

House File 64 - Introduced

HOUSE FILE 64

BY A. MEYER

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 2023, is amended by striking the
3 subparagraph.

4 Sec. 2. Section 321.178, subsection 2, paragraphs b and c,
5 Code 2023, 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 2023, 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 2023, is
3 amended by striking the subsection.

4 Sec. 5. Section 321.180B, subsection 7, Code 2023, 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 2023, is amended by striking the
14 subparagraph.

15 Sec. 7. Section 321.210, subsection 2, paragraph e, Code
16 2023, is amended by striking the paragraph.

17 Sec. 8. Section 321.238, Code 2023, 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 2023, 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 that is powered by

1 electricity, including by a battery, and that is capable of
2 being used to compose, send, receive, or read an electronic
3 message, or that is capable of storing, retrieving on-demand,
4 or displaying videos, movies, broadcast television images,
5 visual images, or audio or video data files. *“Electronic*
6 *device”* includes but is not limited to a telephone including
7 a cellular telephone, personal digital assistant, portable
8 or mobile computer including a tablet, two-way messaging
9 device, electronic gaming device, and any substantially similar
10 portable device that is used to initiate, store, or receive
11 electronic communication, information, or data. *“Electronic*
12 *device”* does not include a device that is physically or
13 electronically integrated into a motor vehicle, including but
14 not limited to an integrated global positioning system or
15 navigation system when the destination is entered into such
16 system before the vehicle is in motion.

17 *b. “Use”* includes but is not limited to holding, viewing, or
18 manipulating an electronic device.

19 *c. “Voice-activated or hands-free mode”* means an attachment,
20 accessory, application, wireless connection, or built-in
21 feature of an electronic device or motor vehicle that allows
22 a person to use verbal commands or a single touch to activate
23 or deactivate the device or a function or software application
24 of the device. *“Voice-activated or hands-free mode”* does not
25 include accessing nonnavigation video content, engaging in a
26 video call, accessing or engaging in video streaming, accessing
27 gaming data, or reading an electronic message or notification.

28 Sec. 10. Section 321.276, subsections 2, 3, and 4, Code
29 2023, are amended to read as follows:

30 2. A person shall not use a ~~hand-held~~ and electronic
31 ~~communication device to write, send, or view an electronic~~
32 ~~message~~ while driving a motor vehicle unless the motor vehicle
33 is at a complete stop off the traveled portion of the roadway,
34 or as far away from the center of the roadway as is practicable
35 if the vehicle cannot be entirely removed from the traveled

1 portion of the roadway.

2 ~~a. A person does not violate this section by using a global~~
3 ~~positioning system or navigation system or when, for the~~
4 ~~purpose of engaging in a call, the person selects or enters a~~
5 ~~telephone number or name in a hand-held mobile telephone or~~
6 ~~activates, deactivates, or initiates a function of a hand-held~~
7 ~~mobile telephone~~ an electronic device in a voice-activated or
8 hands-free mode.

9 ~~b. The provisions of this subsection relating to writing,~~
10 ~~sending, or viewing an electronic message~~ the use of an
11 electronic device do not apply to the following persons:

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

14 (2) A health care professional in the course of an emergency
15 situation.

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

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

23 (5) A person operating an implement of husbandry.

24 (6) A person using a two-way radio transmitter or receiver,
25 including a citizens band radio or amateur radio equipment.

26 (7) A member of a public transit system, as defined in
27 section 324A.1, performing official duties while in a vehicle
28 that is not in motion.

29 (8) A utility maintenance employee or contractor using
30 an electronic device while in a utility maintenance vehicle,
31 for the purpose of providing utility services including
32 but not limited to cable, electric, natural gas, telephone,
33 telecommunication, water, and wastewater treatment services,
34 provided the employee or contractor is acting within the scope
35 of their employment or agency.

1 (9) A transportation network company driver, as defined in
2 section 321N.1, while engaged in a prearranged ride, as defined
3 in section 321N.1, provided the vehicle is not in motion.

4 (10) A person using an electronic device for the purpose of
5 accessing or using a fleet management system.

6 3. Nothing in this section shall be construed to authorize
7 a peace officer to confiscate a ~~hand-held~~ an electronic
8 ~~communication~~ device from the driver or occupant of a motor
9 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 "1".

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

16 *c.* Notwithstanding paragraphs "a" and "b", a peace officer
17 shall issue a warning memorandum in lieu of a citation to a
18 person for violating this section. This paragraph is repealed
19 January 1, 2024.

20 Sec. 11. Section 321.482A, unnumbered paragraph 1, Code
21 2023, is amended to read as follows:

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

1 Sec. 12. Section 321.555, subsection 2, Code 2023, is
2 amended to read as follows:

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

13 Sec. 13. Section 707.6A, subsection 2, paragraph a,
14 subparagraphs (1), (2), and (3), Code 2023, are amended by
15 striking the subparagraphs and inserting in lieu thereof the
16 following:

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

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

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

26 (b) A person listed in section 321.276, subsection 2,
27 paragraph "b".

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

30 (a) "*Electronic device*" means the same as defined in section
31 321.276.

32 (b) "*Use*" means the same as defined in section 321.276.

33 (c) "*Voice-activated or hands-free mode*" means the same as
34 defined in section 321.276.

35 Sec. 14. Section 805.8A, subsection 4, paragraph c, Code

1 2023, is amended by striking the paragraph.

2 Sec. 15. Section 805.8A, subsection 14, paragraph 1, Code
3 2023, is amended to read as follows:

4 1. ~~Writing, sending, or viewing an~~ Use of electronic message
5 device while driving violations. For violations under section
6 321.276, the scheduled fine is ~~forty-five~~ one hundred dollars.

7 EXPLANATION

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

10 Under current law, Code section 321.276 prohibits the use of
11 hand-held electronic communication devices to write, send, or
12 view electronic messages while driving a motor vehicle. This
13 bill expands Code section 321.276 to prohibit any use of an
14 electronic device while driving. The bill defines the terms
15 "electronic device", "use", and "voice-activated or hands-free
16 mode". The bill allows the use of an electronic device if the
17 vehicle is at a complete stop off the traveled portion of the
18 roadway, or as far away from the center of the roadway as is
19 practicable if the vehicle cannot be entirely removed.

20 The bill provides exceptions for the use of an electronic
21 device in a voice-activated or hands-free mode, for members of
22 a public safety agency performing official duties, for health
23 care professionals in the course of emergency situations,
24 for the purpose of receiving safety-related information,
25 for the purpose of reporting an emergency situation, for
26 persons operating an implement of husbandry, for certain radio
27 operators, for members of a public transit system performing
28 official duties while in a vehicle that is not in motion, for
29 utility maintenance employees or contractors for the purpose of
30 providing utility services, for transportation network company
31 drivers engaged in a prearranged ride while the vehicle is
32 not in motion, and for persons using an electronic device for
33 the purpose of accessing or using a fleet management system.
34 Under current law, to be considered an implement of husbandry,
35 a vehicle must be manufactured, designed, or reconstructed

1 for agricultural purposes, exclusively used in the conduct
2 of agricultural operations except for incidental uses, and
3 operated at speeds of 35 miles per hour or less.

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 between the effective date of the bill and
11 January 1, 2024.

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 a person is convicted for a violation and the violation
15 causes a serious injury, a court could impose an additional
16 fine of \$500 or suspend the person's driver's license for not
17 more than 90 days, or both. If a person is convicted for a
18 violation and the violation causes a death, a court could
19 impose an additional fine of \$1,000 or suspend the person's
20 driver's license for not more than 180 days, or both. By
21 operation of law, a person issued a warning memorandum under
22 the bill is not subject to the enhanced penalties under Code
23 section 321.482A.

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