

House File 392 - Introduced

HOUSE FILE 392

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HF 75)

A BILL FOR

1 An Act relating to the use of an electronic device in a
2 voice-activated or hands-free mode while driving, providing
3 penalties, and making penalties applicable.
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 2021, is amended by striking the
3 subparagraph.

4 Sec. 2. Section 321.178, subsection 2, paragraphs b and c,
5 Code 2021, 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 2021, 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 2021, is
3 amended by striking the subsection.

4 Sec. 5. Section 321.180B, subsection 7, Code 2021, 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 2021, is amended by striking the
14 subparagraph.

15 Sec. 7. Section 321.210, subsection 2, paragraph e, Code
16 2021, is amended by striking the paragraph.

17 Sec. 8. Section 321.238, Code 2021, is amended to read as
18 follows:

19 **321.238 Use of electronic devices while driving — preemption**
20 **of local legislation.**

21 The provisions of [this chapter](#) restricting the use of
22 electronic ~~communication devices and electronic entertainment~~
23 devices by motor vehicle operators shall be implemented
24 uniformly throughout the state. Such provisions shall preempt
25 any county or municipal ordinance regarding the use of an
26 electronic ~~communication device or electronic entertainment~~
27 device by a motor vehicle operator. In addition, a county or
28 municipality shall not adopt or continue in effect an ordinance
29 regarding the use of an electronic ~~communication device or~~
30 ~~electronic entertainment~~ device by a motor vehicle operator.

31 Sec. 9. Section 321.276, subsection 1, Code 2021, is amended
32 by striking the subsection and inserting in lieu thereof the
33 following:

34 1. For purposes of this section:

35 a. "Electronic device" means a device powered by electricity

1 that is capable of being used to compose, send, receive, or
2 read an electronic message, or that is capable of storing,
3 retrieving on-demand, or displaying videos, movies, broadcast
4 television images, visual images, or audio or video data
5 files. "Electronic device" includes but is not limited to
6 a telephone, personal digital assistant, portable or mobile
7 computer, and any substantially similar portable device that is
8 used to initiate, store, or receive electronic communication,
9 information, or data. "Electronic device" does not include a
10 device that is physically or electronically integrated into
11 a motor vehicle, including but not limited to an integrated
12 global positioning system or navigation system.

13 b. "Voice-activated or hands-free mode" means an attachment,
14 accessory, application, wireless connection, or built-in
15 feature of an electronic device or motor vehicle that allows a
16 person to use verbal or single-touch commands to activate or
17 deactivate the device or a function or software application
18 of the device. "Voice-activated or hands-free mode" does not
19 include accessing nonnavigation video content, engaging in a
20 video call, accessing or engaging in video streaming, accessing
21 gaming data, or reading an electronic message.

22 Sec. 10. Section 321.276, subsections 2, 3, and 4, Code
23 2021, are amended to read as follows:

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

28 a. A person does not violate this section by using a ~~global~~
29 ~~positioning system or navigation system or when, for the~~
30 ~~purpose of engaging in a call, the person selects or enters a~~
31 ~~telephone number or name in a hand-held mobile telephone or~~
32 ~~activates, deactivates, or initiates a function of a hand-held~~
33 ~~mobile telephone~~ an electronic device in a voice-activated or
34 hands-free mode.

35 b. The provisions of **this subsection** relating to ~~writing,~~

1 ~~sending, or viewing an electronic message~~ the use of an
2 electronic device do not apply to the following persons:

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

5 (2) A health care professional in the course of an emergency
6 situation.

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

9 (4) A person using an electronic device for the purpose
10 of reporting an emergency situation, including any continued
11 communication with emergency personnel during the emergency
12 situation, or public transit personnel responding to a
13 transit-specific situation.

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

17 (6) A member of a public transit system, as defined in
18 section 324A.1, performing official duties while in a vehicle
19 that is not in motion.

20 (7) A utility maintenance employee or contractor using
21 an electronic device while in a utility maintenance vehicle,
22 for the purpose of providing utility services including
23 but not limited to cable, electric, natural gas, telephone,
24 telecommunication, water, and wastewater treatment services,
25 provided the employee or contractor is acting within the scope
26 of their employment or agency.

27 (8) A transportation network company driver, as defined in
28 section 321N.1, while engaged in a prearranged ride, as defined
29 in section 321N.1, provided the vehicle is not in motion.

30 3. Nothing in **this section** shall be construed to authorize
31 a peace officer to confiscate a ~~hand-held~~ an electronic
32 ~~communication~~ device from the driver or occupant of a motor
33 vehicle.

34 4. a. A person convicted of a violation of this section
35 is guilty of a simple misdemeanor punishable as a scheduled

1 violation under [section 805.8A, subsection 14](#), paragraph "1".

2 *b.* A violation of this section shall ~~not~~ be considered a
3 moving violation for purposes of [this chapter](#) or rules adopted
4 pursuant to [this chapter](#).

5 *c.* Notwithstanding paragraphs "a" and "b", a peace officer
6 shall issue a warning memorandum in lieu of a citation to a
7 person for violating this section. This paragraph is repealed
8 January 1, 2022.

9 Sec. 11. Section 321.482A, unnumbered paragraph 1, Code
10 2021, is amended to read as follows:

11 Notwithstanding [section 321.482](#), a person who is convicted
12 of operating a motor vehicle in violation of ~~section 321.178,~~
13 ~~subsection 2, paragraph "a", subparagraph (2), section~~
14 ~~321.180B, subsection 6, [section 321.194, subsection 2,](#)~~
15 ~~paragraph "b", subparagraph (2), [section 321.256, 321.257,](#)~~
16 [section 321.275, subsection 4, \[section 321.276, 321.297,\]\(#\)](#)
17 [321.298, \[321.299, 321.302, 321.303, 321.304, 321.305, 321.306,\]\(#\)](#)
18 [321.307, \[321.311, 321.319, 321.320, 321.321, 321.322, 321.323,\]\(#\)](#)
19 [321.324, \[321.324A, 321.327, 321.329, 321.333,\]\(#\) section 321.372,](#)
20 [subsection 3, or \[section 321.449B,\]\(#\) causing serious injury to](#)
21 [or the death of another person may be subject to the following](#)
22 [penalties in addition to the penalty provided for a scheduled](#)
23 [violation in \[section 805.8A\]\(#\) or any other penalty provided by](#)
24 [law:](#)

25 Sec. 12. Section 321.555, subsection 2, Code 2021, is
26 amended to read as follows:

27 2. Six or more of any separate and distinct offenses within
28 a two-year period in the operation of a motor vehicle, which
29 are required to be reported to the department by section
30 321.491 or [chapter 321C](#), except equipment violations, parking
31 violations as defined in [section 321.210](#), violations of
32 registration laws, violations of [sections 321.445 and 321.446,](#)
33 ~~violations of [section 321.276,](#) operating a vehicle with an~~
34 ~~expired license or permit, failure to appear, weights and~~
35 ~~measures violations and speeding violations of less than~~

1 fifteen miles per hour over the legal speed limit.

2 Sec. 13. Section 707.6A, subsection 2, paragraph a,
3 subparagraphs (1), (2), and (3), Code 2021, are amended by
4 striking the subparagraphs and inserting in lieu thereof the
5 following:

6 (1) For purposes of this paragraph "a", a person's use of
7 an electronic device while driving a motor vehicle shall be
8 considered prima facie evidence that the person was driving
9 the motor vehicle in a reckless manner with willful or wanton
10 disregard for the safety of persons or property, in violation
11 of section 321.277.

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

13 (a) A person using an electronic device in a voice-activated
14 or hands-free mode.

15 (b) A member of a public safety agency, as defined in
16 section 34.1, performing official duties.

17 (c) A health care professional in the course of an emergency
18 situation.

19 (d) A person receiving safety-related information including
20 emergency or weather alerts.

21 (e) A person using an electronic device for the purpose
22 of reporting an emergency situation, including any continued
23 communication with emergency personnel during the emergency
24 situation, or public transit personnel responding to a
25 transit-specific situation.

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

29 (g) A member of a public transit system, as defined in
30 section 324A.1, performing official duties while in a vehicle
31 that is not in motion.

32 (h) A utility maintenance employee or contractor using
33 an electronic device while in a utility maintenance vehicle,
34 for the purpose of providing utility services including
35 but not limited to cable, electric, natural gas, telephone,

1 telecommunication, water, and wastewater treatment services,
2 provided the employee or contractor is acting within the scope
3 of their employment or agency.

4 (i) A transportation network company driver, as defined in
5 section 321N.1, while engaged in a prearranged ride, as defined
6 in section 321N.1, provided the vehicle is not in motion.

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

9 (a) "Electronic device" means the same as defined in section
10 321.276.

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

13 Sec. 14. Section 805.8A, subsection 4, paragraph c, Code
14 2021, is amended by striking the paragraph.

15 Sec. 15. Section 805.8A, subsection 14, paragraph 1, Code
16 2021, is amended to read as follows:

17 1. ~~Writing, sending, or viewing an~~ Use of electronic message
18 device while driving violations. For violations under section
19 321.276, the scheduled fine is ~~forty-five~~ one hundred dollars.

20 EXPLANATION

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

23 Under current law, Code section 321.276 prohibits the use of
24 hand-held electronic communication devices to write, send, or
25 view electronic messages while driving a motor vehicle. This
26 bill expands Code section 321.276 to prohibit any use of an
27 electronic device while driving. The bill defines the terms
28 "electronic device" and "voice-activated or hands-free mode".

29 The bill exempts the use of an electronic device in a
30 voice-activated or hands-free mode, for members of a public
31 safety agency performing official duties, for health care
32 professionals in the course of emergency situations, for the
33 purpose of receiving safety-related information, for the
34 purpose of reporting an emergency situation, for certain radio
35 operators, for members of a public transit system performing

1 official duties while in a vehicle that is not in motion, for
2 utility maintenance employees or contractors for the purpose
3 of providing utility services, and for transportation network
4 company drivers engaged in a prearranged ride while the vehicle
5 is not in motion.

6 The bill makes a violation of Code section 321.276 a moving
7 violation. Under current law, a moving violation can be
8 considered for purposes of administrative suspension of a
9 driver's license or to establish habitual offender status.
10 However, a peace officer is required to issue a warning
11 memorandum in lieu of a citation for violations that occur
12 during the period of time between the effective date of the
13 bill and January 1, 2022.

14 The bill increases the scheduled fine for a violation of Code
15 section 321.276 from \$45 to \$100. Under Code section 321.482A,
16 if the violation causes a serious injury, a court could impose
17 an additional fine of \$500 or suspend the person's driver's
18 license for not more than 90 days, or both. If the violation
19 causes a death, a court could impose an additional fine of
20 \$1,000 or suspend the person's driver's license for not more
21 than 180 days, or both.

22 The bill makes corresponding changes to Code sections
23 321.238 (preemption of local legislation) and 707.6A (homicide
24 or serious injury by vehicle) to align those provisions to the
25 provisions of Code section 321.276 as amended by the bill.
26 The bill also makes corresponding changes to Code sections
27 321.178, 321.180B, and 321.194, by striking provisions relating
28 to the use of electronic communication devices while driving
29 by persons under the age of 18 who are issued certain types
30 of driver's licenses, thereby making Code section 321.276 as
31 amended by the bill applicable to such persons.