

## **New Cellular Phone Laws Effective July 1, 2008**

This summer, the California Department of Motor Vehicles, along with law enforcement, will implement new laws that affect all individuals using handheld cellular phone devices while operating motor vehicles. Read the summary below for information and read on for more detailed data directly from the DMV.



**Summary:** As of July 1, 2008, ALL individuals operating a motor vehicle will NOT be permitted to use a cell phone without the proper hands-free device. There will be NO warning period for this primary offense ordinance and anyone found in violation will be subject to a \$20 fine, plus applicable court fees. This infraction will appear on the violators driving record; however, the DMV will not impose a violation point. Exceptions to the laws include, but are not limited to: making phone calls to law enforcement, fire department, medical provider, or other emergency services. The laws do not apply to vehicle passengers or emergency services professionals while operating authorized vehicles in the scope of his or her duties.

### **Wireless Telephone Laws FAQs**

Two new laws dealing with the use of wireless telephones while driving go into effect July 1, 2008. Below is a list of Frequently Asked Questions concerning these new laws.

**Q: When do the new wireless telephone laws take effect?**

A: The new laws take effect July 1, 2008.

**Q: What is the difference between the two laws?**

A: The first prohibits all drivers from using a handheld wireless telephone while operating a motor vehicle, (Vehicle Code (VC) §23123). Motorists 18 and over may use a "hands-free device." Drivers under the age of 18 may NOT use a wireless telephone or hands-free device while operating a motor vehicle (VC §23124).

**Q: What if I need to use my telephone during an emergency, and I do not have a "hands-free" device?**

A: The law allows a driver to use a wireless telephone to make emergency calls to a law enforcement agency, a medical provider, the fire department, or other emergency services agency.

**Q: What are the fines(s) if I'm convicted?**

A: The base fine for the FIRST offense is \$20 and \$50 for subsequent convictions. With the addition of penalty assessments, the fines can be more than triple the base fine amount.

**Q: Will I receive a point on my driver license if I'm convicted for a violation of the wireless telephone law?**

A: No. The violation is a reportable offense, however, DMV will not assign a violation point.

**Q: Will the conviction appear on my driving record?**

A: Yes, but the violation point will not be added.

**Q: Will there be a grace period when motorists will only get a warning?**

A: No. The law becomes effective July 1, 2008. Whether a citation is issued is always at the discretion of the officer based upon his or her determination of the most appropriate remedy for the situation.

**Q: Are passengers affected by this law?**

A: No. This law only applies to the person driving a motor vehicle.

**Q: Do these laws apply to out-of-state drivers whose home states do not have such laws?**

A: Yes.

**Q: Can I be pulled over by a law enforcement officer for using my handheld wireless telephone?**

A: Yes. A law enforcement officer can pull you over just for this infraction.

**Q: What if my phone has a push-to-talk feature, can I use that?**

A: No. The law does provide an exception for those operating a commercial motor truck or truck tractor (excluding pickups), implements of husbandry, farm vehicle or tow truck, to use a two-way radio operated by a "push-to-talk" feature. However, a push-to-talk feature attached to a hands-free ear piece or other hands-free device is acceptable.

**Q: What other exceptions are there?**

A: Operators of an authorized emergency vehicle during the course of employment are exempt, as are those motorists operating a vehicle on private property.

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**DRIVERS 18 AND OVER**

Drivers 18 and over will be allowed to use a "hands-free" device to talk on their wireless telephone while driving. The following FAQs apply to those motorists 18 and over.

**Q: Does the new "hands-free" law prohibit you from dialing a wireless telephone while driving or just talking on it?**

A: The new law does not prohibit dialing, but drivers are strongly urged not to dial while driving.

**Q: Will it be legal to use a Bluetooth or other earpiece?**

A: Yes, however you cannot have BOTH ears covered.

**Q: Does the new "hands-free" law allow you to use the speaker phone function of your wireless telephone while driving?**

A: Yes.

**Q: Does the new "hands-free" law allow drivers 18 and over to text message while driving?**

A: The law does not specifically prohibit that, but an officer can pull over and issue a citation to a driver of any age if, in the officer's opinion, the driver was distracted and not operating the vehicle safely. Sending text messages while driving is unsafe at any speed and is strongly discouraged.

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**DRIVERS UNDER 18**

**Q: Am I allowed to use my wireless telephone "hands-free?"**

A: No. Drivers under the age of 18 may not use a wireless telephone, pager, laptop or any other electronic communication or mobile services device to speak or text while driving in any manner, even "hands-free." EXCEPTION: Permitted in emergency situations to call police, fire or medical authorities (VC §23124).

**Q: Why is the law stricter for provisional drivers?**

A: Statistics show that teen drivers are more likely than older drivers to be involved in crashes because they lack driving experience and tend to take greater risks. Teen drivers are vulnerable to driving distractions such as talking with passengers, eating or drinking, and talking or texting on wireless devices, which increase the chance of getting involved in serious vehicle crashes.

**Q: Can my parents give me permission to allow me to use my wireless telephone while driving?**

A: No. The only exception is an emergency situation that requires you to call a law enforcement agency, a health care provider, the fire department or other emergency agency entity.

**Q: Does the law apply to me if I'm an emancipated minor?**

A: Yes. The restriction applies to all licensed drivers who are under the age of 18.

**Q: If I have my parent(s) or someone age 25 years or older in the car with me, may I use my wireless telephone while driving?**

A: No. You may only use your wireless telephone in an emergency situation.

**Q: Will the restriction appear on my provisional license?**

A: No.

**Q: May I use the hands-free feature while driving if my car has the feature built in?**

A: No. The law prohibits anyone under the age of 18 from using any type of wireless device while driving, except in an emergency situation.

**Q: Can a law enforcement officer stop me for using my "hands-free" device while driving?**

A: For drivers under the age of 18, this is considered a SECONDARY violation meaning that a law enforcement officer may cite you for using a "hands-free" wireless device if you were pulled over for another violation. However, the prohibition against using a **handheld** wireless device while driving is a PRIMARY violation for which a law enforcement officer can pull you over.

The two laws were the result of SB 1613 and SB 33, authored by Assemblyman Joe Simitian and signed into law by Gov. Arnold Schwarzenegger in September 2006.

### **Exceptions Hand-Held Wireless Telephone: Prohibited Use**

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

(b) ( ) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

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

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

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

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

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

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

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

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

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

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

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

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

Added and repealed Sec. 4, Ch. 290, Stats. 2006. Effective January 1, 2007. Operative July 1, 2008. Repeal operative July 1, 2011.

Amended Sec. 2, Ch. 214, Stats. 2007. Effective January 1, Operative July 1, 2008  
The 2007 amendment added the italicized material, and at the point(s) indicated, deleted the following "Notwithstanding subdivision (a) of Section 42001 or any other provision of law, a"

NOTE: The preceding section is repealed January 1, 2011, at which time the following section becomes operative.

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

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

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

Added Sec. 5, Ch. 290, Stats. 2006. Effective January 1, 2007. Operative July 1, 2011.

Amended Sec. 3, Ch. 214, Stats. 2007. Effective January 1, 2008. Operative July 1, 2011

The 2007 amendment added the italicized material, and at the point(s) indicated, deleted the following “Notwithstanding subdivision (a) of Section 42001 or any other provision of law, a violation of this sections”

Information provided by: Department of Motor Vehicles (retrieved May 1, 2008)