

**Introduced by Senator Simitian**  
(Principal coauthor: Assembly Member Garcia)

December 4, 2006

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An act to amend Sections 12810.3 and 23123 of, to amend, repeal, and add Sections 12509 and 12814.6 of, and to add Section 23123.5 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 33, as introduced, Simitian. Vehicles: wireless telephones and mobile service devices.

(1) Under existing law, motor vehicle operation is regulated and drivers are required to follow many legal requirements or face criminal sanctions. Existing law imposes additional requirements on those persons operating motor vehicles pursuant to an instruction permit, student license, or provisional license. Under existing law, on and after July 1, 2008, it will be an infraction 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.

This bill, on and after July 1, 2008, would prohibit a person possessing a valid instruction permit, student license, or provisional license, from driving a motor vehicle while using a wireless telephone or a mobile service device, as the bill would define that term, including a handset equipped with a hands-free device. The bill would provide that this prohibition does not apply to a person using a wireless telephone or a mobile service device for emergency purposes. By creating a new infraction, the bill would impose a state-mandated local program.

The bill would prohibit a law enforcement officer from stopping a vehicle for the sole purpose of determining whether the driver is

violating this prohibition, and would prohibit a violation point from being given for a conviction of violating the prohibition.

(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. Section 12509 of the Vehicle Code, as amended  
2 by Section 656 of Chapter 538 of the Statutes of 2006, is amended  
3 to read:

4 12509. (a) Except as otherwise provided in subdivision (f) of  
5 Section 12514, the department, for good cause, may issue an  
6 instruction permit to ~~any~~ a physically and mentally qualified person  
7 who meets one of the following requirements and who applies to  
8 the department for an instruction permit:

9 (1) Is age 15 years and 6 months or older, and has successfully  
10 completed approved courses in automobile driver education and  
11 driver training as provided in paragraph (3) of subdivision (a) of  
12 Section 12814.6.

13 (2) Is age 15 years and 6 months or older, and has successfully  
14 completed an approved course in automobile driver education and  
15 is taking driver training as provided in paragraph (3) of subdivision  
16 (a) of Section 12814.6.

17 (3) Is age 15 years and 6 months and enrolled and participating  
18 in an integrated driver education and training program as provided  
19 in subparagraph (B) of paragraph (3) of subdivision (a) of Section  
20 12814.6.

21 (4) Is over the age of 16 years and is applying for a restricted  
22 driver's license pursuant to Section 12814.7.

23 (5) Is over the age of 17 years and 6 months.

24 (b) The applicant shall qualify for, and be issued, an instruction  
25 permit within 12 months from the date of the application.

26 (c) An instruction permit issued pursuant to subdivision (a) shall  
27 entitle the applicant to operate a vehicle, subject to the limitations  
28 imposed by this section and any other provisions of law, upon the

1 highways for a period not exceeding 24 months from the date of  
2 the application.

3 (d) Except as provided in Section 12814.6, a person, while  
4 having in his or her immediate possession a valid permit issued  
5 pursuant to paragraphs (1) to (3), inclusive, of subdivision (a), may  
6 operate a motor vehicle, other than a motorcycle, motorized  
7 scooter, or a motorized bicycle, when accompanied by, and under  
8 the immediate supervision of, a California licensed driver with a  
9 valid license of the appropriate class, 18 years of age or over whose  
10 driving privilege is not on probation. Except as provided in  
11 subdivision (e), an accompanying licensed driver at all times shall  
12 occupy a position within the driver's compartment that would  
13 enable the accompanying licensed driver to assist the person in  
14 controlling the vehicle as may be necessary to avoid a collision  
15 and to provide immediate guidance in the safe operation of the  
16 vehicle.

17 (e) A person, while having in his or her immediate possession  
18 a valid permit issued pursuant to paragraphs (1) to (3), inclusive,  
19 of subdivision (a), who is age 15 years and 6 months or older and  
20 who has successfully completed approved courses in automobile  
21 education and driver training as provided in paragraph (3) of  
22 subdivision (a) of Section 12814.6, and a person, while having in  
23 his or her immediate possession a valid permit issued pursuant to  
24 subdivision (a), who is age 17 years and 6 months or older, may,  
25 in addition to operating a motor vehicle pursuant to subdivision  
26 (d), also operate a motorcycle, motorized scooter, or a motorized  
27 bicycle, except that the person shall not operate a motorcycle,  
28 motorized scooter, or a motorized bicycle during hours of darkness,  
29 shall stay off ~~any freeways~~ *a freeway* that ~~have~~ *has* full control of  
30 access and no crossings at grade, and shall not carry ~~any a~~  
31 passenger except an instructor licensed under Chapter 1  
32 (commencing with Section 11100) of Division 5 ~~of this code~~ or a  
33 qualified instructor as defined in Section 41907 of the Education  
34 Code.

35 (f) A person, while having in his or her immediate possession  
36 a valid permit issued pursuant to paragraph (4) of subdivision (a),  
37 may only operate a government-owned motor vehicle, other than  
38 a motorcycle, motorized scooter, or a motorized bicycle, when  
39 taking a driver training instruction administered by the California  
40 National Guard.

1 (g) The department may also issue an instruction permit to a  
2 person who has been issued a valid driver's license to authorize  
3 the person to obtain driver training instruction and to practice that  
4 instruction in order to obtain another class of driver's license or  
5 an endorsement.

6 (h) The department may further restrict permits issued under  
7 subdivision (a) as it may determine to be appropriate to assure the  
8 safe operation of a motor vehicle by the permittee.

9 *(i) This section shall remain in effect only until July 1, 2008,*  
10 *and as of that date is repealed, unless a later enacted statute, that*  
11 *becomes operative on or before July 1, 2008, deletes or extends*  
12 *that date.*

13 SEC. 2. Section 12509 is added to the Vehicle Code, to read:

14 12509. (a) Except as otherwise provided in subdivision (f) of  
15 Section 12514, the department, for good cause, may issue an  
16 instruction permit to a physically and mentally qualified person  
17 who meets one of the following requirements and who applies to  
18 the department for an instruction permit:

19 (1) Is age 15 years and 6 months or older, and has successfully  
20 completed approved courses in automobile driver education and  
21 driver training as provided in paragraph (3) of subdivision (a) of  
22 Section 12814.6.

23 (2) Is age 15 years and 6 months or older, and has successfully  
24 completed an approved course in automobile driver education and  
25 is taking driver training as provided in paragraph (3) of subdivision  
26 (a) of Section 12814.6.

27 (3) Is age 15 years and 6 months and enrolled and participating  
28 in an integrated driver education and training program as provided  
29 in subparagraph (B) of paragraph (3) of subdivision (a) of Section  
30 12814.6.

31 (4) Is over the age of 16 years and is applying for a restricted  
32 driver's license pursuant to Section 12814.7.

33 (5) Is over the age of 17 years and 6 months.

34 (b) The applicant shall qualify for, and be issued, an instruction  
35 permit within 12 months from the date of the application.

36 (c) (1) An instruction permit issued pursuant to subdivision (a)  
37 shall entitle the applicant to operate a vehicle, subject to the  
38 limitations imposed by this section and any other provisions of  
39 law, upon the highways for a period not exceeding 24 months from  
40 the date of the application.

1 (2) As prohibited in Section 23123.5, a person possessing a  
2 valid instruction permit issued pursuant to subdivision (a) of this  
3 section shall not drive a motor vehicle while using a wireless  
4 telephone or other mobile service device, including a handset  
5 equipped with a hands-free device, except as otherwise provided  
6 by Section 23123.5.

7 (d) Except as provided in Section 12814.6, a person, while  
8 having in his or her immediate possession a valid permit issued  
9 pursuant to paragraphs (1) to (3), inclusive, of subdivision (a), may  
10 operate a motor vehicle, other than a motorcycle, motorized  
11 scooter, or motorized bicycle, when accompanied by, and under  
12 the immediate supervision of, a California licensed driver with a  
13 valid license of the appropriate class, 18 years of age or over whose  
14 driving privilege is not on probation. Except as provided in  
15 subdivision (e), an accompanying licensed driver at all times shall  
16 occupy a position within the driver's compartment that would  
17 enable the accompanying licensed driver to assist the person in  
18 controlling the vehicle as may be necessary to avoid a collision  
19 and to provide immediate guidance in the safe operation of the  
20 vehicle.

21 (e) A person, while having in his or her immediate possession  
22 a valid permit issued pursuant to paragraphs (1) to (3), inclusive,  
23 of subdivision (a), who is age 15 years and 6 months or older and  
24 who has successfully completed approved courses in automobile  
25 education and driver training as provided in paragraph (3) of  
26 subdivision (a) of Section 12814.6, and a person, while having in  
27 his or her immediate possession a valid permit issued pursuant to  
28 subdivision (a), who is age 17 years and 6 months or older, may,  
29 in addition to operating a motor vehicle pursuant to subdivision  
30 (d), also operate a motorcycle, motorized scooter, or motorized  
31 bicycle, except that the person shall not operate a motorcycle,  
32 motorized scooter, or motorized bicycle during hours of darkness,  
33 shall stay off a freeway that has full control of access and no  
34 crossings at grade, and shall not carry a passenger except an  
35 instructor licensed under Chapter 1 (commencing with Section  
36 11100) of Division 5 or a qualified instructor as defined in Section  
37 41907 of the Education Code.

38 (f) A person, while having in his or her immediate possession  
39 a valid permit issued pursuant to paragraph (4) of subdivision (a),  
40 may only operate a government-owned motor vehicle, other than

1 a motorcycle, motorized scooter, or motorized bicycle, when taking  
2 a driver training instruction administered by the California National  
3 Guard.

4 (g) The department may also issue an instruction permit to a  
5 person who has been issued a valid driver's license to authorize  
6 the person to obtain driver training instruction and to practice that  
7 instruction in order to obtain another class of driver's license or  
8 an endorsement.

9 (h) The department may further restrict permits issued under  
10 subdivision (a) as it may determine to be appropriate to assure the  
11 safe operation of a motor vehicle by the permittee.

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

13 SEC. 3. Section 12810.3 of the Vehicle Code, as added by  
14 Section 3 of Chapter 290 of the Statutes of 2006, is amended to  
15 read:

16 12810.3. (a) Notwithstanding subdivision (f) of Section 12810,  
17 a violation point shall not be given for a conviction of a violation  
18 of subdivision (a) of Section 23123.

19 (b) *Notwithstanding subdivision (f) of Section 12810, a violation*  
20 *point shall not be given for a conviction of a violation of*  
21 *subdivision (a) of Section 23123.5.*

22 (c) The section shall become operative on July 1, 2008.

23 SEC. 4. Section 12814.6 of the Vehicle Code is amended to  
24 read:

25 12814.6. (a) Except as provided in Section 12814.7, a driver's  
26 license issued to a person at least 16 years of age but under 18  
27 years of age shall be issued pursuant to the provisional licensing  
28 program contained in this section. The program shall consist of  
29 all of the following components:

30 (1) Upon application for an original license, the applicant shall  
31 be issued an instruction permit pursuant to Section 12509. A person  
32 who has in his or her immediate possession a valid permit issued  
33 pursuant to Section 12509 may operate a motor vehicle, other than  
34 a motorcycle or motorized bicycle, only when the person is either  
35 taking the driver training instruction referred to in paragraph (3)  
36 or practicing that instruction, provided the person is accompanied  
37 by, and is under the immediate supervision of, a California licensed  
38 driver 25 years of age or older whose driving privilege is not on  
39 probation. The age requirement of this paragraph does not apply

1 if the licensed driver is the parent, spouse, or guardian of the  
2 permitholder or is a licensed or certified driving instructor.

3 (2) The person shall hold an instruction permit for not less than  
4 six months prior to applying for a provisional driver's license.

5 (3) The person shall have complied with one of the following:

6 (A) Satisfactory completion of approved courses in automobile  
7 driver education and driver training maintained pursuant to  
8 provisions of the Education Code in ~~any~~ a secondary school of  
9 California, or equivalent instruction in a secondary school of  
10 another state.

11 (B) Satisfactory completion of an integrated driver education  
12 and training program that is approved by the department and  
13 conducted by a driving instructor licensed under Chapter 1  
14 (commencing with Section 11100) of Division 5. The program  
15 shall utilize segmented modules, whereby a portion of the  
16 educational instruction is provided by, and then reinforced through,  
17 specific behind-the-wheel training before moving to the next phase  
18 of driver education and training. The program shall contain a  
19 minimum of 30 hours of classroom instruction and six hours of  
20 behind-the-wheel training.

21 (C) Satisfactory completion of six hours or more of  
22 behind-the-wheel instruction by a driving school or an independent  
23 driving instructor licensed under Chapter 1 (commencing with  
24 Section 11100) of Division 5 and either an accredited course in  
25 automobile driver education in ~~any~~ a secondary school of  
26 California pursuant to provisions of the Education Code or  
27 satisfactory completion of equivalent professional instruction  
28 acceptable to the department. To be acceptable to the department,  
29 the professional instruction shall meet minimum standards to be  
30 prescribed by the department, and the standards shall be at least  
31 equal to the requirements for driver education and driver training  
32 contained in the rules and regulations adopted by the State Board  
33 of Education pursuant to the Education Code. A person who has  
34 complied with this subdivision shall not be required by the  
35 governing board of a school district to comply with subparagraph  
36 (A) in order to graduate from high school.

37 (D) Except as provided under subparagraph (B), a student ~~may~~  
38 *shall* not take driver training instruction, unless he or she has  
39 successfully completed driver education.

1 (4) The person shall complete 50 hours of supervised driving  
2 practice prior to the issuance of a provisional license, ~~which that~~  
3 is in addition to any other driver training instruction required by  
4 law. Not less than 10 of the required practice hours shall include  
5 driving during darkness, as defined in Section 280. Upon  
6 application for a provisional license, the person shall submit to the  
7 department the certification of a parent, spouse, guardian, or  
8 licensed or certified driving instructor that the applicant has  
9 completed the required amount of driving practice and is prepared  
10 to take the department's driving test. A person without a parent,  
11 spouse, *or* guardian, or who is an emancipated minor, may have  
12 a licensed driver 25 years of age or older or a licensed or certified  
13 driving instructor complete the certification. This requirement does  
14 not apply to motorcycle practice.

15 (5) The person shall successfully complete an examination  
16 required by the department. Before retaking a test, the person shall  
17 wait for not less than one week after failure of the written test and  
18 for not less than two weeks after failure of the driving test.

19 (b) Except as provided in Section 12814.7, the provisional  
20 driver's license shall be subject to all of the following restrictions:

21 (1) Except as specified in paragraph (2), during the first 12  
22 months after issuance of a provisional license the licensee ~~may~~  
23 *shall* not do any of the following unless accompanied and  
24 supervised by a licensed driver who is the licensee's parent or  
25 guardian, a licensed driver who is 25 years of age or older, or a  
26 licensed or certified driving instructor:

27 (A) Drive between the hours of 11 p.m. and 5 a.m.

28 (B) Transport passengers who are under 20 years of age.

29 (2) A licensee may drive between the hours of 11 p.m. and 5  
30 a.m. or transport an immediate family member without being  
31 accompanied and supervised by a licensed driver who is the  
32 licensee's parent or guardian, a licensed driver who is 25 years of  
33 age or older, or a licensed or certified driving instructor, in the  
34 following circumstances:

35 (A) Medical necessity of the licensee when reasonable  
36 transportation facilities are inadequate and operation of a vehicle  
37 by a minor is necessary. The licensee shall keep in his or her  
38 possession a signed statement from a physician familiar with the  
39 condition, containing a diagnosis and probable date when sufficient  
40 recovery will have been made to terminate the necessity.

1 (B) Schooling or school-authorized activities of the licensee  
2 when reasonable transportation facilities are inadequate and  
3 operation of a vehicle by a minor is necessary. The licensee shall  
4 keep in his or her possession a signed statement from the school  
5 principal, dean, or school staff member designated by the principal  
6 or dean, containing a probable date that the schooling or  
7 school-authorized activity will have been completed.

8 (C) Employment necessity of the licensee when reasonable  
9 transportation facilities are inadequate and operation of a vehicle  
10 by a minor is necessary. The licensee shall keep in his or her  
11 possession a signed statement from the employer, verifying  
12 employment and containing a probable date that the employment  
13 will have been completed.

14 (D) Necessity of the licensee or the licensee's immediate family  
15 member when reasonable transportation facilities are inadequate  
16 and operation of a vehicle by a minor is necessary to transport the  
17 licensee or the licensee's immediate family member. The licensee  
18 shall keep in his or her possession a signed statement from a parent  
19 or legal guardian verifying the reason and containing a probable  
20 date that the necessity will have ceased.

21 (E) The licensee is an emancipated minor.

22 (c) A law enforcement officer ~~may~~ *shall* not stop a vehicle for  
23 the sole purpose of determining whether the driver is in violation  
24 of the restrictions imposed under subdivision (b).

25 (d) (1) Upon a finding that ~~any~~ a licensee has violated paragraph  
26 (1) of subdivision (b), the court shall impose one of the following:

27 (A) Not less than eight hours nor more than 16 hours of  
28 community service for a first offense and not less than 16 hours  
29 nor more than 24 hours of community service for a second or  
30 subsequent offense.

31 (B) A fine of not more than thirty-five dollars (\$35) for a first  
32 offense and a fine of not more than fifty dollars (\$50) for a second  
33 or subsequent offense.

34 (2) If the court orders community service, the court shall retain  
35 jurisdiction until the hours of community service have been  
36 completed.

37 (3) If the hours of community service have not been completed  
38 within 90 days, the court shall impose a fine of not more than  
39 thirty-five dollars (\$35) for a first offense and not more than fifty  
40 dollars (\$50) for a second or subsequent offense.

1 (e) A conviction of paragraph (1) of subdivision (b), when  
2 reported to the department, ~~may~~ *shall* not be disclosed as otherwise  
3 specified in Section 1808 or constitute a violation point count value  
4 pursuant to Section 12810.

5 (f) ~~Any~~ A term of restriction or suspension of the driving  
6 privilege imposed on a person pursuant to this subdivision shall  
7 remain in effect until the end of the term even though the person  
8 becomes 18 years of age before the term ends.

9 (1) The driving privilege shall be suspended when the record  
10 of the person shows one or more notifications issued pursuant to  
11 Section 40509 or 40509.5. The suspension shall continue until ~~any~~  
12 a notification issued pursuant to Section 40509 or 40509.5 has  
13 been cleared.

14 (2) A 30-day restriction shall be imposed when a driver's record  
15 shows a violation point count of two or more points in 12 months,  
16 as determined in accordance with Section 12810. The restriction  
17 shall require the licensee to be accompanied by a licensed parent,  
18 spouse, guardian, or other licensed driver 25 years of age or older,  
19 except when operating a class M vehicle, or so licensed, with no  
20 passengers aboard.

21 (3) A six-month suspension of the driving privilege and a  
22 one-year term of probation shall be imposed whenever a licensee's  
23 record shows a violation point count of three or more points in 12  
24 months, as determined in accordance with Section 12810. The  
25 terms and conditions of probation shall include, but not be limited  
26 to, both of the following:

27 (A) The person shall violate no law ~~which~~ *that*, if resulting in  
28 conviction, is reportable to the department under Section 1803.

29 (B) The person shall remain free from accident responsibility.

30 (g) Whenever action by the department under subdivision (f)  
31 arises as a result of a motor vehicle accident, the person may, in  
32 writing and within 10 days, demand a hearing to present evidence  
33 that he or she was not responsible for the accident upon which the  
34 action is based. Whenever action by the department is based upon  
35 a conviction reportable to the department under Section 1803, the  
36 person has no right to a hearing pursuant to Article 3 (commencing  
37 with Section 14100) of Chapter 3.

38 (h) The department shall require a person whose driving  
39 privilege is suspended or revoked pursuant to subdivision (f) to  
40 submit proof of financial responsibility as defined in Section 16430.

1 The proof of financial responsibility shall be filed on or before the  
2 date of reinstatement following the suspension or revocation. The  
3 proof of financial responsibility shall be maintained with the  
4 department for three years following the date of reinstatement.

5 (i) (1) Notwithstanding any other provision of this code, the  
6 department may issue a distinctive driver's license, that displays  
7 a distinctive color or a distinctively colored stripe or other  
8 distinguishing characteristic, to persons at least 16 years of age  
9 and older but under 18 years of age, and to persons 18 years of  
10 age and older but under 21 years of age, so that the distinctive  
11 license feature is immediately recognizable. The features shall  
12 clearly differentiate between drivers' licenses issued to persons at  
13 least 16 years of age or older but under 18 years of age and to  
14 persons 18 years of age or older but under 21 years of age.

15 (2) If changes in the format or appearance of ~~drivers'~~ *driver's*  
16 licenses are adopted pursuant to this subdivision, those changes  
17 may be implemented under any new contract for the production  
18 of drivers' licenses entered into after the adoption of those changes.

19 (j) The department shall include, on the face of the provisional  
20 driver's license, the original issuance date of the provisional  
21 driver's license in addition to any other issuance date.

22 (k) This section shall be known and may be cited as the  
23 Brady-Jared Teen Driver Safety Act of 1997.

24 (l) *This section shall remain in effect only until July 1, 2008,*  
25 *and as of that date is repealed, unless a later enacted statute, that*  
26 *becomes operative on or before July 1, 2008, deletes or extends*  
27 *that date.*

28 SEC. 5. Section 12814.6 is added to the Vehicle Code, to read:

29 12814.6. (a) Except as provided in Section 12814.7, a driver's  
30 license issued to a person at least 16 years of age but under 18  
31 years of age shall be issued pursuant to the provisional licensing  
32 program contained in this section. The program shall consist of  
33 all of the following components:

34 (1) Upon application for an original license, the applicant shall  
35 be issued an instruction permit pursuant to Section 12509. A person  
36 who has in his or her immediate possession a valid permit issued  
37 pursuant to Section 12509 may operate a motor vehicle, other than  
38 a motorcycle or motorized bicycle, only when the person is either  
39 taking the driver training instruction referred to in paragraph (3)  
40 or practicing that instruction, provided the person is accompanied

1 by, and is under the immediate supervision of, a California licensed  
2 driver 25 years of age or older whose driving privilege is not on  
3 probation. The age requirement of this paragraph does not apply  
4 if the licensed driver is the parent, spouse, or guardian of the  
5 permit holder or is a licensed or certified driving instructor.

6 (2) The person shall hold an instruction permit for not less than  
7 six months prior to applying for a provisional driver's license.

8 (3) The person shall have complied with one of the following:

9 (A) Satisfactory completion of approved courses in automobile  
10 driver education and driver training maintained pursuant to  
11 provisions of the Education Code in a secondary school of  
12 California, or equivalent instruction in a secondary school of  
13 another state.

14 (B) Satisfactory completion of an integrated driver education  
15 and training program that is approved by the department and  
16 conducted by a driving instructor licensed under Chapter 1  
17 (commencing with Section 11100) of Division 5. The program  
18 shall utilize segmented modules, whereby a portion of the  
19 educational instruction is provided by, and then reinforced through,  
20 specific behind-the-wheel training before moving to the next phase  
21 of driver education and training. The program shall contain a  
22 minimum of 30 hours of classroom instruction and six hours of  
23 behind-the-wheel training.

24 (C) Satisfactory completion of six hours or more of  
25 behind-the-wheel instruction by a driving school or an independent  
26 driving instructor licensed under Chapter 1 (commencing with  
27 Section 11100) of Division 5 and either an accredited course in  
28 automobile driver education in a secondary school of California  
29 pursuant to provisions of the Education Code or satisfactory  
30 completion of equivalent professional instruction acceptable to  
31 the department. To be acceptable to the department, the  
32 professional instruction shall meet minimum standards to be  
33 prescribed by the department, and the standards shall be at least  
34 equal to the requirements for driver education and driver training  
35 contained in the rules and regulations adopted by the State Board  
36 of Education pursuant to the Education Code. A person who has  
37 complied with this subdivision shall not be required by the  
38 governing board of a school district to comply with subparagraph  
39 (A) in order to graduate from high school.

1 (D) Except as provided under subparagraph (B), a student shall  
2 not take driver training instruction, unless he or she has  
3 successfully completed driver education.

4 (4) The person shall complete 50 hours of supervised driving  
5 practice prior to the issuance of a provisional license, that is in  
6 addition to any other driver training instruction required by law.  
7 Not less than 10 of the required practice hours shall include driving  
8 during darkness, as defined in Section 280. Upon application for  
9 a provisional license, the person shall submit to the department  
10 the certification of a parent, spouse, guardian, or licensed or  
11 certified driving instructor that the applicant has completed the  
12 required amount of driving practice and is prepared to take the  
13 department's driving test. A person without a parent, spouse, or  
14 guardian, or who is an emancipated minor, may have a licensed  
15 driver 25 years of age or older or a licensed or certified driving  
16 instructor complete the certification. This requirement does not  
17 apply to motorcycle practice.

18 (5) The person shall successfully complete an examination  
19 required by the department. Before retaking a test, the person shall  
20 wait for not less than one week after failure of the written test and  
21 for not less than two weeks after failure of the driving test.

22 (b) Except as provided in Section 12814.7, the provisional  
23 driver's license shall be subject to all of the following restrictions:

24 (1) Except as specified in paragraph (2), during the first 12  
25 months after issuance of a provisional license the licensee shall  
26 not do any of the following unless accompanied and supervised  
27 by a licensed driver who is the licensee's parent or guardian, a  
28 licensed driver who is 25 years of age or older, or a licensed or  
29 certified driving instructor:

30 (A) Drive between the hours of 11 p.m. and 5 a.m.

31 (B) Transport passengers who are under 20 years of age.

32 (2) A licensee may drive between the hours of 11 p.m. and 5  
33 a.m. or transport an immediate family member without being  
34 accompanied and supervised by a licensed driver who is the  
35 licensee's parent or guardian, a licensed driver who is 25 years of  
36 age or older, or a licensed or certified driving instructor, in the  
37 following circumstances:

38 (A) Medical necessity of the licensee when reasonable  
39 transportation facilities are inadequate and operation of a vehicle  
40 by a minor is necessary. The licensee shall keep in his or her

1 possession a signed statement from a physician familiar with the  
2 condition, containing a diagnosis and probable date when sufficient  
3 recovery will have been made to terminate the necessity.

4 (B) Schooling or school-authorized activities of the licensee  
5 when reasonable transportation facilities are inadequate and  
6 operation of a vehicle by a minor is necessary. The licensee shall  
7 keep in his or her possession a signed statement from the school  
8 principal, dean, or school staff member designated by the principal  
9 or dean, containing a probable date that the schooling or  
10 school-authorized activity will have been completed.

11 (C) Employment necessity of the licensee when reasonable  
12 transportation facilities are inadequate and operation of a vehicle  
13 by a minor is necessary. The licensee shall keep in his or her  
14 possession a signed statement from the employer, verifying  
15 employment and containing a probable date that the employment  
16 will have been completed.

17 (D) Necessity of the licensee or the licensee’s immediate family  
18 member when reasonable transportation facilities are inadequate  
19 and operation of a vehicle by a minor is necessary to transport the  
20 licensee or the licensee’s immediate family member. The licensee  
21 shall keep in his or her possession a signed statement from a parent  
22 or legal guardian verifying the reason and containing a probable  
23 date that the necessity will have ceased.

24 (E) The licensee is an emancipated minor.

25 (3) As prohibited in Section 23123.5, a person possessing a  
26 valid provisional license issued pursuant to this section shall not  
27 drive a motor vehicle while using a wireless telephone or other  
28 mobile service device, including a handset equipped with a  
29 hands-free device, except as otherwise provided by Section  
30 23123.5.

31 (c) A law enforcement officer shall not stop a vehicle for the  
32 sole purpose of determining whether the driver is in violation of  
33 the restrictions imposed under subdivision (b).

34 (d) (1) Upon a finding that a licensee has violated paragraph  
35 (1) of subdivision (b), the court shall impose one of the following:

36 (A) Not less than eight hours nor more than 16 hours of  
37 community service for a first offense and not less than 16 hours  
38 nor more than 24 hours of community service for a second or  
39 subsequent offense.

1 (B) A fine of not more than thirty-five dollars (\$35) for a first  
2 offense and a fine of not more than fifty dollars (\$50) for a second  
3 or subsequent offense.

4 (2) If the court orders community service, the court shall retain  
5 jurisdiction until the hours of community service have been  
6 completed.

7 (3) If the hours of community service have not been completed  
8 within 90 days, the court shall impose a fine of not more than  
9 thirty-five dollars (\$35) for a first offense and not more than fifty  
10 dollars (\$50) for a second or subsequent offense.

11 (e) A conviction of paragraph (1) of subdivision (b), when  
12 reported to the department, shall not be disclosed as otherwise  
13 specified in Section 1808 or constitute a violation point count value  
14 pursuant to Section 12810.

15 (f) A term of restriction or suspension of the driving privilege  
16 imposed on a person pursuant to this subdivision shall remain in  
17 effect until the end of the term even though the person becomes  
18 18 years of age before the term ends.

19 (1) The driving privilege shall be suspended when the record  
20 of the person shows one or more notifications issued pursuant to  
21 Section 40509 or 40509.5. The suspension shall continue until a  
22 notification issued pursuant to Section 40509 or 40509.5 has been  
23 cleared.

24 (2) A 30-day restriction shall be imposed when a driver's record  
25 shows a violation point count of two or more points in 12 months,  
26 as determined in accordance with Section 12810. The restriction  
27 shall require the licensee to be accompanied by a licensed parent,  
28 spouse, guardian, or other licensed driver 25 years of age or older,  
29 except when operating a class M vehicle, or so licensed, with no  
30 passengers aboard.

31 (3) A six-month suspension of the driving privilege and a  
32 one-year term of probation shall be imposed whenever a licensee's  
33 record shows a violation point count of three or more points in 12  
34 months, as determined in accordance with Section 12810. The  
35 terms and conditions of probation shall include, but not be limited  
36 to, both of the following:

37 (A) The person shall violate no law that, if resulting in  
38 conviction, is reportable to the department under Section 1803.

39 (B) The person shall remain free from accident responsibility.

1 (g) Whenever action by the department under subdivision (f)  
2 arises as a result of a motor vehicle accident, the person may, in  
3 writing and within 10 days, demand a hearing to present evidence  
4 that he or she was not responsible for the accident upon which the  
5 action is based. Whenever action by the department is based upon  
6 a conviction reportable to the department under Section 1803, the  
7 person has no right to a hearing pursuant to Article 3 (commencing  
8 with Section 14100) of Chapter 3.

9 (h) The department shall require a person whose driving  
10 privilege is suspended or revoked pursuant to subdivision (f) to  
11 submit proof of financial responsibility as defined in Section 16430.  
12 The proof of financial responsibility shall be filed on or before the  
13 date of reinstatement following the suspension or revocation. The  
14 proof of financial responsibility shall be maintained with the  
15 department for three years following the date of reinstatement.

16 (i) (1) Notwithstanding any other provision of this code, the  
17 department may issue a distinctive driver's license, that displays  
18 a distinctive color or a distinctively colored stripe or other  
19 distinguishing characteristic, to persons at least 16 years of age  
20 and older but under 18 years of age, and to persons 18 years of  
21 age and older but under 21 years of age, so that the distinctive  
22 license feature is immediately recognizable. The features shall  
23 clearly differentiate between drivers' licenses issued to persons at  
24 least 16 years of age or older but under 18 years of age and to  
25 persons 18 years of age or older but under 21 years of age.

26 (2) If changes in the format or appearance of driver's licenses  
27 are adopted pursuant to this subdivision, those changes may be  
28 implemented under any new contract for the production of drivers'  
29 licenses entered into after the adoption of those changes.

30 (j) The department shall include, on the face of the provisional  
31 driver's license, the original issuance date of the provisional  
32 driver's license in addition to any other issuance date.

33 (k) This section shall be known, and may be cited, as the  
34 Brady-Jared Teen Driver Safety Act of 1997.

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

36 SEC. 6. Section 23123 of the Vehicle Code, as added by  
37 Section 4 of Chapter 290 of the Statutes of 2006, is amended to  
38 read:

39 23123. (a) A person shall not drive a motor vehicle while using  
40 a wireless telephone unless that telephone is specifically designed

1 and configured to allow hands-free listening and talking, and is  
2 used in that manner while driving.

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

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

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

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

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

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

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

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

31 (4) A commercial vehicle, as defined in Section 260, that is  
32 registered to a farmer and driven by the farmer or an employee of  
33 the farmer, and is used in conducting commercial agricultural  
34 operations, including, but not limited to, transporting agricultural  
35 products, farm machinery, or farm supplies to, or from, a farm.

36 (5) A tow truck, as defined in Section 615.

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

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

1 (h) *This section does not apply to a person possessing a valid*  
2 *instruction permit issued pursuant to Section 12509, a valid student*  
3 *license issued pursuant to Section 12651 or 12660, or a valid*  
4 *provisional license issued pursuant to Section 12814.6, that is*  
5 *subject to Section 23123.5.*

6 (i) This section shall become operative on July 1, 2008, and  
7 shall remain in effect only until July 1, 2011, and, as of July 1,  
8 2011, is repealed.

9 SEC. 7. Section 23123 of the Vehicle Code, as added by  
10 Section 5 of Chapter 290 of the Statutes of 2006, is amended to  
11 read:

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

16 (b) Notwithstanding subdivision (a) of Section 42001 or any  
17 other provision of law, a violation of ~~this section~~ *this section* is an  
18 infraction punishable by a base fine of twenty dollars (\$20) for a  
19 first offense and fifty dollars (\$50) for each subsequent offense.

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

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

29 (e) This section does not apply to a person driving a schoolbus  
30 or transit vehicle that is subject to Section 23125.

31 (f) This section does not apply to a person while driving a motor  
32 vehicle on private property.

33 (g) *This section does not apply to a person possessing a valid*  
34 *instruction permit issued pursuant to Section 12509, a valid student*  
35 *license issued pursuant to Section 12651 or 12660, or a valid*  
36 *provisional license issued pursuant to Section 12814.6, that is*  
37 *subject to Section 23123.5.*

38 (h) This section shall become operative on July 1, 2011.

39 SEC. 8. Section 23123.5 is added to the Vehicle Code, to read:

1 23123.5. (a) A person possessing a valid instruction permit  
2 issued pursuant to Section 12509, a valid student license issued  
3 pursuant to Section 12651 or 12660, or a valid provisional license  
4 issued pursuant to Section 12814.6, shall not drive a motor vehicle  
5 while using a wireless telephone or a mobile service device,  
6 including a handset equipped with a hands-free device.

7 (b) This section does not apply to a person using a wireless  
8 telephone or a mobile service device for emergency purposes,  
9 including, but not limited to, an emergency call to a law  
10 enforcement agency, health care provider, fire department, or other  
11 emergency services agency or entity.

12 (c) A law enforcement officer shall not stop a vehicle for the  
13 sole purpose of determining whether the driver is violating this  
14 section.

15 (d) For the purposes of this section, “mobile service device”  
16 includes, but is not limited to, a broadband personal communication  
17 device, specialized mobile radio device, handheld device or laptop  
18 computer with mobile data access, pager, and two-way messaging  
19 device.

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

21 SEC. 9. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.