

## Senate Bill No. 28

### CHAPTER 270

An act to amend Section 12810.3 of, and to add Section 23123.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 24, 2008. Filed with  
Secretary of State September 24, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 28, Simitian. Motor vehicles: electronic wireless communications device.

(1) Under existing law, on and after July 1, 2008, it is an infraction for any person 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, except as otherwise provided. A violation point is not given for a violation. A violation is punishable by a base fine of \$20 for a first offense and \$50 for each subsequent offense.

This bill would also prohibit a person from driving a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication, except as specified. The bill would also provide that a violation point is not given for a violation of these provisions and would impose a base fine of \$20 for a first offense and \$50 for each subsequent offense. By creating a new infraction, the 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.

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

SECTION 1. Section 12810.3 of the Vehicle Code is amended to read:  
12810.3. (a) Notwithstanding subdivision (f) of Section 12810, a violation point shall not be given for a conviction of a violation of subdivision (a) of Section 23123, subdivision (a) of Section 23123.5, or subdivision (b) of Section 23124.

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

SEC. 2. Section 23123.5 is added to the Vehicle Code, to read:

23123.5. (a) A person shall not drive a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication.

(b) As used in this section “write, send, or read a text-based communication” means using an electronic wireless communications device to manually communicate with any person using a text-based communication, including, but not limited to, communications referred to as a text message, instant message, or electronic mail.

(c) For purposes of this section, a person shall not be deemed to be writing, reading, or sending a text-based communication if the person reads, selects, or enters a telephone number or name in an electronic wireless communications device for the purpose of making or receiving a telephone call.

(d) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

(e) This section does not apply to an emergency services professional using an electronic wireless communications device while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.