

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 9, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN SENATE MAY 3, 2006

SENATE BILL

No. 1613

Introduced by Senator Simitian

(Principal coauthor: Assembly Member Garcia)

(Coauthors: Assembly Members Berg, Frommer, and Koretz)

February 24, 2006

An act to add Sections 12810.3 and 23123 to, and to add and repeal Section 23123.1 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1613, as amended, Simitian. Vehicles: wireless telephones.

Under existing law, motor vehicle operation is regulated, and drivers must follow many legal requirements or face criminal sanctions. Under existing law, it is a crime for a person to drive a schoolbus or transit vehicle while using a wireless telephone, except for certain work-related or emergency purposes.

This bill would make it an infraction, operative July 1, 2008, to drive a motor vehicle while using a wireless telephone, unless that telephone is designed and configured to allow hands-free listening and talking operation, and is used in that manner while driving. This offense would be punishable by a base fine of \$20 for a first offense and \$50 for each subsequent offense.

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. The bill also would prohibit the assignment of a violation point for a violation of the above.

The bill also would provide that this prohibition does not apply to a person when using a digital 2-way radio service that utilizes a wireless telephone that operates by depressing a push-to-talk feature and does not require immediate proximity to the ear of the user, and that person is driving a motor truck or truck tractor, as respectively defined, a listed or described implement of husbandry, ~~or~~ a listed farm vehicle, *or a tow truck, as defined.*

The bill would specify that these provisions do not apply to a person driving a schoolbus or transit vehicle that is subject to certain existing wireless telephone usage restrictions, and would specify that the restrictions contained in this bill do not apply to a person while driving a motor vehicle on private property.

The bill would require the Department of the California Highway Patrol to collect and study data relevant to accidents and traffic violations associated with the use of digital 2-way radio service as authorized under the bill and to report the findings of that study to the Legislature on or before December 31, 2010.

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 2006.

1 SEC. 2. The Legislature finds and declares all of the
2 following:

3 (a) There are significant safety benefits associated with the
4 availability of wireless communication technologies, including,
5 *but not limited to*, providing assistance that helps save lives and
6 minimizes property damage.

7 (b) On a daily basis, California drivers make thousands of
8 wireless telephone emergency 911 calls.

9 (c) The availability of wireless telephones in motor vehicles
10 allows motorists to report accidents, fires, naturally occurring
11 life-threatening situations, including, but not limited to, rock
12 slides and fallen trees, other dangerous road conditions, road
13 rage, dangerous driving, criminal behavior, including drunk
14 driving, and stranded motorist situations.

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

18 (e) It is in the best interests of the health and welfare of the
19 citizens of the state to enact one uniform motor vehicle wireless
20 telephone use law that establishes statewide safety guidelines for
21 use of wireless telephones while operating a motor vehicle.

22 SEC. 3. Section 12810.3 is added to the Vehicle Code, to
23 read:

24 12810.3. (a) Notwithstanding subdivision (f) of Section
25 12810, a violation point shall not be given for a conviction of a
26 violation of subdivision (a) of Section 23123.

27 (b) The section shall become operative on July 1, 2008.

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

29 23123. (a) A person shall not drive a motor vehicle while
30 using a wireless telephone unless that telephone is specifically
31 designed and configured to allow hands-free listening and
32 talking, and is used in that manner while driving.

33 (b) Notwithstanding subdivision (a) of Section 42001 or any
34 other provision of law, a violation of this section is an infraction
35 punishable by a base fine of twenty dollars (\$20) for a first
36 offense and fifty dollars (\$50) for each subsequent offense.

37 (c) This section does not apply to a person using a wireless
38 telephone for emergency purposes, including, but not limited to,
39 an emergency call to a law enforcement agency, health care

1 provider, fire department, or other emergency services agency or
2 entity.

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

7 (e) This section does not apply to a person when using a
8 digital two-way radio that utilizes a wireless telephone that
9 operates by depressing a push-to-talk feature and does not require
10 immediate proximity to the ear of the user, and the person is
11 driving one of the following vehicles:

12 (1) (A) A motor truck, as defined in Section 410, or a truck
13 tractor, as defined in Section 655, that requires either a
14 commercial class A or class B driver's license to operate.

15 (B) The exemption under subparagraph (A) does not apply to
16 a person driving a pickup truck, as defined in Section 471.

17 (2) An implement of husbandry that is listed or described in
18 Chapter 1 (commencing with Section 36000) of Division 16.

19 (3) A farm vehicle that is exempt from registration and
20 displays an identification plate as specified in Section 5014 and
21 is listed in Section 36101.

22 (4) *A tow truck, as defined in Section 615.*

23 (f) This section does not apply to a person driving a schoolbus
24 or transit vehicle that is subject to Section 23125.

25 (g) This section does not apply to a person while driving a
26 motor vehicle on private property.

27 (h) This section shall become operative on July 1, 2008.

28 SEC. 5. Section 23123.1 is added to the Vehicle Code, to
29 read:

30 23123.1. (a) The department shall collect and study data
31 relevant to accidents and traffic violations associated with the use
32 of digital two-way radio service as authorized under subdivision
33 (e) of Section 23123, and shall report the findings of that study to
34 the Legislature on or before December 31, 2010.

35 (b) This section shall become operative on July 1, 2008, and
36 shall remain in effect only until January 1, 2011, and as of that
37 date is repealed, unless a later enacted statute, that is enacted
38 before January 1, 2011, deletes or extends that date.

39 SEC. 6. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the
4 penalty for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition of a
6 crime within the meaning of Section 6 of Article XIII B of the
7 California Constitution.

O