer only as a secondary action when  
19 the driver of a motor vehicle has been stopped or detained for  
20 a suspected violation of another provision of this chapter, a  
21 local ordinance equivalent to a provision of this chapter, or  
22 other law.

23    Sec. 6. Section 321.482A, unnumbered paragraph 1, Code  
24 2013, is amended to read as follows:

25    Notwithstanding section 321.482, a person who is convicted  
26 of operating a motor vehicle in violation of section 321.178,  
27 subsection 2, paragraph "a", subparagraph (2), section  
28 321.180B, subsection 6, section 321.194, subsection 1,  
29 paragraph "c", section 321.256, section 321.257, section  
30 321.275, subsection 4, section 321.276, 321.276A, 321.297,  
31 321.298, 321.299, 321.302, 321.303, 321.304, 321.305, 321.306,  
32 321.307, 321.308, section 321.309, subsection 2, or section  
33 321.311, 321.319, 321.320, 321.321, 321.322, 321.323, 321.324,  
34 321.324A, 321.327, 321.329, 321.333, or 321.372, subsection 3,  
35 causing serious injury to or the death of another person may be

1 subject to the following penalties in addition to the penalty  
2 provided for a scheduled violation in section 805.8A or any  
3 other penalty provided by law:

4 Sec. 7. Section 321.555, subsection 2, Code 2013, is amended  
5 to read as follows:

6 2. Six or more of any separate and distinct offenses within  
7 a two-year period in the operation of a motor vehicle, which  
8 are required to be reported to the department by section  
9 321.491 or chapter 321C, except equipment violations, parking  
10 violations as defined in section 321.210, violations of  
11 registration laws, violations of sections 321.445 and 321.446,  
12 violations of ~~section~~ sections 321.276 and 321.276A, operating  
13 a vehicle with an expired license or permit, failure to appear,  
14 weights and measures violations and speeding violations of less  
15 than fifteen miles per hour over the legal speed limit.

16 Sec. 8. Section 805.8A, subsection 14, Code 2013, is amended  
17 by adding the following new paragraph:

18 NEW PARAGRAPH. *m. Mobile telephone violations.* For  
19 violations under section 321.276A, the scheduled fine is thirty  
20 dollars.

21 EXPLANATION

22 This bill prohibits a person from driving a motor vehicle  
23 while using a mobile telephone unless the mobile telephone  
24 is specifically designed and configured to allow hands-free  
25 listening and talking and is used in that manner. The bill  
26 does not apply to the driver of a motor vehicle when the motor  
27 vehicle is at a complete stop off the roadway. In addition,  
28 the bill exempts the following persons from the prohibition: a  
29 member of a public safety agency performing official duties;  
30 a health care professional in the course of an emergency  
31 situation; and a person receiving safety-related information  
32 including emergency, traffic, or weather alerts. These are the  
33 same exemptions that currently apply under Iowa law prohibiting  
34 text-messaging while driving.

35 The bill defines "mobile telephone" to mean the same

1 as defined in federal motor carrier safety administration  
2 regulations. Under that definition, "mobile telephone" means  
3 a mobile communication device that falls under or uses any  
4 commercial mobile radio service, as defined in regulations of  
5 the federal communications commission. The federal definition  
6 explicitly excludes two-way or citizens band radio services.

7 The bill amends current provisions prohibiting  
8 text-messaging while driving to specify that a person does not  
9 violate the text-messaging provisions by using a fixed unit  
10 global positioning system or navigation system. "Fixed unit  
11 global positioning system or navigation system" is defined as  
12 an electronic device mounted inside a motor vehicle and capable  
13 of providing navigation directions to a driver based on data  
14 entered into the device prior to operating the motor vehicle.  
15 The bill also strikes a current exception to the prohibition  
16 on text-messaging while driving which applies to a person  
17 selecting or entering a telephone number or name in a hand-held  
18 mobile telephone or activating, deactivating, or initiating a  
19 function of a hand-held mobile telephone.

20 The penalties established in the bill mirror the penalties  
21 currently applicable for text-messaging while driving. A  
22 person who uses a mobile telephone while driving in violation  
23 of the bill commits a simple misdemeanor punishable by  
24 a scheduled fine of \$30. The offense is not a moving  
25 violation, and therefore cannot be considered for purposes of  
26 administrative suspension of a driver's license or to establish  
27 habitual offender status. However, if the violation causes a  
28 serious injury, a court could impose an additional fine of \$500  
29 or suspend the person's driver's license for not more than 90  
30 days, or both. If the violation causes a death, a court could  
31 impose an additional fine of \$1,000 or suspend the person's  
32 driver's license for not more than 180 days, or both.

33 The ban on the use of a hand-held mobile telephone while  
34 driving is enforceable only as a secondary action when a driver  
35 has been stopped or detained for a suspected violation of

H.F. 412

1 another law. The bill does not authorize a peace officer to  
2 confiscate a mobile telephone from a driver or occupant of a  
3 motor vehicle.