

**ASSEMBLY BILL**

**No. 1555**

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**Introduced by Assembly Member Frazier**

January 27, 2014

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An act to amend Section 193 of the Penal Code, and to amend Sections 21070 and 42001.19 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1555, as introduced, Frazier. Vehicular manslaughter: great bodily injury: driving while using wireless device.

(1) Existing law makes it an infraction to drive a motor vehicle while using a wireless telephone unless the telephone is designed and configured to allow hands-free listening and talking. Existing law makes it an infraction to drive a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication, unless the wireless communications device is designed and configured to allow voice-operated and hands-free operation. Existing law makes it an infraction for a person under the age of 18 years to drive 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, vehicular manslaughter with gross negligence is punishable either by imprisonment in a county jail for not more than one year or by imprisonment in the state prison for 2, 4, or 6 years. Under existing law, vehicular manslaughter without gross negligence is punishable by imprisonment in a county jail for not more than one year.

This bill would make vehicular manslaughter without gross negligence committed during the course of a violation of the above prohibitions

on driving a motor vehicle while using a wireless telephone, electronic wireless communications device, or mobile service device, punishable by imprisonment in a county jail for 16 months, or 2 or 3 years, and would make vehicular manslaughter with gross negligence under these circumstances punishable by imprisonment in the state prison for 4, 6, or 10 years. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

(2) Under existing law, any driver who violates certain specified provisions of law, including the above prohibitions on driving a motor vehicle while using a wireless telephone, electronic wireless communications device, or mobile service device, and as a result of that violation proximately causes bodily injury or great bodily injury is guilty of the public offense of unsafe operation of a motor vehicle with bodily injury or great bodily injury. Under existing law, a violation involving bodily injury is punishable by a fine of \$70, and a violation involving great bodily injury is punishable by a fine of \$95.

This bill would make unsafe operation of a motor vehicle with bodily injury or great bodily injury involving a violation of the above prohibitions on driving a motor vehicle while using a wireless telephone, electronic wireless communications device, or mobile service device punishable by imprisonment in a county jail for not less than 30 days, but not more than 6 months, and a fine not to exceed \$1,000 for a violation involving bodily injury, and by imprisonment in a county jail for not less than 90 days, but not more than one year, and a fine not to exceed \$1,000 for a violation involving great bodily injury. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

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 193 of the Penal Code is amended to  
 2 read:

1 193. (a) Voluntary manslaughter is punishable by  
2 imprisonment in the state prison for 3, 6, or 11 years.

3 (b) Involuntary manslaughter is punishable by imprisonment  
4 pursuant to subdivision (h) of Section 1170 for two, three, or four  
5 years.

6 (c) Vehicular manslaughter is punishable as follows:

7 ~~(1) A~~

8 (1) (A) *Except as provided in subparagraph (B), a violation of*  
9 *paragraph (1) of subdivision (c) of Section 192 is punishable either*  
10 *by imprisonment in the county jail for not more than one year or*  
11 *by imprisonment in the state prison for two, four, or six years.*

12 (B) *A violation of paragraph (1) of subdivision (c) of Section*  
13 *192 committed in the course of a violation of Section 23123,*  
14 *23123.5, or 23124 of the Vehicle Code is punishable by*  
15 *imprisonment in the state prison for four, six, or 10 years.*

16 ~~(2) A~~

17 (2) (A) *Except as provided in subparagraph (B), a violation of*  
18 *paragraph (2) of subdivision (c) of Section 192 is punishable by*  
19 *imprisonment in the a county jail for not more than one year.*

20 (B) *A violation of paragraph (2) of subdivision (c) of Section*  
21 *192 committed in the course of a violation of Section 23123,*  
22 *23123.5, or 23124 of the Vehicle Code is punishable by*  
23 *imprisonment pursuant to subdivision (h) of Section 1170 for 16*  
24 *months, or two or four years.*

25 (3) A violation of paragraph (3) of subdivision (c) of Section  
26 192 is punishable by imprisonment in the state prison for 4, 6, or  
27 10 years.

28 SEC. 2. Section 21070 of the Vehicle Code is amended to read:

29 21070. Notwithstanding any other provision of law, a driver  
30 who violates any provision of this division, that is punishable as  
31 an infraction, and as a result of that violation proximately causes  
32 bodily injury or great bodily injury, as defined in Section 12022.7  
33 of the Penal Code, to another person is guilty of the public offense  
34 of unsafe operation of a motor vehicle with bodily injury or great  
35 bodily injury. That violation is punishable as an infraction pursuant  
36 to Section 42001.19.

37 SEC. 3. Section 42001.19 of the Vehicle Code is amended to  
38 read:

39 42001.19. Notwithstanding any other provision of law, a person  
40 convicted of a violation of Section 21070 is punishable, as follows:

1     ~~(a) For~~  
2     (a) (1) *Except as provided in paragraph (2), for a violation*  
3 *involving bodily injury, by a fine of seventy dollars (\$70).*

4     (2) *For a violation involving bodily injury committed in the*  
5 *course of a violation of Section 23123, 23123.5, or 23124, by*  
6 *imprisonment in a county jail for not less than 30 days, but not to*  
7 *exceed six months, and by a fine not to exceed one thousand dollars*  
8 *(\$1,000).*

9     ~~(b) For~~  
10    (b) (1) *Except as provided in paragraph (2), for a violation*  
11 *involving great bodily injury, as defined in Section 12022.7 of the*  
12 *Penal Code, by a fine of ninety-five dollars (\$95).*

13    (2) *For a violation involving great bodily injury, as defined in*  
14 *Section 12022.7 of the Penal Code, committed in the course of a*  
15 *violation of Section 23123, 23123.5, or 23124, by imprisonment*  
16 *in a county jail for not less than 90 days, but not to exceed one*  
17 *year, and by a fine not to exceed one thousand dollars (\$1,000).*

18    SEC. 4. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.