

Motor Vehicle Division Informational Memo # 18-08

2018 Legislation – Charges for Driving a Commercial Motor Vehicle while Texting or Using a Handheld Mobile Phone

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FROM: Sara Siedsma, Compliance Officer, MVD

TO: All Driver and Identification Services (DIS) staff, Iowa County Treasurers and County Treasurers' staff that issue driver's licenses and non-operator's identification cards and Motor Vehicle Enforcement

SUBJECT

This informational memo explains legislation enacted during the 2018 legislative session adding a separate and distinct code section for commercial motor vehicle (CMV) operators that are charged with driving a CMV while texting or using a handheld mobile phone.

SUMMARY

Federal regulations prohibit a person from texting or using a handheld mobile phone while driving a CMV. These provisions are more restrictive than Iowa's general texting-while-driving law in Iowa Code section 321.276, which does not prohibit handheld mobile phone use. While Iowa has adopted the federal regulations in Iowa Code section 321.449, which generally adopts the federal motor carrier safety regulations, the statutory structure in 321.449 did not allow the citations to be distinctly tracked and distinguished on a person's driver record. To correct this and avoid a finding of federal noncompliance, these violations will be set out in a new, distinct code section that can be specifically cited and will allow the citations to be properly identified and tracked on the driver's record. **This legislation is effective July 1, 2018.**

LINK TO LEGISLATION

2018 Iowa Acts, House File 2196:

<https://www.legis.iowa.gov/docs/publications/LGE/87/HF2196.pdf>

CURRENT

Under previous Iowa law, the violations of driving a CMV while texting or using a handheld mobile phone could not be separately tracked and associated with a person's driving record, setting Iowa up for a finding of federal noncompliance.

NEW

Iowa Code section 321.449B was adopted and is a new, distinct code section that can be specifically cited and will allow the citations for driving a CMV while texting or using a handheld mobile phone to be properly identified and tracked on the driver's record

BUSINESS IMPACT

The legislation clarifies the current prohibition against texting or using a handheld mobile phone while driving CMV, but does not cause any change in processes or procedures for DIS staff.

HELPFUL QUESTIONS AND ANSWERS

The following questions and answers provide additional information that will be helpful to you and to customers.

DOES THIS LAW CHANGE CREATE A NEW OFFENSE OR NEW DISQUALIFICATION REASON FOR CMV DRIVERS?

No, as mentioned above, Iowa already adopted the federal regulations prohibiting texting or using a handheld mobile phone while driving a CMV. Iowa Code section 321.208(5)(i) and (j) also already provides that a conviction of either of those offenses will count towards a disqualification of the commercial driver's license (CDL). This new law merely creates a new code section allowing those existing offense to be tracked and identified more accurately.

DOES THIS LAW CHANGE APPLY TO NON-COMMERCIAL DRIVERS?

No, as mentioned above, this law is directed towards individuals operating a commercial motor vehicle and who are required to have a Commercial Learner's Permit (CLP) or Commercial Driver's License (CDL) to operate the vehicle. Iowa's general law prohibiting texting while driving, which applies to all drivers, does not currently include a prohibition against using a handheld mobile phone while driving.

HOW DO THE FEDERAL REGULATIONS DEFINE TEXTING?

Manually entering alphanumeric text into, or reading text from, an electronic device. Texting includes short message service, emailing, instant messaging, a command or request to access a World Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication.

WHAT DO THE FEDERAL REGULATIONS ALLOW?

Calls. A driver of a CMV can use a mobile-telephone to make or take call as long as it is in hands-free mode, can be dialed or answered by pressing a single button, and can be reached without moving from a seated position while properly belted.

Other systems/devices. Texting doesn't include use of global position or navigation systems, or use of devices capable of performing multiple functions like fleet management systems, dispatching services, smart phones, CB radios, or music players for purposes that aren't otherwise prohibited.

IS THERE AN EXCEPTION IN THE FEDERAL REGULATIONS FOR AN EMERGENCY?

Yes, it's not a violation to text or call when driving if necessary to communicate with law enforcement officials or other emergency services.