

AB1222 (2017) Suggested Edits - 23 April 2017

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

SECTION 1.

Section 23123.5 of the Vehicle Code is amended to read:

23123.5.

(a) A person shall not drive a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communications device unless the wireless telephone or electronic wireless communications device is specifically designed and configured to allow voice-operated and hands-free operation, and it is used in that manner while driving.

(b) This section shall not apply to manufacturer-installed or after-market systems that are embedded in the vehicle.

(c) A handheld wireless telephone or electronic wireless communications device may be operated in a manner requiring the use of the driver's hand while the driver is operating the vehicle only if both of the following conditions are satisfied:

(1) The handheld wireless telephone or electronic wireless communications device is mounted on a vehicle's windshield in the same manner a portable Global Positioning System (GPS) is mounted pursuant to paragraph (12) of subdivision (b) of Section 26708 or is mounted on or affixed to a vehicle's dashboard or center console in a manner that does not hinder the driver's view of the road.

(2) The driver's hand is used to activate or deactivate a feature or function of the handheld wireless telephone or wireless communications device with the motion of a single swipe or tap of the driver's finger.

(d) 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.

(e) This section does not apply to an emergency services professional or authorized volunteer 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.

(f) For the purposes of this section, "electronic wireless communications device" includes, but is not limited to, a broadband personal communication device, a handheld device or laptop computer with mobile data access, or a pager.

(g) "For the purposes of this section, "electronic wireless communications device" does not include any two-way radio that is operated under a currently active license in any NTIA or FCC regulated service including but not limited to public safety, educational, land mobile, aviation / aeronautical, broadcast, railroad, business, marine, CB, GMRS, FRS, MURS and amateur radio. This section also does not include any device that is operated under a current NTIA or FCC issued Special Temporary Authorization (STA).

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Commented [1]: Too broad. This could be a Bluetooth headset or ANY other wireless device - the former contradicts the intent of hands-free.

Commented [JA2]: Manufacturer-installed precludes installation/upgrade of older units to new that allow hands-free features, and it is not possible to get the manufacturer to upgrade to a newer system. This would limit hands-free compliance options.

Commented [3]: Is this meant to be "a handheld wireless telephone" or "handheld electronic wireless communications device" -or- "a handheld wireless telephone" or "electronic wireless communication device" the latter of which is again too broad.

Commented [4]: it is not practical, feasible, desirable to have non-handheld radios mounted to the windshield. The latter part of this is appropriate.

Commented [5]: Inconsistent, lacking 'electronic';

Commented [JA6]: There are a number of jurisdictions and agencies that limit the definition of 'professional' as a paid employee, yet enlist the resources of many unpaid volunteers. There are also MANY unmarked and under-cover vehicles without any markings or direct trace back to LE agencies that are operated by paid and unpaid personnel.

Commented [7]: this is broad and ambiguous without extensive qualification, thus (g)

Commented [8]: This is important per CHP advisory so that "but is not limited to" is not mis-interpreted as it has been. Puts a realistic limit/boundary on (f) to consider radio services and users under additional purview.