

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

-----Original Message-----

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

Sent: Tuesday, March 28, 2017 8:23 AM

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.

CHP Headquarters/Office of the Commissioner/061/18227

Legislative Intent—Assembly Bill No. 1785
2015–16 Regular Session

April 11, 2017

E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California

Dear Mr. Wilson: I am submitting this letter to the Assembly Daily Journal to clarify my intent regarding AB 1785 (Chapter 660, Statutes of 2016), relative to use of wireless electronic devices in moving vehicles.

The legislation was intended to prohibit a person from driving a motor vehicle while holding and operating a handheld wireless telephone or similar wireless electronic communication device. In 2008, California banned sending text-based communications while driving a motor vehicle. However, technology has developed so rapidly since then that the law regarding acceptable uses of electronic devices while driving is outdated. Because drivers can utilize mobile phones for an ever-expanding number of functions including web browsing, photography, recording video, navigational assistance, and literally millions of apps, drivers are increasingly distracted by these devices. It is also difficult, if not impossible, for law enforcement to determine from outside a moving vehicle whether a driver who is holding one of these devices while driving is engaged in an authorized or unauthorized use of a mobile device. For this reason, AB 1785 clarified that a driver may not operate an electronic device that is held in his or her hand while driving.

That said, this legislation was not intended to prohibit the use of radios that offer a two-way communication commonly used by trained professionals or licensed individuals, for brief, verbal communications with their dispatch offices or with other trained professionals. These devices do not possess the myriad distractions of cellular phones. These devices are essential tools operated by trained professionals in accordance with company safety policies. For example, dispatch and coordination is essential during emergencies or in hazardous or remote locations. The types of conversations facilitated by these two-way communication devices are brief and utilitarian in nature. Prohibition of these types of conversations or communications was not the intent of AB 1785.

I submit this letter to clarify and reiterate that my intent that AB 1785 not be construed to limit the use of radios that are wired and connected inside a vehicle to provide two-way communication, by either trained professionals or individuals that have been properly licensed for brief, verbal communications.

Sincerely,

BILL QUIRK, Assembly Member
Twentieth District