

CHP Enforcement of Section 23123.5 of the California Vehicle Code Hands Free Law

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From: Comm-Net Message [mailto:noreply@chp.ca.gov]

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To: @CHP

Subject: Comm-Net: Enforcement of Section 23123.5 of the California Vehicle Code

Enforcement of Section 23123.5 of the California Vehicle Code

To: All Commands

Reference: Action Required

Subject: Enforcement of Section 23123.5 of the California Vehicle Code

Effective January 1, 2017, Section 23123.5 of the California Vehicle Code (CVC) was amended by Assembly Bill 1785, which substantially expanded the scope of Section 23123.5 CVC, from simply prohibiting the use of a wireless phone to text while driving, to prohibiting holding and operating a handheld wireless telephone or an electronic wireless communications device while driving.

However, a driver may still use a handheld wireless telephone or an electronic wireless communication device while driving when:

The handheld wireless communication device is mounted to a windshield (in compliance with Section 26708[b] CVC), dashboard, or center console in a manner which does not interfere with the drivers view of the road, and;

The drivers hand is used to activate or deactivate a feature with a single tap or swipe of the drivers finger.

Pursuant to Section 23123.5(f) CVC, the definition of an 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.

Section 23123.5 CVC does not apply to manufacturer-installed systems which are embedded in the vehicle, nor does it apply to an emergency services professional using a wireless telephone while operating an authorized Emergency vehicle, in the course and scope of employment.

For the purposes of Section 23123.5(f) CVC, a radio installed and mounted in a vehicle with a wired hand microphone (e.g., business band or citizen band [CB] radio) is not considered a wireless communication device, nor is it considered a specialized mobile radio device, and therefore is not subject to enforcement under this section.

This information will be added to an upcoming revision to Highway Patrol Manual 100.68, Traffic Enforcement Policy Manual, Chapter 5, Other Enforcement Issues.

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