

Introduced by Senator SimitianFebruary 19, 2010

An act to amend Sections 12804.9, 23123, 23123.5, and 23124 of, to add Section 23124.5 to, and to repeal Section 12810.3 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1475, as introduced, Simitian. Vehicles: electronic wireless communications devices: prohibitions.

(1) Existing law requires the Department of Motor Vehicles to examine applicants for specific driver's licenses and requires that the examination include, among other things, a test of the applicant's knowledge and understanding of the provisions of the Vehicle Code governing the operation of vehicles upon the highways.

This bill would require the department to include a test of the applicant's understanding of the distractions and dangers of handheld cell phone use and text messaging while operating a motor vehicle.

(2) Existing law establishes that specified convictions and violations under the Vehicle Code and traffic-related incidents count as points against a driver's record for purposes of the suspension or revocation of the privilege to drive.

Under existing law, 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 person under 18 years of age is prohibited from driving a motor vehicle while using a wireless telephone, even if equipped with a hands-free device, or while using a mobile service device.

Under existing law, a person is also prohibited from driving a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication, except as specified.

A violation of these provisions is an infraction and a violation point is not given for a violation of these provisions.

This bill would delete the exemption from the violation point count that would be given for a conviction of the 3 provisions specified above. The bill would increase the base fines for a conviction under each of the first 2 provisions from \$20 to \$50 and the fine for a second or subsequent offense from \$50 to \$100 and would also apply these prohibitions to riding a bicycle. The bill would increase the base fine for driving while using an electronic wireless communications device to write, send, or read a text-based communication from \$20 to \$100 for a first offense and from \$50 to \$100 for each subsequent offense. By expanding the scope of existing crimes, the bill would impose a state-mandated local program.

(3) Existing law requires that the base fines collected from violations of the Vehicle Code for crimes other than parking offenses are subject to distribution to specified funds of a state or local agency as set forth by statute or to the proper funds of a city or county, as applicable.

This bill would require the Controller to deposit \$10 from each base fine collected under (2) above into a special account in the State Treasury for an education program on the dangers of cell phone use and text messaging while driving. The bill would require the Legislature, upon appropriation in the Budget Bill, to allocate this money to the Office of Traffic Safety in the Business, Transportation and Housing Agency for this purpose.

(4) 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 12804.9 of the Vehicle Code is amended
2 to read:

1 12804.9. (a) (1) The examination shall include all of the
2 following:

3 (A) A test of the applicant's knowledge and understanding of
4 the provisions of this code governing the operation of vehicles
5 upon the highways.

6 (B) A test of the applicant's ability to read and understand
7 simple English used in highway traffic and directional signs.

8 (C) A test of the applicant's understanding of traffic signs and
9 signals, including the bikeway signs, markers, and traffic control
10 devices established by the Department of Transportation.

11 *(D) A test of the applicant's understanding of the distractions*
12 *and dangers of handheld cell phone use and text messaging while*
13 *operating a motor vehicle.*

14 ~~(D)~~

15 (E) An actual demonstration of the applicant's ability to exercise
16 ordinary and reasonable control in operating a motor vehicle by
17 driving it under the supervision of an examining officer. The
18 applicant shall submit to an examination appropriate to the type
19 of motor vehicle or combination of vehicles he or she desires a
20 license to drive, except that the department may waive the driving
21 test part of the examination for any applicant who submits a license
22 issued by another state, territory, or possession of the United States,
23 the District of Columbia, or the Commonwealth of Puerto Rico if
24 the department verifies through any acknowledged national driver
25 record data source that there are no stops, holds, or other
26 impediments to its issuance. The examining officer may request
27 to see evidence of financial responsibility for the vehicle prior to
28 supervising the demonstration of the applicant's ability to operate
29 the vehicle. The examining officer may refuse to examine an
30 applicant who is unable to provide proof of financial responsibility
31 for the vehicle, unless proof of financial responsibility is not
32 required by this code.

33 ~~(E)~~

34 (F) A test of the hearing and eyesight of the applicant, and of
35 other matters that may be necessary to determine the applicant's
36 mental and physical fitness to operate a motor vehicle upon the
37 highways, and whether any grounds exist for refusal of a license
38 under this code.

39 (2) The examination for a class A or class B driver's license
40 under subdivision (b) shall also include a report of a medical

1 examination of the applicant given not more than two years prior
2 to the date of the application by a health care professional. As used
3 in this paragraph, “health care professional” means a person who
4 is licensed, certified, or registered in accordance with applicable
5 state laws and regulations to practice medicine and perform
6 physical examinations in the United States. Health care
7 professionals are doctors of medicine, doctors of osteopathy,
8 physician assistants, and registered advanced practice nurses, or
9 doctors of chiropractic who are clinically competent to perform
10 the medical examination presently required of motor carrier drivers
11 by the federal Department of Transportation. The report shall be
12 on a form approved by the department, the federal Department of
13 Transportation, or the Federal Aviation Administration. In
14 establishing the requirements, consideration may be given to the
15 standards presently required of motor carrier drivers by the Federal
16 Highway Administration.

17 (3) A physical defect of the applicant that, in the opinion of the
18 department, is compensated for to ensure safe driving ability, shall
19 not prevent the issuance of a license to the applicant.

20 (b) In accordance with the following classifications, an applicant
21 for a driver’s license shall be required to submit to an examination
22 appropriate to the type of motor vehicle or combination of vehicles
23 the applicant desires a license to drive:

24 (1) Class A includes the following:

25 (A) A combination of vehicles, if a vehicle being towed has a
26 gross vehicle weight rating of more than 10,000 pounds.

27 (B) A vehicle towing more than one vehicle.

28 (C) A trailer bus.

29 (D) The operation of all vehicles under class B and class C.

30 (2) Class B includes the following:

31 (A) A single vehicle with a gross vehicle weight rating of more
32 than 26,000 pounds.

33 (B) A single vehicle with three or more axles, except any
34 three-axle vehicle weighing less than 6,000 pounds.

35 (C) A bus except a trailer bus.

36 (D) A farm labor vehicle.

37 (E) A single vehicle with three or more axles or a gross vehicle
38 weight rating of more than 26,000 pounds towing another vehicle
39 with a gross vehicle weight rating of 10,000 pounds or less.

1 (F) A house car over 40 feet in length, excluding safety devices
2 and safety bumpers.

3 (G) The operation of all vehicles covered under class C.

4 (3) Class C includes the following:

5 (A) A two-axle vehicle with a gross vehicle weight rating of
6 26,000 pounds or less, including when the vehicle is towing a
7 trailer or semitrailer with a gross vehicle weight rating of 10,000
8 pounds or less.

9 (B) Notwithstanding subparagraph (A), a two-axle vehicle
10 weighing 4,000 pounds or more unladen when towing a trailer
11 coach not exceeding 9,000 pounds gross.

12 (C) A house car of 40 feet in length or less.

13 (D) A three-axle vehicle weighing 6,000 pounds gross or less.

14 (E) A house car of 40 feet in length or less or vehicle towing
15 another vehicle with a gross vehicle weight rating of 10,000 pounds
16 or less, including when a tow dolly is used. A person driving a
17 vehicle may not tow another vehicle in violation of Section 21715.

18 (F) (i) A two-axle vehicle weighing 4,000 pounds or more
19 unladen when towing either a trailer coach or a fifth-wheel travel
20 trailer not exceeding 10,000 pounds gross vehicle weight rating,
21 when the towing of the trailer is not for compensation.

22 (ii) A two-axle vehicle weighing 4,000 pounds or more unladen
23 when towing a fifth-wheel travel trailer exceeding 10,000 pounds,
24 but not exceeding 15,000 pounds, gross vehicle weight rating,
25 when the towing of the trailer is not for compensation, and if the
26 person has passed a specialized written examination provided by
27 the department relating to the knowledge of this code and other
28 safety aspects governing the towing of recreational vehicles upon
29 the highway.

30 ~~The~~

31 (iii) *The* authority to operate combinations of vehicles under
32 this subparagraph may be granted by endorsement on a class C
33 license upon completion of that written examination.

34 (G) A vehicle or combination of vehicles with a gross
35 combination weight rating or a gross vehicle weight rating, as
36 those terms are defined in subdivisions (j) and (k), respectively,
37 of Section 15210, of 26,000 pounds or less, if all of the following
38 conditions are met:

39 (i) Is operated by a farmer, an employee of a farmer, or an
40 instructor credentialed in agriculture as part of an instructional

1 program in agriculture at the high school, community college, or
2 university level.

3 (ii) Is used exclusively in the conduct of agricultural operations.

4 (iii) Is not used in the capacity of a for-hire carrier or for
5 compensation.

6 (H) A motorized scooter.

7 (I) Class C does not include a two-wheel motorcycle or a
8 two-wheel motor-driven cycle.

9 (4) Class M1. A two-wheel motorcycle or a motor-driven cycle.

10 Authority to operate a vehicle included in a class M1 license may
11 be granted by endorsement on a class A, B, or C license upon
12 completion of an appropriate examination.

13 (5) (A) Class M2 includes the following:

14 (i) A motorized bicycle or moped, or a bicycle with an attached
15 motor, except a motorized bicycle described in subdivision (b) of
16 Section 406.

17 (ii) A motorized scooter.

18 (B) Authority to operate vehicles included in class M2 may be
19 granted by endorsement on a class A, B, or C license upon
20 completion of an appropriate examination, except that no
21 endorsement is required for a motorized scooter. Persons holding
22 a class M1 license or endorsement may operate vehicles included
23 in class M2 without further examination.

24 (c) A driver's license or driver certificate is not valid for
25 operating a commercial motor vehicle, as defined in subdivision
26 (b) of Section 15210, any other motor vehicle defined in paragraph
27 (1) or (2) of subdivision (b), or any other vehicle requiring a driver
28 to hold any driver certificate or any driver's license endorsement
29 under Section 15275, unless a medical certificate approved by the
30 department, the federal Department of Transportation, or the
31 Federal Aviation Administration, that has been issued within two
32 years of the date of the operation of that vehicle, is within the
33 licensee's immediate possession, and a copy of the medical
34 examination report from which the certificate was issued is on file
35 with the department. Otherwise, the license is valid only for
36 operating class C vehicles that are not commercial vehicles, as
37 defined in subdivision (b) of Section 15210, and for operating class
38 M1 or M2 vehicles, if so endorsed, that are not commercial
39 vehicles, as defined in subdivision (b) of Section 15210.

1 (d) A license or driver certificate issued prior to the enactment
2 of Chapter 7 (commencing with Section 15200) is valid to operate
3 the class or type of vehicles specified under the law in existence
4 prior to that enactment until the license or certificate expires or is
5 otherwise suspended, revoked, or canceled.

6 (e) The department may accept a certificate of driving skill that
7 is issued by an employer, authorized by the department to issue a
8 certificate under Section 15250, of the applicant, in lieu of a driving
9 test, on class A or B applications, if the applicant has first qualified
10 for a class C license and has met the other examination
11 requirements for the license for which he or she is applying. The
12 certificate may be submitted as evidence of the applicant's skill
13 in the operation of the types of equipment covered by the license
14 for which he or she is applying.

15 (f) The department may accept a certificate of competence in
16 lieu of a driving test on class M1 or M2 applications, when the
17 certificate is issued by a law enforcement agency for its officers
18 who operate class M1 or M2 vehicles in their duties, if the applicant
19 has met the other examination requirements for the license for
20 which he or she is applying.

21 (g) The department may accept a certificate of satisfactory
22 completion of a novice motorcyclist training program approved
23 by the commissioner pursuant to Section 2932 in lieu of a driving
24 test on class M1 or M2 applications, if the applicant has met the
25 other examination requirements for the license for which he or she
26 is applying. The department shall review and approve the written
27 and driving test used by a program to determine whether the
28 program may issue a certificate of completion.

29 (h) Notwithstanding subdivision (b), a person holding a valid
30 California driver's license of any class may operate a short-term
31 rental motorized bicycle without taking any special examination
32 for the operation of a motorized bicycle, and without having a
33 class M2 endorsement on that license. As used in this subdivision,
34 "short-term" means 48 hours or less.

35 (i) A person under the age of 21 years may not be issued a class
36 M1 or M2 license or endorsement unless he or she provides
37 evidence satisfactory to the department of completion of a
38 motorcycle safety training program that is operated pursuant to
39 Article 2 (commencing with Section 2930) of Chapter 5 of Division
40 2.

1 (j) A driver of a vanpool vehicle may operate with a class C
2 license but shall possess evidence of a medical examination
3 required for a class B license when operating vanpool vehicles. In
4 order to be eligible to drive the vanpool vehicle, the driver shall
5 keep in the vanpool vehicle a statement, signed under penalty of
6 perjury, that he or she has not been convicted of reckless driving,
7 drunk driving, or a hit-and-run offense in the last five years.

8 (k) A class M license issued between January 1, 1989, and
9 December 31, 1992, shall permit the holder to operate any
10 motorcycle, motor-driven cycle, or motorized bicycle until the
11 expiration of the license.

12 SEC. 2. Section 12810.3 of the Vehicle Code is repealed.

13 ~~12810.3. Notwithstanding subdivision (f) of Section 12810, a~~
14 ~~violation point shall not be given for a conviction of a violation~~
15 ~~of subdivision (a) of Section 23123, subdivision (a) of Section~~
16 ~~23123.5, or subdivision (b) of Section 23124.~~

17 SEC. 3. Section 23123 of the Vehicle Code, as amended by
18 Section 2 of Chapter 214 of the Statutes of 2007, is amended to
19 read:

20 23123. (a) A person shall not *ride a bicycle or* drive a motor
21 vehicle while using a wireless telephone unless that telephone is
22 specifically designed and configured to allow hands-free listening
23 and talking, and is used in that manner while *riding or* driving.

24 (b) A violation of this section is an infraction punishable by a
25 base fine of ~~twenty dollars (\$20)~~ *fifty dollars (\$50)* for a first
26 offense and ~~fifty dollars (\$50)~~ *one hundred dollars (\$100)* for each
27 subsequent offense.

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

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

37 (e) This section does not apply to a person when using a digital
38 two-way radio that utilizes a wireless telephone that operates by
39 depressing a push-to-talk feature and does not require immediate

1 proximity to the ear of the user, and the person is driving one of
2 the following vehicles:

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

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

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

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

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

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

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

21 (g) This section does not apply to a person while *riding a bicycle*
22 *or* driving a motor vehicle on private property.

23 (h) This section shall become operative on July 1, 2008, and
24 shall remain in effect only until July 1, 2011, and, as of July 1,
25 2011, is repealed.

26 SEC. 4. Section 23123 of the Vehicle Code, as amended by
27 Section 3 of Chapter 214 of the Statutes of 2007, is amended to
28 read:

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

33 (b) A violation of this section is an infraction punishable by a
34 base fine of ~~twenty dollars (\$20)~~ *fifty dollars (\$50)* for a first
35 offense and ~~fifty dollars (\$50)~~ *one hundred dollars (\$100)* for each
36 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 driving a schoolbus
8 or transit vehicle that is subject to Section 23125.

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

11 (g) This section shall become operative on July 1, 2011.

12 SEC. 5. Section 23123.5 of the Vehicle Code is amended to
13 read:

14 23123.5. (a) A person shall not drive a motor vehicle while
15 using an electronic wireless communications device to write, send,
16 or read a text-based communication.

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

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

28 (d) A violation of this section is an infraction punishable by a
29 base fine of ~~twenty dollars (\$20)~~ *one hundred dollars (\$100)* for
30 a first offense and ~~fifty dollars (\$50)~~ *one hundred dollars (\$100)*
31 for each subsequent offense.

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

36 SEC. 6. Section 23124 of the Vehicle Code is amended to read:

37 23124. (a) This section applies to a person under the age of
38 18 years.

39 (b) Notwithstanding Section 23123, a person described in
40 subdivision (a) shall not *ride a bicycle or* drive a motor vehicle

1 while using a wireless telephone, even if equipped with a
2 hands-free device, or while using a mobile service device.

3 (c) A violation of this section is an infraction punishable by a
4 base fine of ~~twenty dollars (\$20)~~ *fifty dollars (\$50)* for a first
5 offense and ~~fifty dollars (\$50)~~ *one hundred dollars (\$100)* for each
6 subsequent offense.

7 (d) A law enforcement officer shall not stop a *bicyclist or* vehicle
8 for the sole purpose of determining whether the driver is violating
9 subdivision (b).

10 (e) Subdivision (d) does not prohibit a law enforcement officer
11 from stopping a *bicycle or a* vehicle for a violation of Section
12 23123.

13 (f) This section does not apply to a person using a wireless
14 telephone or a mobile service device for emergency purposes,
15 including, but not limited to, an emergency call to a law
16 enforcement agency, health care provider, fire department, or other
17 emergency services agency or entity.

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

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

24 SEC. 7. Section 23124.5 is added to the Vehicle Code, to read:

25 23124.5. The Controller shall deposit ten dollars (\$10) from
26 each base fine collected under Sections 23123, 23123.5, and 23124
27 into a special account in the State Treasury for an education
28 program on the dangers of cell phone use and text messaging while
29 driving. The Legislature, upon appropriation in the Budget Bill,
30 shall allocate this money to the Office of Traffic Safety in the
31 Business, Transportation and Housing Agency for this purpose.

32 SEC. 8. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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