

AMENDED IN SENATE FEBRUARY 14, 2007

SENATE BILL

No. 33

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

December 4, 2006

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~~ 23122 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 33, as amended, 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. A violation point is not given for a violation.~~

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. Secondly, the bill would prohibit such a person from driving a motor vehicle while using a handset equipped with a hands-free device or while using a mobile service~~

device, as defined. The bill would provide that ~~this prohibition does the prohibitions~~ do not apply to *such* 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 the 2nd prohibition.~~ *The bill would prohibit a violation point from being given for a conviction of violating any of the prohibition prohibitions.*

(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.~~ *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 12810.3 of the Vehicle Code is amended
- 2 to read:
- 3 12810.3. (a) Notwithstanding subdivision (f) of Section 12810,
- 4 a violation point shall not be given for a conviction of a violation
- 5 of subdivision ~~(a)~~ (b) or (c) of Section 23122 or subdivision (a)
- 6 of Section 23123.
- 7 (b) The section shall become operative on July 1, 2008.
- 8 SEC. 2. Section 23122 is added to the Vehicle Code, to read:
- 9 23122. (a) This section applies to a person possessing a valid
- 10 instruction permit issued pursuant to Section 12509, a valid student
- 11 license issued pursuant to Section 12651 or 12660, or a valid
- 12 provisional license issued pursuant to Section 12814.6.
- 13 (b) A person described in subdivision (a) shall not drive a motor
- 14 vehicle while using a wireless telephone. This subdivision includes
- 15 using a mobile service device when that device is used as a wireless
- 16 telephone.
- 17 (c) A person described in subdivision (a) shall not drive a motor
- 18 vehicle while using a handset equipped with a hands-free device
- 19 or a mobile service device.

1 (d) A law enforcement officer shall not stop a vehicle for the
2 sole purpose of determining whether the driver is violating
3 subdivision (c).

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

9 (f) For the purposes of this section, “mobile service device”
10 includes, but is not limited to, a broadband personal
11 communication device, specialized mobile radio device, handheld
12 device or laptop computer with mobile data access, pager, and
13 two-way messaging device.

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

15 SEC. 3. Section 23123 of the Vehicle Code, as added by Section
16 4 of Chapter 290 of the Statutes of 2006, is amended to read:

17 23123. (a) A person shall not drive a motor vehicle while using
18 a wireless telephone unless that telephone is specifically designed
19 and configured to allow hands-free listening and talking, and is
20 used in that manner while driving.

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

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

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

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

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

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

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

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

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

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

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

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

(h) *This section does not apply to a person who is subject to Section 23122.*

~~(h)~~

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

SEC. 4. Section 23123 of the Vehicle Code, as added by Section 5 of Chapter 290 of the Statutes of 2006, is amended to read:

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

(b) Notwithstanding subdivision (a) of Section 42001 or any other provision of law, a violation of this ~~section~~ *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.

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, 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 driving a schoolbus
8 or transit vehicle that is subject to Section 23125.

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

11 (g) *This section does not apply to a person who is subject to*
12 *Section 23122.*

13 ~~(g)~~

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

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

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26 **All matter omitted in this version of the bill**
27 **appears in the bill as introduced in the**
28 **Senate, December 4, 2006 (JR11)**
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