

Proposal: Charges for driving a commercial motor vehicle while **texting or while using a handheld mobile telephone**.

Issue: The Federal Motor Carrier Safety Administration (FMCSA) has indicated Iowa is not in compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) because **we do not have a separate and distinct citation for commercial motor vehicle (CMV) operators that are charged with driving a CMV while texting or using a handheld mobile telephone**. They are asking us to correct this to avoid a formal finding of noncompliance, which can result in a loss of federal highway funding of approximately \$35M.

Proposed solution: Specifically and distinctly adopt the FMCSRs that apply to texting or using a handheld mobile telephone while driving a CMV **so the violations can be properly identified on a driver's record**.

Why we should implement this proposal: The FMCSRs (49 CFR sections 392.80 and 392.82) prohibit a person from texting or using a hand-held mobile telephone while driving a CMV. These provisions are more restrictive than Iowa's general texting-while-driving law (section 321.276 of the Iowa Code), **which does not require one-touch operation and hands-free use of mobile phones and does not require the mobile phone to be within the driver's immediate reach**. Iowa has already adopted these regulations through section 321.449 of the Iowa Code, which generally adopts the FMCSRs, **and they are being enforced through citations issued under section 321.449**. Despite this, FMCSA has verbally advised us that we are still not in compliance with their regulations because **these are considered serious violations that in combination with other offenses may result in disqualification of a driver's CDL, and under our current statutory structure can't be tracked on a driver's record because they are cited generally under section 321.449, which covers all FMCSRs**.

To correct this and avoid a finding of noncompliance that could result in a loss of federal highway funds, we recommend separately adopting these violations under a new, **distinct code section that can be specifically cited, which will allow them to be properly and specifically identified and tracked on the driver's record**. **This won't result in new restrictions on commercial operators but will only ensure proper record keeping under restrictions that already exist and are being enforced**.

Fiscal impact. This proposal will not result in any negative fiscal impact – again the restrictions already exist and are being enforced, and the proposed fine for a violation of the new section is the same fine that is being imposed for a citation written under section 321.449 -- \$50. This proposal will have a positive impact fiscal impact by avoiding a finding of noncompliance that could result in a loss of \$35M in federal highway funds annually.

Additional information:

- **What the federal regulations prohibit:** Driving a CMV while texting or while using a hand-held mobile telephone.
- **Who they apply to:** Anyone that's required to have a CDL or CLP to operate the vehicle they are driving.
- **How they define driving:** Operating a CMV on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving doesn't include operating a CMV when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

- **How they 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 they 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.
- **Emergency exception:** It's not a violation to text or call when driving if necessary to communicate with law enforcement officials or other emergency services.



MARK LOWE, DIRECTOR
IOWA DEPARTMENT OF TRANSPORTATION

My email has changed!

E-mail: mark.lowe@iowadot.us

Phone: (515)318-8292