

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN SENATE MAY 13, 2010

AMENDED IN SENATE MAY 4, 2010

AMENDED IN SENATE APRIL 26, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1475

Introduced by Senator Simitian

February 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1475, as amended, 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. A point is not given for a violation of these provisions.

This bill would assess a violation point on a 2nd or subsequent violation of these provisions.

(3) Under existing law, a person is 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.

This bill would require that this provision does not apply if the person is using a voice-operated, hands-free device.

The bill also would increase the base fines for a violation of any of the above described prohibitions involving driving a motor vehicle while using a wireless telephone or electronic wireless communications device from \$20 to \$50 and the fine for a 2nd or subsequent offense from \$50 to \$100, would apply those prohibitions to a person riding a bicycle, and would impose a total fine amount of \$20 for a first offense and \$50 for each subsequent offense for a violation of those prohibitions when the offense is committed while riding a bicycle. By expanding the scope of existing crimes, the bill would impose a state-mandated local program.

(4) Existing law prohibits a law enforcement officer from stopping a vehicle for the sole purpose of determining whether the driver is violating the prohibition of driving a motor vehicle while using a wireless telephone.

This bill would delete that prohibition.

(5) 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 county treasurer to submit \$10 from each fine collected under this provision for violating the above-described prohibitions involving driving a motor vehicle or riding a bicycle while using a wireless telephone or electronic wireless communications device

to the Controller, for deposit into the Distracted Driver Education Fund, which would be created in the State Treasury for an education program on the dangers of cell phone use and text messaging while driving, thereby imposing a state-mandated local program by imposing a new duty on local officials. 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.

(6) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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:
- 3 12804.9. (a) (1) The examination shall include all of the
- 4 following:
- 5 (A) A test of the applicant’s knowledge and understanding of
- 6 the provisions of this code governing the operation of vehicles
- 7 upon the highways.
- 8 (B) A test of the applicant’s ability to read and understand
- 9 simple English used in highway traffic and directional signs.
- 10 (C) A test of the applicant’s understanding of traffic signs and
- 11 signals, including the bikeway signs, markers, and traffic control
- 12 devices established by the Department of Transportation.
- 13 (D) A test of the applicant’s understanding of the distractions
- 14 and dangers of handheld cell phone use and text messaging while
- 15 operating a motor vehicle.
- 16 (E) An actual demonstration of the applicant’s ability to exercise
- 17 ordinary and reasonable control in operating a motor vehicle by
- 18 driving it under the supervision of an examining officer. The

1 applicant shall submit to an examination appropriate to the type
2 of motor vehicle or combination of vehicles he or she desires a
3 license to drive, except that the department may waive the driving
4 test part of the examination for any applicant who submits a license
5 issued by another state, territory, or possession of the United States,
6 the District of Columbia, or the Commonwealth of Puerto Rico if
7 the department verifies through any acknowledged national driver
8 record data source that there are no stops, holds, or other
9 impediments to its issuance. The examining officer may request
10 to see evidence of financial responsibility for the vehicle prior to
11 supervising the demonstration of the applicant's ability to operate
12 the vehicle. The examining officer may refuse to examine an
13 applicant who is unable to provide proof of financial responsibility
14 for the vehicle, unless proof of financial responsibility is not
15 required by this code.

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

21 (2) The examination for a class A or class B driver's license
22 under subdivision (b) shall also include a report of a medical
23 examination of the applicant given not more than two years prior
24 to the date of the application by a health care professional. As used
25 in this paragraph, "health care professional" means a person who
26 is licensed, certified, or registered in accordance with applicable
27 state laws and regulations to practice medicine and perform
28 physical examinations in the United States. Health care
29 professionals are doctors of medicine, doctors of osteopathy,
30 physician assistants, and registered advanced practice nurses, or
31 doctors of chiropractic who are clinically competent to perform
32 the medical examination presently required of motor carrier drivers
33 by the federal Department of Transportation. The report shall be
34 on a form approved by the department, the federal Department of
35 Transportation, or the Federal Aviation Administration. In
36 establishing the requirements, consideration may be given to the
37 standards presently required of motor carrier drivers by the Federal
38 Highway Administration.

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

4 (b) In accordance with the following classifications, an applicant
5 for a driver's license shall be required to submit to an examination
6 appropriate to the type of motor vehicle or combination of vehicles
7 the applicant desires a license to drive:

8 (1) Class A includes the following:

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

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

12 (C) A trailer bus.

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

14 (2) Class B includes the following:

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

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

19 (C) A bus except a trailer bus.

20 (D) A farm labor vehicle.

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

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

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

27 (3) Class C includes the following:

28 (A) A two-axle vehicle with a gross vehicle weight rating of
29 26,000 pounds or less, including when the vehicle is towing a
30 trailer or semitrailer with a gross vehicle weight rating of 10,000
31 pounds or less.

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

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

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

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

- 1 (F) (i) A two-axle vehicle weighing 4,000 pounds or more
- 2 unladen when towing either a trailer coach or a fifth-wheel travel
- 3 trailer not exceeding 10,000 pounds gross vehicle weight rating,
- 4 when the towing of the trailer is not for compensation.
- 5 (ii) A two-axle vehicle weighing 4,000 pounds or more unladen
- 6 when towing a fifth-wheel travel trailer exceeding 10,000 pounds,
- 7 but not exceeding 15,000 pounds, gross vehicle weight rating,
- 8 when the towing of the trailer is not for compensation, and if the
- 9 person has passed a specialized written examination provided by
- 10 the department relating to the knowledge of this code and other
- 11 safety aspects governing the towing of recreational vehicles upon
- 12 the highway.
- 13 (iii) The authority to operate combinations of vehicles under
- 14 this subparagraph may be granted by endorsement on a class C
- 15 license upon completion of that written examination.
- 16 (G) A vehicle or combination of vehicles with a gross
- 17 combination weight rating or a gross vehicle weight rating, as
- 18 those terms are defined in subdivisions (j) and (k), respectively,
- 19 of Section 15210, of 26,000 pounds or less, if all of the following
- 20 conditions are met:
- 21 (i) Is operated by a farmer, an employee of a farmer, or an
- 22 instructor credentialed in agriculture as part of an instructional
- 23 program in agriculture at the high school, community college, or
- 24 university level.
- 25 (ii) Is used exclusively in the conduct of agricultural operations.
- 26 (iii) Is not used in the capacity of a for-hire carrier or for
- 27 compensation.
- 28 (H) A motorized scooter.
- 29 (I) Class C does not include a two-wheel motorcycle or a
- 30 two-wheel motor-driven cycle.
- 31 (4) Class M1. A two-wheel motorcycle or a motor-driven cycle.
- 32 Authority to operate a vehicle included in a class M1 license may
- 33 be granted by endorsement on a class A, B, or C license upon
- 34 completion of an appropriate examination.
- 35 (5) (A) Class M2 includes the following:
- 36 (i) A motorized bicycle or moped, or a bicycle with an attached
- 37 motor, except a motorized bicycle described in subdivision (b) of
- 38 Section 406.
- 39 (ii) A motorized scooter.

1 (B) Authority to operate vehicles included in class M2 may be
2 granted by endorsement on a class A, B, or C license upon
3 completion of an appropriate examination, except that no
4 endorsement is required for a motorized scooter. Persons holding
5 a class M1 license or endorsement may operate vehicles included
6 in class M2 without further examination.

7 (c) A driver's license or driver certificate is not valid for
8 operating a commercial motor vehicle, as defined in subdivision
9 (b) of Section 15210, any other motor vehicle defined in paragraph
10 (1) or (2) of subdivision (b), or any other vehicle requiring a driver
11 to hold any driver certificate or any driver's license endorsement
12 under Section 15275, unless a medical certificate approved by the
13 department, the federal Department of Transportation, or the
14 Federal Aviation Administration, that has been issued within two
15 years of the date of the operation of that vehicle, is within the
16 licensee's immediate possession, and a copy of the medical
17 examination report from which the certificate was issued is on file
18 with the department. Otherwise, the license is valid only for
19 operating class C vehicles that are not commercial vehicles, as
20 defined in subdivision (b) of Section 15210, and for operating class
21 M1 or M2 vehicles, if so endorsed, that are not commercial
22 vehicles, as defined in subdivision (b) of Section 15210.

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

28 (e) The department may accept a certificate of driving skill that
29 is issued by an employer, authorized by the department to issue a
30 certificate under Section 15250, of the applicant, in lieu of a driving
31 test, on class A or B applications, if the applicant has first qualified
32 for a class C license and has met the other examination
33 requirements for the license for which he or she is applying. The
34 certificate may be submitted as evidence of the applicant's skill
35 in the operation of the types of equipment covered by the license
36 for which he or she is applying.

37 (f) The department may accept a certificate of competence in
38 lieu of a driving test on class M1 or M2 applications, when the
39 certificate is issued by a law enforcement agency for its officers
40 who operate class M1 or M2 vehicles in their duties, if the applicant

1 has met the other examination requirements for the license for
2 which he or she is applying.

3 (g) The department may accept a certificate of satisfactory
4 completion of a novice motorcyclist training program approved
5 by the commissioner pursuant to Section 2932 in lieu of a driving
6 test on class M1 or M2 applications, if the applicant has met the
7 other examination requirements for the license for which he or she
8 is applying. The department shall review and approve the written
9 and driving test used by a program to determine whether the
10 program may issue a certificate of completion.

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

17 (i) A person under 21 years of age shall not be issued a class
18 M1 or M2 license or endorsement unless he or she provides
19 evidence satisfactory to the department of completion of a
20 motorcycle safety training program that is operated pursuant to
21 Article 2 (commencing with Section 2930) of Chapter 5 of Division
22 2.

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

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

34 SEC. 2. Section 12810.3 of the Vehicle Code is amended to
35 read:

36 12810.3. Notwithstanding subdivision (f) of Section 12810, a
37 violation point shall only be given for a second or subsequent
38 conviction of a violation of subdivision (a) of Section 23123 or
39 subdivision (a) of Section 23123.5.

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

4 23123. (a) (1) A person shall not drive a motor vehicle while
5 using a wireless telephone unless that telephone is specifically
6 designed and configured to allow hands-free listening and talking,
7 and is used in that manner while ~~riding or~~ driving.

8 (2) A person shall not ride a bicycle while using a wireless
9 telephone unless that telephone is specifically designed and
10 configured to allow hands-free listening and talking, and is used
11 in that manner while riding the bicycle.

12 (b) (1) A violation of paragraph (1) of subdivision (a) is an
13 infraction punishable by a base fine of fifty dollars (\$50) for a first
14 offense and one hundred dollars (\$100) for each subsequent
15 offense.

16 (2) A violation of paragraph (2) of subdivision (a) is an
17 infraction punishable by a total fine of twenty dollars (\$20) for a
18 first offense and fifty dollars (\$50) for each subsequent offense.
19 The fines imposed for a first or subsequent offense shall be the
20 total amount collected and, notwithstanding any other provision
21 of law, no other penalties, assessments, surcharges, fees, or any
22 other charge shall be imposed.

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

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

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

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

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

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

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

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

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

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

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

18 (h) This section shall become operative on July 1, 2008, and
19 shall remain in effect only until July 1, 2011, and, as of July 1,
20 2011, is repealed.

21 SEC. 4. Section 23123 of the Vehicle Code, as amended by
22 Section 3 of Chapter 214 of the Statutes of 2007, is amended to
23 read:

24 23123. (a) (1) A person shall not drive a motor vehicle while
25 using a wireless telephone unless that telephone is specifically
26 designed and configured to allow hands-free listening and talking,
27 and is used in that manner while driving.

28 (2) A person shall not ride a bicycle while using a wireless
29 telephone unless that telephone is specifically designed and
30 configured to allow hands-free listening and talking, and is used
31 in that manner while riding the bicycle.

32 (b) (1) A violation of paragraph (1) of subdivision (a) is an
33 infraction punishable by a base fine of fifty dollars (\$50) for a first
34 offense and one hundred dollars (\$100) for each subsequent
35 offense.

36 (2) A violation of paragraph (2) of subdivision (a) is an
37 infraction punishable by a total fine of twenty dollars (\$20) for a
38 first offense and fifty dollars (\$50) for each subsequent offense.
39 The fines imposed for a first or subsequent offense shall be the
40 total amount collected and, notwithstanding any other provision

1 of law, no other penalties, assessments, surcharges, fees, or any
2 other charge shall be imposed.

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

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

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

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

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

17 SEC. 5. Section 23123.5 of the Vehicle Code is amended to
18 read:

19 23123.5. (a) (1) A person shall not drive a motor vehicle while
20 using an electronic wireless communications device to write, send,
21 or read a text-based communication, unless the person is using a
22 voice-operated, hands-free device.

23 (2) A person shall not ride a bicycle while using an electronic
24 wireless communications device to write, send, or read a text-based
25 communication.

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

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

37 (d) (1) A violation of paragraph (1) of subdivision (a) is an
38 infraction punishable by a base fine of fifty dollars (\$50) for a first
39 offense and one hundred dollars (\$100) for each subsequent
40 offense.

1 (2) A violation of paragraph (2) of subdivision (a) is an
2 infraction punishable by a total fine of twenty dollars (\$20) for a
3 first offense and fifty dollars (\$50) for each subsequent offense.
4 The fines imposed for a first or subsequent offense shall be the
5 total amount collected and, notwithstanding any other provision
6 of law, no other penalties, assessments, surcharges, fees, or any
7 other charge shall be imposed.

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

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

13 23124. (a) This section applies to a person under 18 years of
14 age.

15 (b) Notwithstanding Section 23123, a person described in
16 subdivision (a) shall not drive a motor vehicle while using a
17 wireless telephone, even if equipped with a hands-free device, or
18 while using a mobile service device.

19 (c) A violation of this section is an infraction punishable by a
20 base fine of fifty dollars (\$50) for a first offense and one hundred
21 dollars (\$100) for each subsequent offense.

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

27 (e) For purposes of this section, “mobile service device”
28 includes, but is not limited to, a broadband personal communication
29 device, specialized mobile radio device, handheld device or laptop
30 computer with mobile data access, pager, and two-way messaging
31 device.

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

33 23124.5. Notwithstanding Section 1463 of the Penal Code,
34 the county treasurer shall submit to the Controller ten dollars (\$10)
35 from each fine collected under Sections 23123, 23123.5, and
36 23124. The Controller shall deposit that amount into the Distracted
37 Driver Education Fund, which is hereby created in the State
38 Treasury for an education program on the dangers of cell phone
39 use and text messaging while driving. The Legislature, upon
40 appropriation in the Budget Bill, shall allocate this money to the

1 Office of Traffic Safety in the Business, Transportation and
2 Housing Agency for this purpose.

3 SEC. 8. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution for certain
5 costs that may be incurred by a local agency or school district
6 because, in that regard, this act creates a new crime or infraction,
7 eliminates a crime or infraction, or changes the penalty for a crime
8 or infraction, within the meaning of Section 17556 of the
9 Government Code, or changes the definition of a crime within the
10 meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 However, if the Commission on State Mandates determines that
13 this act contains other costs mandated by the state, reimbursement
14 to local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.

O