

**ASSEMBLY BILL**

**No. 1911**

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**Introduced by Assembly Member Simitian**

February 7, 2002

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An act to add Section 23123 to the Vehicle Code, relating to driving.

LEGISLATIVE COUNSEL'S DIGEST

AB 1911, as introduced, Simitian. Driving: wireless phones.

Under existing law, motor vehicle operation is closely regulated, and drivers must follow myriad legal requirements or face criminal sanction. Under existing law, driving to the left of a double yellow line, making an unsafe lane change, or driving faster than is reasonable and prudent under the circumstances, or at a speed which endangers the safety of persons or property are all infractions. In addition, it is a misdemeanor to drive any vehicle upon a highway in willful or wanton disregard for the safety of persons or property.

Under existing law, any traffic collision report prepared by a peace officer must include information as to whether a cellular telephone, or other driver distraction or inattention is believed a factor in the accident. Existing law requires this information to be assembled by the Department of the California Highway Patrol, and reported to the Governor and Legislature, with findings and recommendations, by December 31, 2002. Aside from a provision making it unlawful to rent out a vehicle with cellular radio phone equipment unless the renter provides instructions on the safe use of the equipment, there is no specific limitation in existing law on the placement or use of wireless phones in motor vehicles.

This bill, commencing on January 1, 2004, would make it an infraction to drive a motor vehicle while using a wireless phone, unless

that phone is designed and configured to allow hands-free operation, and is used in that manner while driving. This offense would be punishable by a fine of \$40 for a first offense and \$50 for each subsequent offense, including all assessments and court costs.

By creating a new infraction, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23123 is added to the Vehicle Code, to  
2 read:

3 23123. (a) Commencing January 1, 2004, no person shall  
4 drive a motor vehicle while using a wireless phone unless that  
5 phone is specifically designed and configured to allow hands-free  
6 operation, and is used in that manner while driving.

7 (b) Notwithstanding subdivision (a) of Section 42001, a  
8 violation of this section is an infraction punishable by a fine,  
9 including all penalty assessments and court costs imposed on the  
10 convicted person, of not more than forty dollars (\$40) for a first  
11 offense, and a fine, including all penalty assessments and court  
12 costs imposed on the convicted person, of not more than fifty  
13 dollars (\$50) for each subsequent offense.

14 SEC. 2. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within



1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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