

CVC 23123.5
effective 1/1/2017

The new California hands free law

Written by Assemblyman Bill Quirk, D Hayward

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.

(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.

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

So does this new law (CVC 23123.5) apply to :

- Ham radio mobile operation?
- Business mobile radio operation including, but not limited to, Taxis, Buses, Tow Trucks, Public Works (MSC), PG&E, Cal Water, Animal Control Services, etc., etc.?
- Trucker's CB radios?
- FRS/GMRS radios?

It appears to.

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(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.

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

(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.

- \$20 base fine: \$162 final cost.
- \$50 base fine: \$285 final cost.

ARRL Gauging Impact of Revised California Distracted Driving Law

10/04/2016

California has upped its game in cracking down on distracted driving, and radio amateurs there are concerned that a recent revision to the state's Motor Vehicle Code could affect Amateur Radio mobile operation. The old law, which included an Amateur Radio exemption, already prohibited motorists from using electronic wireless communication devices to write, send, or read a text-based communication while in motion, unless the device was configured for voice-operated and hands-free operation. **The revised law does not exempt Amateur Radio.**

ARRL General Counsel Chris Imlay, W3KD, said there are two principal ways to protect Amateur Radio in this type of legislation. “One is by sufficiently narrowly defining prohibited activity so as to exclude Amateur Radio,” he said. “The other is to create specific exemptions where the definitions are confusing. **This new statute is an example of bad legislative draftsmanship. It creates a motor vehicle law with citations issued for certain activity that includes the words ‘but is not limited to’ in the language defining the violation.”**

<http://www.arrl.org/news/arrl-gauging-impact-of-revised-california-distracted-driving-law>

Write your Assembly Member and State Senator

- Tell them what you do as Ham (ARES/RACES, etc.).
- Explain how the law as written impacts your ability to do public service and emergency response.
- Ask them to please fix it.

Assembly member Marc Berman, Dist. 24 (PA, LA, MV, SV, SM Co. coast)

CA Senator Jerry Hill, Dist. 13 (SM, SC, S. Cruz Cos.)

Fundamental Questions

- What can I hold in my hand while driving
- What can I touch while driving?

Does this new law effectively ban mobile operation of two-way radios?