

****CSRMA ALERT****

Hands-Free Cell Phone Use Law Goes Into effect July 1, 2008

65 percent of California drivers have admitted they've done it. You see it everywhere. But, in a few weeks we'll all have to change the way we communicate on the phone, in the car.

[It's going to be the law on July 1st.](#)

No more hand held cell phones. The options are headsets, hands free car kits or speakerphones.

Distracted driving leads to tens of thousands of car accidents annually, with many of these accidents resulting in serious injuries or even death. Distractions while driving include eating, drinking, changing the radio station, reading and using a cell phone. For many of these distractions, there is no practical alternative other than banning the activity. However, there is a practical alternative to holding a cell phone – using a hands-free device. Hands-free devices are very inexpensive and most new phones come with an earpiece.

Using a hands-free device while driving does not eliminate the distraction that comes with cell phones. Talking on the phone and dialing and hanging up the phone create a distraction. However, requiring drivers to use hands-free devices better ensures that drivers have two hands free to place on the wheel while driving.

[What the Law Requires](#)

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 (*from CA DMV*).

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 drivers to use a wireless telephone to make emergency calls to law enforcement, medical provider, 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.

***For More Information, Please Contact David Patzer, CSRMA Risk Control Advisor at
707.373.9709 or at losscontrol@sbcglobal.net***

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.

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 it, but an officer can 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.

Best Practices From the California DMV Regarding Cell Phone Use and Driving

- ✓ Always drive to the side of the road to use your cell phone.
- ✓ Use hands-free devices. **Note:** Beginning July 1, 2008, you may not use a cellular telephone while driving unless hands-free equipment is used.
- ✓ Let it ring. Don't feel compelled to answer.
- ✓ Don't use the telephone during hazardous conditions.
- ✓ Pay attention to the road.
- ✓ Be sensible about dialing.
- ✓ Don't engage in distracting conversations. Rush hour traffic is not the time to hash out marital problems.
- ✓ Use your phone to call for help.

What Do I Do Next?

All CSRMA Members are encouraged to develop a Cell Phone Use While Driving Policy in accordance with the new California law and provide staff with appropriate equipment and training. CSRMA has collected several sample policies from cities and other special districts addressing this issue that are available upon request.

Contact CSRMA Risk Control for Sample Policies From Other Public Agencies

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