



# Wireless Telephone Use While Driving

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**Policy Number:** **AP-5902**

**Document Type:** **Policy**

**Version:** 1.0.

## ADDITIONAL DETAILS

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History

**Effective:** *September, 2009*

**Last Updated:** *New*

**Responsible Department/Division:**  
*Labor Relations Department*

## Policy/Guideline Statement:

This Administrative Policy Instruction (API) applies to all City employees who use cellular telephones or wireless handheld communication devices while operating a City motor vehicle, or any motor vehicle on official business for the City of Sacramento.

Effective July 1, 2008, the California Wireless Telephone Automobile Safety Act of 2006 prohibits use of wireless telephones while driving unless that telephone is specifically designed and configured to allow hand-free listening and talking by means of a hands-free device (e.g., a speaker phone, Bluetooth™ headset, earphone/microphone combination, etc.) and is used in that manner while driving.

Any Employee driving a City vehicle or non-City vehicle while on City business is required to use a compliant hands-free device if the Employee makes or receives wireless telephone calls while driving.

Any Employee who chooses not to use a hands-free device must pull over and park the vehicle to make and receive wireless calls.

Effective January 1, 2009, the Wireless Communications Device Law prohibits writing, sending, or reading text-based communication on an electronic wireless communications device, such as a cellular phone, while driving a motor vehicle.

No Employee shall use a wireless telephone or other handheld device to write, send, or read text messages, instant messages, or electronic mail while operating a City motor vehicle, or any motor vehicle on official City business.

### **Special Situations**

1. Commercial Vehicles: Drivers of commercial vehicles that require a class A or B commercial license to operate may continue to use push-to-talk phones such as Nextel telephones in walkie-talkie mode while driving until July 1, 2011.
2. Emergency Calls
  - All drivers can make emergency phone calls without using a hands-free device. Emergency calls include calls to law enforcement agencies, health care providers, fire departments and the like.
  - Drivers of emergency response vehicles such as police and fire personnel (as authorized by section 165 of the Vehicle Code) may use cellular telephones and wireless handheld devices without hands-free devices while driving in the course and scope of their duties.

### **Penalty/Fines**

Violation of the California Wireless Telephone Automobile Safety Act of 2006 or the Wireless Communications Device Law is an infraction and conviction is punishable by a base fine.

The City of Sacramento will not be responsible for and will not pay fines or other sanctions that may result if a City employee, while driving a City vehicle, or any vehicle on City business, is convicted of violating the California Wireless Telephone Automobile Safety Act of 2006 or the Wireless Communications Device Law, as they now read or may be amended in the future.

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### **Purpose:**

The purpose of this policy is to comply with the Wireless Telephone Automobile Safety Act of 2006 ("Act") and Wireless Communications Device Law, and to promote safe operation of motor vehicles. These laws will have an impact on City operations since many employees rely on cellular telephones and wireless handheld devices such as BlackBerry™ devices for communication while working in the field.

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### **Procedures that apply:**

- None

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### **Forms/Instructions that apply:**

- None

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## Responsible Department:

Labor Relations Department

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## Definitions:

None

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## Frequently Asked Questions:

**Q: When did the handheld wireless telephone laws take effect?**

A: The laws took effect July 1, 2008.

**Q: When did the wireless communications device (no texting) law take effect?**

A: The law took effect January 1, 2009.

**Q: What is the difference between these laws?**

A: The first law prohibits all drivers from using a handheld wireless telephone while operating a motor vehicle, (*California Vehicle Code* [VC] §23123). Motorists 18 and over may use a “hands-free device.” The second law prohibits **all** drivers from texting while operating a motor vehicle (VC §23123.5). The third law prohibits drivers under the age of 18 from using a wireless telephone or hands-free device while operating a motor vehicle (VC §23124).

**Q: Does the “hands-free” law prohibit you from dialing a wireless telephone while driving or just talking on it?**

A: The law does not prohibit dialing, but drivers are strongly urged not to dial while driving.

**Q: Does the “hands-free” law allow you to use the speaker phone function of your wireless telephone while driving?**

A: Yes, as long as you are not holding the phone.

**Q: Are passengers affected by these laws?**

A: No. These laws only apply to the person operating a motor vehicle.

**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. However, 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. 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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## Reference Information:

- California Vehicle Code Section 23123
  - California Vehicle Code Section 23123.5
  - California Vehicle Code Section 23124
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## Document History:

**Supersedes:** New  
**Effective:** September 2009