

Introduced by Senator Stone

February 27, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

SB 737, as introduced, Stone. Vehicles: electronic wireless communication devices: penalties.

Under existing law, it is an infraction for any person to drive a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication, unless the device is configured to allow hands-free operation. A person under 18 years of age is prohibited from driving a motor vehicle while using an electronic wireless communications device, even if equipped with a hands-free device. Under existing law, a violation of these provisions is an infraction punishable by a fine of \$20 for a first offense and \$50 for each subsequent offense, but does not result in the assessment of a violation point against the driver's record for purposes of suspension or revocation of the privilege to drive.

This bill would require that one point be assessed for a violation of the prohibitions on driving a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication. This bill would also increase the base fine to \$40 for a first offense and to \$100 for each subsequent offense.

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

The people of the State of California do enact as follows:

SECTION 1. Section 12810.3 of the Vehicle Code is amended to read:

12810.3. Notwithstanding subdivision (f) of Section 12810, a violation point shall not be given for a conviction of a violation of subdivision (a) of Section 23123, ~~subdivision (a) of Section 23123.5~~, or *paragraph (1) of* subdivision (b) of Section 23124.

SEC. 2. Section 23123.5 of the Vehicle Code is amended to read:

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

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

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

(d) A violation of this section is an infraction punishable by a base fine of ~~twenty dollars (\$20)~~ *forty dollars (\$40)* for a first offense and ~~fifty dollars (\$50)~~ *one hundred dollars (\$100)* for each subsequent offense.

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

SEC. 3. Section 23124 of the Vehicle Code is amended to read:

1 23124. (a) This section applies to a person under the age of
2 18 years of age.

3 (b) Notwithstanding Sections 23123 and 23123.5, a person
4 described in subdivision (a) shall not drive a motor vehicle while
5 using ~~a wireless telephone or an electronic wireless~~
6 ~~communications device~~, *either of the following*, even if equipped
7 with a hands-free ~~device~~: *device*:

8 (1) *A wireless telephone.*

9 (2) *An electronic wireless communications device.*

10 (c) (1) A violation of ~~this section~~ *paragraph (1) of subdivision*
11 *(b)* is an infraction punishable by a base fine of twenty dollars
12 (\$20) for a first offense and fifty dollars (\$50) for each subsequent
13 offense.

14 (2) *A violation of paragraph (2) of subdivision (b) is an*
15 *infraction punishable by a base fine of forty dollars (\$40) for a*
16 *first offense and one hundred dollars (\$100) for each subsequent*
17 *offense.*

18 (d) A law enforcement officer shall not stop a vehicle for the
19 sole purpose of determining whether the driver is violating
20 subdivision (b).

21 (e) Subdivision (d) does not prohibit a law enforcement officer
22 from stopping a vehicle for a violation of Section 23123 or
23 23123.5.

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

29 (g) For the purposes of this section, “electronic wireless
30 communications device” includes, but is not limited to, a broadband
31 personal communication device, specialized mobile radio device,
32 handheld device or laptop computer with mobile data access, pager,
33 and two-way messaging device.