

**Senate File 46 - Introduced**

SENATE FILE 46

BY LOFGREN and WHITING

**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, providing penalties, and making penalties  
4 applicable.

5 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 321.276, subsection 1, Code 2021, 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 2021,  
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, or public transit personnel responding to  
32 a transit-specific situation.

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

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

4     3. Nothing in this section shall be construed to authorize  
5 a peace officer to confiscate a ~~hand-held~~ an electronic  
6 communication device from the driver or occupant of a motor  
7 vehicle.

8     4. *a.* A person 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 14, paragraph "1".

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

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 This paragraph is repealed  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

18     Sec. 10. Section 321.482A, unnumbered paragraph 1, Code  
19 2021, is amended to read as follows:

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

34     Sec. 11. Section 321.555, subsection 2, Code 2021, is  
35 amended to read as follows:

1 2. Six or more of any separate and distinct offenses within  
2 a two-year period in the operation of a motor vehicle, which  
3 are required to be reported to the department by section  
4 321.491 or [chapter 321C](#), except equipment violations, parking  
5 violations as defined in [section 321.210](#), violations of  
6 registration laws, violations of [sections 321.445](#) and [321.446](#),  
7 ~~violations of [section 321.276](#)~~, operating a vehicle with an  
8 expired license or permit, failure to appear, weights and  
9 measures violations and speeding violations of less than  
10 fifteen miles per hour over the legal speed limit.

11 Sec. 12. Section 707.6A, subsection 2, paragraph a,  
12 subparagraphs (1), (2), and (3), Code 2021, are amended by  
13 striking the subparagraphs and inserting in lieu thereof the  
14 following:

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

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

22 (a) A person using an electronic communication device in a  
23 voice-activated or hands-free mode.

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

26 (c) A health care professional in the course of an emergency  
27 situation.

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

30 (e) A person using an electronic communication device for  
31 the purpose of reporting an emergency situation, including any  
32 continued communication with emergency personnel during the  
33 emergency situation, or public transit personnel responding to  
34 a transit-specific situation.

35 (f) A person using a two-way radio transmitter or receiver

1 who is licensed with the federal communications commission in  
2 amateur radio service.

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

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

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

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

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

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

16 1. ~~Writing, sending, or viewing an~~ Use of electronic message  
17 communication device while driving violations. For violations  
18 under [section 321.276](#), the scheduled fine is ~~forty-five~~ one  
19 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  
24 of hand-held electronic communication devices to write, send,  
25 or view electronic messages while driving a motor vehicle.  
26 This bill expands Code section 321.276 to prohibit any use  
27 of an electronic communication device while driving. The  
28 bill defines the terms "electronic communication device" and  
29 "voice-activated or hands-free mode".

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

1 radio operators, and for members of a public transit system  
2 performing official duties while in a vehicle that is not in  
3 motion.

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

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

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