

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN SENATE APRIL 25, 2012

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1310

Introduced by Senator Simitian

February 23, 2012

An act to amend Sections 12804.9, 12810.3, 23123, 23123.5, and 23124 of, and to add Sections 21213, 21213.5, 21214, and 23124.5 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1310, 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 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 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 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 \$30 and the fine for a 2nd or subsequent offense from \$50 to \$60, ~~would apply similar prohibitions to a person riding a bicycle, would impose a total fine of \$20 for a first offense and \$30 for each subsequent offense for a violation when the offense is committed while riding a bicycle, and would provide that a violation point is not given for a conviction of a violation 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 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 cellular 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.

~~The bill would authorize the county treasurer to also withhold a sufficient amount from each fine collected for violations involving riding a bicycle while using a wireless telephone or electronic wireless communications device to reimburse the courts in the county for their actual, reasonable, and necessary costs associated with processing violations under the law involving those prohibitions.~~

~~(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.~~

~~(4) This bill would incorporate additional changes to Section 12804.9 of the Vehicle Code proposed by AB 2188, to become operative only if AB 2188 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.~~

~~(5) This bill would incorporate additional changes to Section 23123.5 of the Vehicle Code proposed by AB 1536, to become operative only if AB 1536 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.~~

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

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

4 (D) A test of the applicant's understanding of the distractions
5 and dangers of handheld cellular phone use and text messaging
6 while operating a motor vehicle.

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

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

30 (2) The examination for a class A or class B driver's license
31 under subdivision (b) shall also include a report of a medical
32 examination of the applicant given not more than two years prior
33 to the date of the application by a health care professional. As used
34 in this paragraph, "health care professional" means a person who
35 is licensed, certified, or registered in accordance with applicable
36 state laws and regulations to practice medicine and perform
37 physical examinations in the United States. Health care
38 professionals are doctors of medicine, doctors of osteopathy,
39 physician assistants, and advanced practice registered nurses, or
40 doctors of chiropractic who are clinically competent to perform

1 the medical examination presently required of motor carrier drivers
2 by the federal Department of Transportation. The report shall be
3 on a form approved by the department, the federal Department of
4 Transportation, or the Federal Aviation Administration. In
5 establishing the requirements, consideration may be given to the
6 standards presently required of motor carrier drivers by the Federal
7 Highway Administration.

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

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

15 (1) Class A includes the following:

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

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

20 (C) A trailer bus.

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

22 (2) Class B includes the following:

23 (A) Except as provided in subparagraph (H) of paragraph (3),
24 a single vehicle with a gross vehicle weight rating of more than
25 26,000 pounds.

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

28 (C) A bus 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 of more than 26,000 pounds towing another vehicle
32 with a gross vehicle weight rating of 10,000 pounds or less.

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

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

36 (3) Class C includes the following:

37 (A) A two-axle vehicle with a gross vehicle weight rating of
38 26,000 pounds or less, including when the vehicle is towing a
39 trailer or semitrailer with a gross vehicle weight rating of 10,000
40 pounds or less.

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

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

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

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

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

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

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

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

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

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

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

37 (H) Firefighting equipment, provided that the equipment is
38 operated by a person who holds a firefighter endorsement pursuant
39 to Section 12804.11.

40 (I) A motorized scooter.

1 (J) Class C does not include a two-wheel motorcycle or a
2 two-wheel motor-driven cycle.

3 (4) Class M1 includes a two-wheel motorcycle or a motor-driven
4 cycle. Authority to operate a vehicle included in a class M1 license
5 may be granted by endorsement on a class A, B, or C license upon
6 completion of an appropriate examination.

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

8 (i) A motorized bicycle or moped, or a bicycle with an attached
9 motor, except a motorized bicycle described in subdivision (b) of
10 Section 406.

11 (ii) A motorized scooter.

12 (B) Authority to operate vehicles included in class M2 may be
13 granted by endorsement on a class A, B, or C license upon
14 completion of an appropriate examination, except that no
15 endorsement is required for a motorized scooter. Persons holding
16 a class M1 license or endorsement may operate vehicles included
17 in class M2 without further examination.

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

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

39 (e) The department may accept a certificate of driving skill that
40 is issued by an employer, authorized by the department to issue a

1 certificate under Section 15250, of the applicant, in lieu of a driving
2 test, on class A or B applications, if the applicant has first qualified
3 for a class C license and has met the other examination
4 requirements for the license for which he or she is applying. The
5 certificate may be submitted as evidence of the applicant's skill
6 in the operation of the types of equipment covered by the license
7 for which he or she is applying.

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

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

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

28 (i) A person under 21 years of age shall not be issued a class
29 M1 or M2 license or endorsement unless he or she provides
30 evidence satisfactory to the department of completion of a
31 motorcycle safety training program that is operated pursuant to
32 Article 2 (commencing with Section 2930) of Chapter 5 of Division
33 2.

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

1 *SEC. 1.5. Section 12804.9 of the Vehicle Code is amended to*
2 *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 cellular phone use and text messaging*
15 *while operating a motor vehicle.*

16 ~~(D)~~

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

35 ~~(E)~~

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

1 (2) ~~The examination for (A) Before a class A or class B driver's~~
2 ~~license under subdivision (b) shall also include a license, or class~~
3 ~~C driver's license with a commercial endorsement, may be issued~~
4 ~~or renewed, the applicant shall have in his or her driver record a~~
5 ~~valid report of a medical examination of the applicant given not~~
6 ~~more than two years prior to the date of the application by a health~~
7 ~~care professional. As used in this paragraph, "health care~~
8 ~~professional" means a person who is licensed, certified, or~~
9 ~~registered in accordance with applicable state laws and regulations~~
10 ~~to practice medicine and perform physical examinations in the~~
11 ~~United States. Health care professionals are doctors of medicine,~~
12 ~~doctors of osteopathy, physician assistants, and registered advanced~~
13 ~~practice registered nurses, or doctors of chiropractic who are~~
14 ~~clinically competent to perform the medical examination presently~~
15 ~~required of motor carrier drivers by the federal United States~~
16 ~~Department of Transportation. The report shall be on a form~~
17 ~~approved by the department, the federal Department of~~
18 ~~Transportation, or the Federal Aviation Administration department.~~
19 ~~In establishing the requirements, consideration may be given to~~
20 ~~the standards presently required of motor carrier drivers by the~~
21 ~~Federal Highway Motor Carrier Safety Administration.~~

22 (B) *The department may accept a federal waiver of one or more*
23 *physical qualification standards if the waiver is accompanied by*
24 *a report of a nonqualifying medical examination for a class A or*
25 *class B driver's license, or class C driver's license with a*
26 *commercial endorsement, pursuant to Section 391.41(a)(3)(ii) of*
27 *Subpart E of Part 391 of Title 49 of the Code of Federal*
28 *Regulations.*

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

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

36 (1) Class A includes the following:

37 (A) Except as provided in subparagraph (H) of paragraph (3),
38 a combination of vehicles, if a vehicle being towed has a gross
39 vehicle weight rating of more than 10,000 pounds.

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

1 (C) A trailer bus.

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

3 (2) Class B includes the following:

4 (A) Except as provided in subparagraph (H) of paragraph (3),
5 a single vehicle with a gross vehicle weight rating of more than
6 26,000 pounds.

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

9 (C) A bus except a trailer bus.

10 (D) A farm labor vehicle.

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

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

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

17 (3) Class C includes the following:

18 (A) A two-axle vehicle with a gross vehicle weight rating of
19 26,000 pounds or less, including when the vehicle is towing a
20 trailer or semitrailer with a gross vehicle weight rating of 10,000
21 pounds or less.

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

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

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

27 (E) A house car of 40 feet in length or less or a vehicle towing
28 another vehicle with a gross vehicle weight rating of 10,000 pounds
29 or less, including when a tow dolly is used. A person driving a
30 vehicle ~~may~~ *shall* not tow another vehicle in violation of Section
31 21715.

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

36 (ii) A two-axle vehicle weighing 4,000 pounds or more unladen
37 when towing a fifth-wheel travel trailer exceeding 10,000 pounds,
38 but not exceeding 15,000 pounds, gross vehicle weight rating,
39 when the towing of the trailer is not for compensation, and if the
40 person has passed a specialized written examination provided by

1 the department relating to the knowledge of this code and other
2 safety aspects governing the towing of recreational vehicles upon
3 the highway.

4 The

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

8 (G) A vehicle or combination of vehicles with a gross
9 combination weight rating or a gross vehicle weight rating, as
10 those terms are defined in subdivisions (j) and (k), respectively,
11 of Section 15210, of 26,000 pounds or less, if all of the following
12 conditions are met:

13 (i) Is operated by a farmer, an employee of a farmer, or an
14 instructor credentialed in agriculture as part of an instructional
15 program in agriculture at the high school, community college, or
16 university level.

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

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

20 (H) Firefighting equipment, provided that the equipment is
21 operated by a person who holds a firefighter endorsement pursuant
22 to Section 12804.11.

23 (I) A motorized scooter.

24 (J) Class C does not include a two-wheel motorcycle or a
25 two-wheel motor-driven cycle.

26 (4) ~~Class M1. A M1 includes a~~ two-wheel motorcycle or a
27 motor-driven cycle. Authority to operate a vehicle included in a
28 class M1 license may be granted by endorsement on a class A, B,
29 or C license upon completion of an appropriate examination.

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

31 (i) A motorized bicycle or moped, or a bicycle with an attached
32 motor, except a motorized bicycle described in subdivision (b) of
33 Section 406.

34 (ii) A motorized scooter.

35 (B) Authority to operate vehicles included in class M2 may be
36 granted by endorsement on a class A, B, or C license upon
37 completion of an appropriate examination, except that no
38 endorsement is required for a motorized scooter. Persons holding
39 a class M1 license or endorsement may operate vehicles included
40 in class M2 without further examination.

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

(d) A license or driver certificate issued prior to the enactment of Chapter 7 (commencing with Section 15200) is valid to operate the class or type of vehicles specified under the law in existence prior to that enactment until the license or certificate expires or is otherwise suspended, revoked, or canceled. *Upon application for renewal or replacement of a driver's license, endorsement, or certificate required to operate a commercial motor vehicle, a valid medical certificate on a form approved by the department shall be submitted to the department.*

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

(f) The department may accept a certificate of competence in lieu of a driving test on class M1 or M2 applications, when the certificate is issued by a law enforcement agency for its officers 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~~ a 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 ~~the age of~~ 21 years ~~may of age shall~~ not be
18 issued a class M1 or M2 license or endorsement unless he or she
19 provides evidence satisfactory to the department of completion of
20 a 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 SEC. 2. Section 12810.3 of the Vehicle Code is amended to
31 read:

32 12810.3. Notwithstanding subdivision (f) of Section 12810, a
33 violation point shall only be given for a second or subsequent
34 conviction of a violation of subdivision (a) of Section 23123,
35 subdivision (a) of Section 23123.5, or subdivision (b) of Section
36 23124.

37 ~~SEC. 3. Section 21213 is added to the Vehicle Code, to read:~~

38 ~~21213. (a) A person shall not ride a bicycle while using a~~
39 ~~wireless telephone unless that telephone is specifically designed~~

1 and configured to allow hands-free listening and talking, and is
2 used in that manner while riding the bicycle.

3 (b) A violation of subdivision (a) is an infraction punishable by
4 a total fine of twenty dollars (\$20) for a first offense and fifty
5 dollars (\$50) for each subsequent offense. The fines imposed for
6 a first or subsequent offense shall be the total amount collected
7 and, notwithstanding any other law, other penalties, assessments,
8 surcharges, fees, or any other charge shall not be imposed.

9 (c) This section does not apply to a person using a wireless
10 telephone for emergency purposes, including, but not limited to,
11 an emergency call to a law enforcement agency, health care
12 provider, fire department, or other emergency services agency or
13 entity.

14 (d) This section does not apply to a person while riding a bicycle
15 on private property.

16 SEC. 4. Section 21213.5 is added to the Vehicle Code, to read:

17 21213.5. (a) A person shall not ride a bicycle while using an
18 electronic wireless communications device to write, send, or read
19 a text-based communication.

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

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

31 (d) A violation of subdivision (a) is an infraction punishable by
32 a total fine of twenty dollars (\$20) for a first offense and fifty
33 dollars (\$50) for each subsequent offense. The fines imposed for
34 a first or subsequent offense shall be the total amount collected
35 and, notwithstanding any other law, other penalties, assessments,
36 surcharges, fees, or any other charge shall not be imposed.

37 (e) This section does not apply to a person while riding a bicycle
38 on private property.

39 SEC. 5. Section 21214 is added to the Vehicle Code, to read:

1 ~~21214. A violation of Section 21213 or 21213.5 shall not result~~
2 ~~in a violation point count.~~

3 ~~SEC. 6.~~

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

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

9 (b) A violation of subdivision (a) is an infraction punishable by
10 a base fine of thirty dollars (\$30) for a first offense and sixty dollars
11 (\$60) for each subsequent offense.

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

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

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

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

25 ~~SEC. 7.~~

26 ~~SEC. 4.~~ Section 23123.5 of the Vehicle Code is amended to
27 read:

28 23123.5. (a) A person shall not drive a motor vehicle while
29 using an electronic wireless communications device to write, send,
30 or read a text-based communication.

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

37 (c) For purposes of this section, a person shall not be deemed
38 to be writing, reading, or sending a text-based communication if
39 the person reads, selects, or enters a telephone number or name in

1 an electronic wireless communications device for the purpose of
2 making or receiving a telephone call.

3 (d) A violation of subdivision (a) is an infraction punishable by
4 a base fine of thirty dollars (\$30) for a first offense and sixty dollars
5 (\$60) for each subsequent offense.

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

10 SEC. 4.5. Section 23123.5 of the Vehicle Code is amended to
11 read:

12 23123.5. (a) A person shall not drive a motor vehicle while
13 using an electronic wireless communications device to write, send,
14 or read a text-based communication, *unless the electronic wireless*
15 *communications device is specifically designed and configured to*
16 *allow voice-operated and hands-free operation to dictate, send,*
17 *or listen to a text-based communication, and it is used in that*
18 *manner while driving.*

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

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

32 (d) A violation of ~~this section~~ subdivision (a) is an infraction
33 punishable by a base fine of ~~twenty~~ thirty dollars (~~\$20~~) (\$30) for
34 a first offense and ~~fifty~~ sixty dollars (~~\$50~~) (\$60) for each subsequent
35 offense.

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

1 ~~SEC. 8.~~

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

3 23124. (a) This section applies to a person under 18 years of
4 age.

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

9 (c) A violation of this section is an infraction punishable by a
10 base fine of thirty dollars (\$30) for a first offense and sixty dollars
11 (\$60) for each subsequent offense.

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

15 (e) *Subdivision (d) does not prohibit a law enforcement officer*
16 *from stopping a vehicle for a violation of Section 23123.*

17 ~~(d)~~

18 (f) This section does not apply to a person using a wireless
19 telephone or a mobile service device for emergency purposes,
20 including, but not limited to, an emergency call to a law
21 enforcement agency, health care provider, fire department, or other
22 emergency services agency or entity.

23 ~~(e)~~

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

29 ~~SEC. 9.~~ Section 23124.5 is added to the Vehicle Code, to read:

30 ~~23124.5. Notwithstanding Section 1463 of the Penal Code, the~~
31 ~~county treasurer:~~

32 ~~(a) Shall submit to the Controller ten dollars (\$10) from each~~
33 ~~fine collected under Sections 23123, 23123.5, and 23124. The~~
34 ~~Controller shall deposit that amount into the Distracted Driver~~
35 ~~Education Fund, which is hereby created in the State Treasury for~~
36 ~~an education program on the dangers of cellular phone use and~~
37 ~~text messaging while driving. The Legislature, upon appropriation~~
38 ~~in the Budget Bill, shall allocate this money to the Office of Traffic~~
39 ~~Safety in the Business, Transportation and Housing Agency for~~
40 ~~this purpose.~~

1 ~~(b) May withhold a sufficient amount from each fine collected~~
2 ~~under Sections 21213 and 21213.5 to reimburse the courts in the~~
3 ~~county for their actual, reasonable, and necessary costs associated~~
4 ~~with processing violations of Sections 21213 and 21213.5.~~

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

14 ~~However, if the Commission on State Mandates determines that~~
15 ~~this act contains other costs mandated by the state, reimbursement~~
16 ~~to local agencies and school districts for those costs shall be made~~
17 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
18 ~~4 of Title 2 of the Government Code.~~

19 ~~SEC. 6. Section 1.5 of this bill incorporates amendments to~~
20 ~~Section 12804.9 of the Vehicle Code proposed by both this bill~~
21 ~~and Assembly Bill 2188. It shall only become operative if (1) both~~
22 ~~bills are enacted and become effective on or before January 1,~~
23 ~~2013, (2) each bill amends Section 12804.9 of the Vehicle Code,~~
24 ~~and (3) this bill is enacted after Assembly Bill 2188, in which case~~
25 ~~Section 1 of this bill shall not become operative.~~

26 ~~SEC. 7. Section 4.5 of this bill incorporates amendments to~~
27 ~~Section 23123.5 of the Vehicle Code proposed by both this bill~~
28 ~~and Assembly Bill 1536. It shall only become operative if (1) both~~
29 ~~bills are enacted and become effective on January 1, 2013, (2)~~
30 ~~each bill amends Section 23123.5 of the Vehicle Code, and (3) this~~
31 ~~bill is enacted after Assembly Bill 1536, in which case Section 4~~
32 ~~of this bill shall not become operative.~~