

AMENDED IN ASSEMBLY MAY 8, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1646**

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**Introduced by Assembly Member Frazier**  
**(Coauthor: Assembly Member Gatto)**

February 11, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1646, as amended, Frazier. Vehicles: electronic wireless communication 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 ~~applicants~~ *applicant's* knowledge and understanding of the provision of the Vehicle Code governing the operation of vehicles upon the highways.

This bill would require the above-described examination to also include a test of the applicant's understanding of the distractions and dangers of handheld cellular 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 suspension or revocation of the privilege to drive.

Under existing law, it is an infraction for ~~any~~ *a* person to drive a motor vehicle while using a wireless telephone, or an electronic wireless communications device to write send, or read a text-based communication, unless the telephone or electronic wireless

communications device is designed and configured to allow voice-operated and hands-free 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 or an electronic wireless communications device, even if equipped with a hands-free device.

This bill would assess a violation point for a 2nd or subsequent conviction of a violation of these provisions. This bill would also 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 an electronic wireless communications device from \$20 to \$50, and the fine for a 2nd or subsequent offense from \$50 to \$100.

~~(3) Existing law prohibits a law enforcement officer from stopping a vehicle for the sole purpose of determining whether a driver, who is under 18 years of age, is violating the prohibition of driving a motor vehicle while using a telephone or an electronic wireless communications device.~~

~~This bill would delete the above prohibition.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*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 this code governing the operation of vehicles upon the highways.
- 7 (B) A test of the applicant’s ability to read and understand
- 8 simple English used in highway traffic and directional signs.
- 9 (C) A test of the applicant’s understanding of traffic signs and
- 10 signals, including the bikeway signs, markers, and traffic control
- 11 devices established by the Department of Transportation.
- 12 (D) A test of the applicant’s understanding of the distractions
- 13 and dangers of handheld cellular phone use and text messaging
- 14 while operating a motor vehicle.
- 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

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

39 (B) The department may accept a federal waiver of one or more  
40 physical qualification standards if the waiver is accompanied by

1 a report of a nonqualifying medical examination for a class A or  
2 class B driver's license, or class C driver's license with a  
3 commercial endorsement, pursuant to Section 391.41(a)(3)(ii) of  
4 Subpart E of Part 391 of Title 49 of the Code of Federal  
5 Regulations.

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

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

13 (1) Class A includes the following:

14 (A) Except as provided in subparagraph (H) of paragraph (3),  
15 a combination of vehicles, if a vehicle being towed has a gross  
16 vehicle weight rating or gross vehicle weight of more than 10,000  
17 pounds.

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

19 (C) A trailer bus.

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

21 (2) Class B includes the following:

22 (A) Except as provided in subparagraph (H) of paragraph (3),  
23 a single vehicle with a gross vehicle weight rating or gross vehicle  
24 weight of more than 26,000 pounds.

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

27 (C) A bus with a gross vehicle weight rating or gross vehicle  
28 weight of more than 26,000 pounds, except a trailer bus.

29 (D) A farm labor vehicle.

30 (E) A single vehicle with three or more axles or a gross vehicle  
31 weight rating or gross vehicle weight of more than 26,000 pounds  
32 towing another vehicle with a gross vehicle weight rating or gross  
33 vehicle weight of 10,000 pounds or less.

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

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

37 (3) Class C includes the following:

38 (A) A two-axle vehicle with a gross vehicle weight rating or  
39 gross vehicle weight of 26,000 pounds or less, including when the

1 vehicle is towing a trailer or semitrailer with a gross vehicle weight  
2 rating or gross vehicle weight of 10,000 pounds or less.

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

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

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

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

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

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

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

27 (G) A vehicle or combination of vehicles with a gross  
28 combination weight rating or a gross vehicle weight rating, as  
29 those terms are defined in subdivisions (j) and (k), respectively,  
30 of Section 15210, of 26,000 pounds or less, if all of the following  
31 conditions are met:

32 (i) Is operated by a farmer, an employee of a farmer, or an  
33 instructor credentialed in agriculture as part of an instructional  
34 program in agriculture at the high school, community college, or  
35 university level.

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

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

1 (H) Firefighting equipment, provided that the equipment is  
2 operated by a person who holds a firefighter endorsement pursuant  
3 to Section 12804.11.

4 (I) A motorized scooter.

5 (J) A bus with a gross vehicle weight rating or gross vehicle  
6 weight of 26,000 pounds or less, except a trailer bus.

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

9 (4) Class M1 includes a two-wheel motorcycle or a motor-driven  
10 cycle. Authority to operate a vehicle included in a class M1 license  
11 may 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 a driver certificate or a driver's license endorsement under  
29 Section 15275, unless a medical certificate approved by the  
30 department that has been issued within two years of the date of  
31 the operation of that vehicle and a copy of the medical examination  
32 report from which the certificate was issued is on file with the  
33 department. Otherwise, the license is valid only for operating class  
34 C vehicles that are not commercial vehicles, as defined in  
35 subdivision (b) of Section 15210, and for operating class M1 or  
36 M2 vehicles, if so endorsed, that are not commercial vehicles, as  
37 defined in subdivision (b) of Section 15210.

38 (d) A license or driver certificate issued prior to the enactment  
39 of Chapter 7 (commencing with Section 15200) is valid to operate  
40 the class or type of vehicles specified under the law in existence

1 prior to that enactment until the license or certificate expires or is  
2 otherwise suspended, revoked, or canceled. Upon application for  
3 renewal or replacement of a driver's license, endorsement, or  
4 certificate required to operate a commercial motor vehicle, a valid  
5 medical certificate on a form approved by the department shall be  
6 submitted to the department.

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

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

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

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

36 (i) A person under 21 years of age shall not be issued a class  
37 M1 or M2 license or endorsement unless he or she provides  
38 evidence satisfactory to the department of completion of a  
39 motorcycle safety training program that is operated pursuant to

1 Article 2 (commencing with Section 2930) of Chapter 5 of Division  
2 2.

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

11 SEC. 2. Section 12810.3 of the Vehicle Code is amended to  
12 read:

13 12810.3. Notwithstanding subdivision (f) of Section 12810, a  
14 violation point shall only be given for a second or subsequent  
15 conviction of a violation of subdivision (a) of Section 23123,  
16 subdivision (a) of Section 23123.5, or subdivision (b) of Section  
17 23124.

18 SEC. 3. Section 23123 of the Vehicle Code is amended to read:

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

23 (b) A violation of subdivision (a) is an infraction punishable by  
24 a base fine of fifty dollars (\$50) for a first offense and one hundred  
25 dollars (\$100) for each subsequent offense.

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

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

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

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

39 SEC. 4. Section 23123.5 of the Vehicle Code is amended to  
40 read:

1 23123.5. (a) A person shall not drive a motor vehicle while  
2 using an electronic wireless communications device to write, send,  
3 or read a text-based communication, unless the electronic wireless  
4 communications device is specifically designed and configured to  
5 allow voice-operated and hands-free operation to dictate, send, or  
6 listen to a text-based communication, and it is used in that manner  
7 while driving.

8 (b) As used in this section “write, send, or read a text-based  
9 communication” means using an electronic wireless  
10 communications device to manually communicate with ~~any~~ *a*  
11 person using a text-based communication, including, but not limited  
12 to, communications referred to as a text message, instant message,  
13 or electronic mail.

14 (c) For purposes of this section, a person shall not be deemed  
15 to be writing, reading, or sending a text-based communication if  
16 the person reads, selects, or enters a telephone number or name in  
17 an electronic wireless communications device for the purpose of  
18 making or receiving a telephone call or if a person otherwise  
19 activates or deactivates a feature or function on an electronic  
20 wireless communications device.

21 (d) A violation of subdivision (a) is an infraction punishable by  
22 a base fine of fifty dollars (\$50) for a first offense and *a fine of*  
23 one hundred dollars (\$100) for each subsequent offense.

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

28 SEC. 5. Section 23124 of the Vehicle Code is amended to read:

29 23124. (a) This section applies to a person under 18 years of  
30 age.

31 (b) Notwithstanding Sections 23123 and 23123.5, a person  
32 described in subdivision (a) shall not drive a motor vehicle while  
33 using a wireless telephone or an electronic wireless  
34 communications device, even if equipped with a hands-free device.

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

38 (d) *A law enforcement officer shall not stop a vehicle for the*  
39 *sole purpose of determining whether the driver is violating*  
40 *subdivision (b).*

1 (e) Subdivision (d) does not prohibit a law enforcement officer  
2 from stopping a vehicle for a violation of Section 23123 or 23123.5.

3 ~~(e)~~

4 (f) 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 other  
8 emergency services agency or entity.

9 ~~(e)~~

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