

AMENDED IN ASSEMBLY MARCH 12, 2003  
AMENDED IN ASSEMBLY FEBRUARY 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 45**

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**Introduced by Assembly Member Simitian**  
**(Principal coauthors: Assembly Members Firebaugh and Nakano)**

(Principal coauthor: Senator Cedillo)

**(Coauthors: Assembly Members Berg, Chavez, Chu, Frommer, Hancock, Jackson, Laird, Levine, Liu, Lowenthal, Nunez, Salinas, Vargas, Wesson, Wiggins, and Wolk)**

(Coauthors: Senators Soto, Speier, and Torlakson)

December 2, 2002

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

LEGISLATIVE COUNSEL'S DIGEST

AB 45, as amended, Simitian. Vehicles.

Under existing law, motor vehicle operation is closely regulated, and drivers must follow many legal requirements or face criminal sanction. Under existing law, driving to the left of double parallel solid lines, making an unsafe lane change, and driving faster than is reasonable or prudent under the circumstances, or at a speed that 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. Aside from a provision making it unlawful to rent out a vehicle with cellular radio telephone 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 telephones in motor vehicles.

This bill would make it an infraction, operative January 1, 2005, to drive a motor vehicle while using a wireless telephone, unless that telephone 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 not more than \$20 for a first offense and not more than \$50 for each subsequent offense, including all assessments and court costs. The bill would provide that this prohibition does not apply to a person who is using the cellular telephone to contact a law enforcement agency or public safety entity for emergency purposes, *or to an emergency services professional while he or she operates an authorized emergency vehicle*, as specified.

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. This act shall be known and may be cited as the
- 2 California Wireless Telephone Automobile Safety Act of 2003.
- 3 SEC. 2. The Legislature finds and declares all of the
- 4 following:
- 5 (a) There are significant safety benefits associated with the
- 6 availability of wireless communication technologies, including
- 7 providing assistance that helps save lives and minimizes property
- 8 damage.
- 9 (b) On a daily basis, California drivers make thousands of
- 10 wireless telephone emergency 911 calls.
- 11 (c) The availability of wireless telephones in automobiles
- 12 allows motorists to report accidents, fires, naturally occurring
- 13 life-threatening situations such as rock slides and fallen trees,
- 14 other dangerous road conditions, road rage, dangerous driving,



1 criminal behavior such as drunk driving, and stranded motorist  
2 situations.

3 (d) There is growing public concern regarding the safety  
4 implications of the widespread practice of using hand-held  
5 wireless telephones while operating motor vehicles.

6 (e) It is in the best interests of the health and welfare of the  
7 citizens of the state to enact one, uniform, automotive wireless  
8 telephone use law that establishes statewide safety guidelines for  
9 use of wireless telephones while operating a motor vehicle.

10 SEC. 3. Section 23123 is added to the Vehicle Code, to read:

11 23123. (a) A person may not drive a motor vehicle while  
12 using a wireless telephone unless that telephone is specifically  
13 designed and configured to allow hands-free operation, and is used  
14 in that manner while driving.

15 (b) Notwithstanding subdivision (a) of Section 42001, a  
16 violation of this section is an infraction punishable by a fine,  
17 including all penalty assessments and court costs imposed on the  
18 convicted person, of not more than twenty dollars (\$20) for a first  
19 offense and not more than fifty dollars (\$50) for each subsequent  
20 offense.

21 (c) This section does not apply to a person using a wireless  
22 telephone for emergency purposes, including, but not limited to,  
23 an emergency call to a law enforcement agency, health care  
24 provider, fire department, or other emergency services agency or  
25 entity.

26 (d) *This section does not apply to an emergency services*  
27 *professional using a wireless telephone while operating an*  
28 *authorized emergency vehicle, as defined in Section 165, in the*  
29 *course and scope of his or her duties.*

30 (e) This section shall become operative on January 1, 2005.

31 SEC. 4. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 the only costs that may be incurred by a local agency or school  
34 district will be incurred because this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 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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