

New Hands Free Cell Phone Laws

FAQ

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.

Q: When do the new wireless telephone laws take effect?

A: The new laws take effect July 1, 2008

Q: What is the difference between the two laws?

A: The first law 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. The second law prohibits drivers under the age of 18 from using a wireless telephone or a 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 a driver to use a wireless telephone to make emergency calls to a law enforcement agency, a medical provider, the fire department, or other emergency services agency.

Q: What are the fines if I'm convicted?

A: The base fine for the FIRST offense is \$20 and \$50 for subsequent convictions. According to the Uniform Bail and Penalty Schedule, with the addition of penalty assessments, a first offense is \$76 and a second offense is \$190.

Q: Will I receive a point on my drivers 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 in effect on 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.

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



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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 Blue Tooth 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 page while driving?

A: The law does not specifically prohibit that, but an officer can pull over and 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. Text paging while driving is unsafe at any speed and is strongly discouraged.

DRIVERS UNDER 18

Q: Am I allowed to use my wireless telephone hands free?

A: NO. Drivers under the age of 18 may not use a wireless telephone, pager, laptop or any other electronic communication or mobile services device to speak or text while driving in any manner, even hands free. EXCEPTION: Permitted in emergency situations to call police, fire or medical authorities. (VC §23124).

Q: Why is the law stricter for provisional drivers?

A: Statistics show that teen drivers are more likely than older drivers to be involved in crashes

because they lack driving experience and tend to take greater risks. Teen drivers are vulnerable to driving distractions such as talking with passengers, eating or drinking, and talking or texting on wireless phones, which increase the chance of getting involved in serious vehicle crashes.

Q: Can my parents give me permission to allow me to use my wireless telephone while driving?

A: NO. The only exception is an emergency situation that requires you to call a law enforcement agency, a health care provider, the fire department or other emergency agency entity.

Q: Does the law apply to me if I’m an emancipated minor?

A: Yes. The restriction applies to all licensed drivers who are under the age of 18.

Q: If I have my parent(s) or someone age 25 years or older in the car with me, may I use my wireless telephone while driving?

A: NO. You may only use your wireless telephone in an emergency situation.

Q: Will the restriction appear on my provisional license?

A: No

Q: May I use the hands-free feature while driving if my car has the feature built in?

A: NO. The law prohibits anyone under the age of 18 from using any type of wireless device while driving, except in an emergency situation.

Q: Can a law enforcement officer stop me for using my hands-free device while driving?

A: No. For drivers under the age of 18, this is considered a SECONDARY violation meaning that a law enforcement officer may cite you for using a **hands-free** wireless phone if you were pulled over for another violation. However, the prohibition against using a **handheld** wireless telephone while driving is a PRIMARY violation for which a law enforcement officer can pull you over.