



DEPARTMENT NOTICE

19-201
10/03/19

Use of Cellular Phones and Electronic Communication Devices by Motorists and Members

Recent nationwide traffic studies have demonstrated the clear correlation between the use of cellular phones and electronic communication devices (text messaging) while driving and the significant increase in the probability of being involved in a collision where injury or death may occur.

Consistent and sustained enforcement of California Vehicle Code Sections 23123 and 23123.5 is necessary to alter dangerous behaviors associated with the use of cellular phones and electronic messaging devices by persons driving motor vehicles.

23123 CVC:

- (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.

23123.5 CVC:

- (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 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 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 specialized mobile radio device, a handheld device or laptop computer with mobile data access, a pager, or a two-way messaging device.

OFFICER SAFETY, AWARENESS AND PUBLIC PERCEPTION

Talking, or texting on a cell phone (or operating the MDT) while driving, diverts the driver's attention and decreases the reaction and response times to driving hazards. Studies on cell phone usage, even hands-free, have shown that such use can lead to decreased awareness of the surrounding environment. Our safety and the safety of the public are dependent upon our ability to recognize danger.

Despite the exemption allowed under California law, the use of these devices "in plain view" of members of the public is not the example of safety that should be displayed. The unnecessary public display of this exempted behavior by members has a negative effect on enforcement efforts and conveys a contradictory message regarding driving safety.

OFFICERS SHOULD NOT USE A CELL PHONE WHILE DRIVING. While driving, members should make every effort to avoid using the MDT and, if able, pull to the side of the roadway or come to a momentary stop without impacting traffic.

Only under articulable exigent circumstances should a cell phone or MDT be used while driving. Proper usage of cell phones and the MDT will increase our safety and enhance our professional image to the public.


WILLIAM SCOTT
Chief of Police

Per DB 19-156, both sworn and non-sworn members are required to electronically acknowledge receipt and review of this Department Bulletin in HRMS. Any questions or clarification regarding this policy should be made to sfpd.writtendirectives@sfgov.org who will provide additional guidance about the directive.