

**Senate File 2248 - Introduced**

SENATE FILE 2248

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 3045)

**A BILL FOR**

1 An Act relating to the use of an electronic communication  
2 device in a voice-activated or hands-free mode while  
3 driving, and providing penalties.

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

1 Section 1. Section 321.178, subsection 2, paragraph  
2 a, subparagraph (2), Code 2020, is amended by striking the  
3 subparagraph.

4 Sec. 2. Section 321.178, subsection 2, paragraphs b and c,  
5 Code 2020, are amended to read as follows:

6 ~~b. The department may suspend a restricted driver's license~~  
7 ~~issued under [this section](#) upon receiving satisfactory evidence~~  
8 ~~that the licensee has violated the restrictions imposed under~~  
9 ~~paragraph "a", subparagraph (2), subparagraph division (a).~~  
10 The department may also suspend a restricted license issued  
11 under [this section](#) upon receiving a record of the person's  
12 conviction for one violation and shall revoke the license upon  
13 receiving a record of conviction for two or more violations  
14 of a law of this state or a city ordinance regulating the  
15 operation of motor vehicles on highways, other than parking  
16 violations as defined in [section 321.210](#). After revoking a  
17 license under [this section](#) the department shall not grant an  
18 application for a new license or permit until the expiration  
19 of one year or until the person attains the age of eighteen,  
20 whichever is the longer period.

21 ~~c. A person who violates the restrictions imposed under~~  
22 ~~paragraph "a", subparagraph (2), subparagraph division (a),~~  
23 ~~may be issued a citation under [this section](#) and shall not be~~  
24 ~~issued a citation under [section 321.193](#). A violation of the~~  
25 ~~restrictions imposed under paragraph "a", subparagraph (2),~~  
26 ~~subparagraph division (a), shall not be considered a moving~~  
27 ~~violation.~~

28 Sec. 3. Section 321.180B, subsection 3, paragraph b, Code  
29 2020, is amended to read as follows:

30 ~~b. The department may suspend an instruction permit,~~  
31 intermediate license, or full license issued under [this section](#)  
32 upon receiving satisfactory evidence that the person issued  
33 the instruction permit, intermediate license, or full license  
34 violated the restrictions imposed under subsection 1, or 2, ~~or~~  
35 6 during the term of the instruction permit or intermediate

1 license.

2 Sec. 4. Section 321.180B, subsection 6, Code 2020, is  
3 amended by striking the subsection.

4 Sec. 5. Section 321.180B, subsection 7, Code 2020, is  
5 amended to read as follows:

6 7. *Citations for violation of restrictions.* A person who  
7 violates the restrictions imposed under subsection ~~17~~ or 27 ~~or~~  
8 6 may be issued a citation under [this section](#) and shall not be  
9 issued a citation under [section 321.193](#). A violation of the  
10 restrictions imposed under subsection ~~17~~ or 27 ~~or 6~~ shall not  
11 be considered a moving violation.

12 Sec. 6. Section 321.194, subsection 2, paragraph b,  
13 subparagraph (2), Code 2020, is amended by striking the  
14 subparagraph.

15 Sec. 7. Section 321.210, subsection 2, paragraph e, Code  
16 2020, is amended by striking the paragraph.

17 Sec. 8. Section 321.276, subsection 1, Code 2020, is amended  
18 by striking the subsection and inserting in lieu thereof the  
19 following:

20 1. For purposes of this section:

21 a. *“Electronic communication device”* means an electronic  
22 device capable of being used to compose, send, receive, or  
23 read an electronic message. *“Electronic communication device”*  
24 includes but is not limited to a telephone, personal digital  
25 assistant, and portable or mobile computer. *“Electronic*  
26 *communication device”* does not include a device that is  
27 physically or electronically integrated into a motor vehicle,  
28 including but not limited to an integrated global positioning  
29 system or navigation system.

30 b. *“Voice-activated or hands-free mode”* means an attachment,  
31 accessory, application, wireless connection, or built-in  
32 feature of an electronic communication device or motor vehicle  
33 that allows a person to use verbal or single-touch commands to  
34 activate or deactivate the device or a function or software  
35 application of the device. *“Voice-activated or hands-free*

1 *mode*” does not include accessing nonnavigation video content,  
2 engaging in a video call, accessing or engaging in video  
3 streaming, accessing gaming data, or reading an electronic  
4 message.

5 Sec. 9. Section 321.276, subsections 2, 3, and 4, Code 2020,  
6 are amended to read as follows:

7 2. A person shall not use ~~a hand-held~~ an electronic  
8 communication device ~~to write, send, or view an electronic~~  
9 ~~message~~ while driving a motor vehicle unless the motor vehicle  
10 is at a complete stop off the traveled portion of the roadway.

11 a. A person does not violate this section by using ~~a global~~  
12 ~~positioning system or navigation system or when, for the~~  
13 ~~purpose of engaging in a call, the person selects or enters a~~  
14 ~~telephone number or name in a hand-held mobile telephone or~~  
15 ~~activates, deactivates, or initiates a function of a hand-held~~  
16 ~~mobile telephone~~ an electronic communication device in a  
17 voice-activated or hands-free mode.

18 b. The provisions of this subsection relating to ~~writing,~~  
19 ~~sending, or viewing an electronic message~~ the use of an  
20 electronic communication device do not apply to the following  
21 persons:

22 (1) A member of a public safety agency, as defined in  
23 section 34.1, performing official duties.

24 (2) A health care professional in the course of an emergency  
25 situation.

26 (3) A person receiving safety-related information including  
27 emergency, ~~traffic,~~ or weather alerts.

28 (4) A person using an electronic communication device for  
29 the purpose of reporting an emergency situation, including any  
30 continued communication with emergency personnel during the  
31 emergency situation.

32 (5) A person using a two-way radio transmitter or receiver  
33 who is licensed with the federal communications commission in  
34 amateur radio service.

35 3. Nothing in this section shall be construed to authorize

1 a peace officer to confiscate a ~~hand-held~~ an electronic  
2 communication device from the driver or occupant of a motor  
3 vehicle.

4 4. a. A person convicted of a violation of this section  
5 is guilty of a simple misdemeanor punishable as a scheduled  
6 violation under [section 805.8A, subsection 14](#), paragraph "1".

7 b. A violation of this section shall ~~not~~ be considered a  
8 moving violation for purposes of [this chapter](#) or rules adopted  
9 pursuant to [this chapter](#).

10 c. Notwithstanding paragraphs "a" and "b", a peace officer  
11 shall issue a warning memorandum in lieu of a citation to a  
12 person for violating this section. This paragraph is repealed  
13 January 1, 2021.

14 Sec. 10. Section 321.482A, unnumbered paragraph 1, Code  
15 2020, is amended to read as follows:

16 Notwithstanding [section 321.482](#), a person who is convicted  
17 of operating a motor vehicle in violation of ~~section 321.178,~~  
18 ~~subsection 2, paragraph "a", subparagraph (2), section~~  
19 ~~321.180B, subsection 6, [section 321.194, subsection 2,](#)~~  
20 ~~paragraph "b", subparagraph (2), [section 321.256, 321.257,](#)~~  
21 ~~section 321.275, subsection 4, [section 321.276, 321.297,](#)~~  
22 ~~321.298, [321.299, 321.302, 321.303, 321.304, 321.305, 321.306,](#)~~  
23 ~~321.307, [321.311, 321.319, 321.320, 321.321, 321.322, 321.323,](#)~~  
24 ~~321.324, [321.324A, 321.327, 321.329, 321.333,](#) section 321.372,~~  
25 ~~subsection 3, or [section 321.449B](#), causing serious injury to~~  
26 ~~or the death of another person may be subject to the following~~  
27 ~~penalties in addition to the penalty provided for a scheduled~~  
28 ~~violation in [section 805.8A](#) or any other penalty provided by~~  
29 ~~law:~~

30 Sec. 11. Section 321.555, subsection 2, Code 2020, is  
31 amended to read as follows:

32 2. Six or more of any separate and distinct offenses within  
33 a two-year period in the operation of a motor vehicle, which  
34 are required to be reported to the department by section  
35 321.491 or [chapter 321C](#), except equipment violations, parking

1 violations as defined in [section 321.210](#), violations of  
2 registration laws, violations of [sections 321.445](#) and [321.446](#),  
3 ~~violations of [section 321.276](#)~~, operating a vehicle with an  
4 expired license or permit, failure to appear, weights and  
5 measures violations and speeding violations of less than  
6 fifteen miles per hour over the legal speed limit.

7 Sec. 12. Section 707.6A, subsection 2, paragraph a,  
8 subparagraphs (1), (2), and (3), Code 2020, are amended by  
9 striking the subparagraphs and inserting in lieu thereof the  
10 following:

11 (1) For purposes of this paragraph "a", a person's use of an  
12 electronic communication device while driving a motor vehicle  
13 shall be considered prima facie evidence that the person was  
14 driving the motor vehicle in a reckless manner with willful  
15 or wanton disregard for the safety of persons or property, in  
16 violation of [section 321.277](#).

17 (2) Subparagraph (1) does not apply to any of the following:

18 (a) A member of a public safety agency, as defined in  
19 [section 34.1](#), performing official duties.

20 (b) A health care professional in the course of an emergency  
21 situation.

22 (c) A person receiving safety-related information including  
23 emergency or weather alerts.

24 (d) A person using an electronic communication device for  
25 the purpose of reporting an emergency situation, including any  
26 continued communication with emergency personnel during the  
27 emergency situation.

28 (e) A person using an electronic communication device in a  
29 voice-activated or hands-free mode.

30 (f) A person using a two-way radio transmitter or receiver  
31 who is licensed with the federal communications commission in  
32 amateur radio service.

33 (3) For purposes of this paragraph "a", the following  
34 definitions apply:

35 (a) "*Electronic communication device*" means the same as

1 defined in section 321.276.

2 (b) *"Voice-activated or hands-free mode"* means the same as  
3 defined in section 321.276.

4 Sec. 13. Section 805.8A, subsection 4, paragraph c, Code  
5 2020, is amended by striking the paragraph.

6 Sec. 14. Section 805.8A, subsection 14, paragraph 1, Code  
7 2020, is amended to read as follows:

8 1. ~~*Writing, sending, or viewing an*~~ *Use of electronic message*  
9 *communication device while driving violations.* For violations  
10 under [section 321.276](#), the scheduled fine is thirty dollars.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with  
13 the explanation's substance by the members of the general assembly.

14 Under current law, Code section 321.276 prohibits the use  
15 of hand-held electronic communication devices to write, send,  
16 or view electronic messages while driving a motor vehicle.  
17 This bill expands Code section 321.276 to prohibit any use  
18 of an electronic communication device while driving. The  
19 bill defines the terms "electronic communication device" and  
20 "voice-activated or hands-free mode".

21 The bill exempts the use of an electronic communication  
22 device in a voice-activated or hands-free mode, for members of  
23 a public safety agency performing official duties, for health  
24 care professionals in the course of emergency situations, for  
25 the purpose of receiving safety-related information, for the  
26 purpose of reporting an emergency situation, and for certain  
27 radio operators.

28 The bill makes a violation of Code section 321.276 a moving  
29 violation. Under current law, a moving violation can be  
30 considered for purposes of administrative suspension of a  
31 driver's license or to establish habitual offender status.  
32 However, a peace officer is required to issue a warning  
33 memorandum in lieu of a citation for violations that occur  
34 during the period of time between the effective date of the  
35 bill and January 1, 2021.

1 Violations of Code section 321.276 are punishable by a  
2 scheduled fine of \$30. Under Code section 321.482A, if the  
3 violation causes a serious injury, a court could impose an  
4 additional fine of \$500 or suspend the person's driver's  
5 license for not more than 90 days, or both. If the violation  
6 causes a death, a court could impose an additional fine of  
7 \$1,000 or suspend the person's driver's license for not more  
8 than 180 days, or both.

9 The bill makes corresponding changes to Code section 707.6A  
10 (homicide or serious injury by vehicle) to align the provisions  
11 of that Code section related to the use of an electronic  
12 communication device while driving to the provisions of Code  
13 section 321.276 as amended by the bill. The bill also makes  
14 corresponding changes to Code sections 321.178, 321.180B,  
15 and 321.194, by striking provisions relating to the use of  
16 electronic communication devices while driving by persons  
17 under the age of 18 who are issued certain types of driver's  
18 licenses, thereby making Code section 321.276 as amended by the  
19 bill applicable to such persons.