

**ASSEMBLY BILL**

**No. 1828**

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**Introduced by Assembly Member Simitian  
(Principal coauthor: Assembly Member Nakano)  
(Coauthor: Assembly Member Frommer)**

January 20, 2004

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An act to amend Section 12810 of, and to add Section 23123 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1828, as introduced, Simitian. Vehicles.

(1) Under existing law, motor vehicle operation is closely regulated, and drivers must follow many legal requirements or face criminal sanction. Existing law makes it unlawful to rent out a vehicle with cellular radio telephone equipment unless the renter provides instructions on the safe use of the equipment.

This bill would make it an infraction, except as specified, operative January 1, 2006, 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.

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

(2) 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 2004.
- 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,
- 15 criminal behavior such as drunk driving, and stranded motorist
- 16 situations.
- 17 (d) There is growing public concern regarding the safety
- 18 implications of the widespread practice of using hand-held
- 19 wireless telephones while operating motor vehicles.
- 20 (e) It is in the best interests of the health and welfare of the
- 21 citizens of the state to enact one, uniform, automotive wireless
- 22 telephone use law that establishes statewide safety guidelines for
- 23 use of wireless telephones while operating a motor vehicle.
- 24 SEC. 3. Section 12810 of the Vehicle Code is amended to
- 25 read:
- 26 12810. In determining the violation point count, the following
- 27 shall apply:
- 28 (a) Any conviction of failure to stop in the event of an accident
- 29 in violation of Section 20001 or 20002 shall be given a value of two
- 30 points.
- 31 (b) Any conviction of a violation of Section 23152 or 23153
- 32 shall be given a value of two points.
- 33 (c) Any conviction of reckless driving shall be given a value of
- 34 two points.



1 (d) (1) Any conviction of a violation of subdivision (c) of  
2 Section 192 of the Penal Code, or of Section 2800.2 or 2800.3,  
3 subdivision (b) of Section 21651, subdivision (b) of Section  
4 22348, subdivision (a) of Section 23109, subdivision (c) of  
5 Section 23109, or Section 31602 of this code, shall be given a  
6 value of two points.

7 (2) Any conviction of a violation of subdivision (a) or (b) of  
8 Section 23140 shall be given a value of two points.

9 (e) Except as provided in subdivision (g), any other traffic  
10 conviction involving the safe operation of a motor vehicle upon the  
11 highway shall be given a value of one point.

12 (f) Any traffic accident in which the operator is deemed by the  
13 department to be responsible shall be given a value of one point.

14 (g) (1) A violation of paragraph (1), (2), (3), or (5) of  
15 subdivision (b) of Section 40001 shall not result in a violation  
16 point count being given to the driver if the driver is not the owner  
17 of the vehicle.

18 (2) Any conviction of a violation of paragraph (1) or (2) of  
19 subdivision (b) of Section 12814.6, subdivision (a) of Section  
20 21116, Section 21207.5, 21708, 21710, 21716, 23120, 23123,  
21 24800, or 26707 shall not be given a violation point count.

22 (3) A violation of Section 23136 shall not result in a violation  
23 point count.

24 (h) A conviction for only one violation arising from one  
25 occasion of arrest or citation shall be counted in determining the  
26 violation point count for the purposes of this section.

27 (i) Any conviction of a violation of Section 14601, 14601.1,  
28 14601.2, 14601.3, or 14601.5 shall be given a value of two points.

29 (j) Any conviction of a violation of Section 27360 or 27360.5  
30 shall be given a value of one point.

31 SEC. 4. Section 23123 is added to the Vehicle Code, to read:

32 23123. (a) A person may not drive a motor vehicle while  
33 using a wireless telephone unless that telephone is specifically  
34 designed and configured to allow hands-free operation, and is used  
35 in that manner while driving.

36 (b) Notwithstanding subdivision (a) of Section 42001, a  
37 violation of this section is an infraction punishable by a fine,  
38 including all penalty assessments and court costs imposed on the  
39 convicted person, of not more than twenty dollars (\$20) for a first



1 offense and not more than fifty dollars (\$50) for each subsequent  
2 offense.

3 (c) This section does not apply to a person using a wireless  
4 telephone for emergency purposes, including, but not limited to,  
5 an emergency call to a law enforcement agency, health care  
6 provider, fire department, or other emergency services agency or  
7 entity.

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

12 (e) This section shall become operative on January 1, 2006.

13 SEC. 5. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section 17556 of  
19 the Government Code, or changes the definition of a crime within  
20 the meaning of Section 6 of Article XIII B of the California  
21 Constitution.

