Cellular Telephones and Driving Facts

Operating a motor vehicle while using a cell phone can result in erratic driving, traffic accidents, injuries, and even death. Cell phone related accidents brought about two new laws July 1, 2008 dealing with the use of wireless telephones while driving.



- Vehicle Code §23123 prohibits all drivers from using a handheld wireless telephone while operating a motor vehicle.
- Vehicle Code §23124 prohibits drivers under the age of 18 from using a wireless telephone or hands-free device while operating a motor vehicle.

Violations, Fines, Exemptions

- A law enforcement officer can pull over a driver just for the infraction of using a handheld wireless telephone.
- Violations are reportable offenses and will appear a driving record; however, DMV will not assign a violation point.
- The base fine for the first offense is \$20 and \$50 for subsequent convictions. However, with the addition of penalty assessments, the total amount can be more than triple the base fine.
- The previous exception for push-to-talk features expired as of July 1, 2011 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.
- Operators of an authorized emergency vehicle during the course of employment are exempt, as are those motorists operating a vehicle on private property.

Drivers 18 and Over

- Drivers 18 and over are allowed to use a hands-free device to talk on a wireless telephone while driving.
- It is legal to use a Blue Tooth device or other earpiece; however, both ears cannot be covered.
- Use of the speaker phone function of a wireless telephone is allowed while driving as long as the driver is not holding the phone.
- The "hands-free" law does not allow drivers 18 and over to text while driving based on Vehicle Code §23123.5, effective January 1, 2009, which prohibits all motorists from reading, composing or sending a text-based communication while operating a motor vehicle.

Drivers 18 and Under

- Drivers under the age of 18 may not use a wireless telephone, laptop or any other electronic communication or mobile services device to speak or text while driving in any manner, even hands-free.
- The law is stricter for provisional drivers because 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 phones, which increase the chance of getting involved in serious vehicle crashes.
- Vehicle Code §23124 provides an exception to the law in an emergency situation that requires drivers to call a law enforcement agency, a health care provider, the fire department or other emergency agency entity. However, the following are not exceptions:
 - Parents cannot give permission to minors to use a wireless telephone while driving, nor if a parent or someone age 25 years or older in the car may a minor use a wireless telephone.
 - Even if the hands-free feature is built into a vehicle, the law still prohibits anyone under the age of 18 from using any type of wireless device while driving.
 - The law applies to emancipated minors since the restriction is based on all licensed drivers who are under the age of 18; however, the restriction does not appear on a provisional license
- A law enforcement officer cannot stop a minor for using a hands-free device while driving. For drivers under the age of 18, this is considered a secondary violation meaning that a law enforcement officer may cite for use of a hands-free wireless phone if a driver is pulled over for another violation. However, the prohibition against using a handheld wireless telephone while driving is a primary violation for which a law enforcement officer can pull over a driver.

Before Driving and Talking

- If possible, dial while the car is not in motion, such as at a traffic light or stop sign.
- Learn to operate the phone without looking at it.
- Never allow a phone conversation to distract from driving.
- Keep calls brief.
- While talking, keep head up and eyes on the road, with frequent checks of side and rearview mirrors.
- Don't take notes or look up phone numbers while driving.
- To check information, arrange to call back and do research while the car is safely stopped.

A Motor Vehicles

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