

California State Senate

CAPITOL OFFICE
STATE CAPITOL
SACRAMENTO, CA 95814
(916) 651-4011
Fax (916) 323-4529

Senator.Simitian@sen.ca.gov

www.senatorsimitian.com



SENATOR
S. JOSEPH SIMITIAN
ELEVENTH SENATE DISTRICT

DISTRICT OFFICE
160 Town & Country Village
Palo Alto, CA 94301
(650) 688-6384
Fax (650) 688-6370

SATELLITE OFFICE
701 Ocean Street, Room 318A
Santa Cruz, CA 95060
(831) 425-0401
Fax (831) 425-5124

August 24, 2011

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, CA 95814

Re: Senate Bill 28 – Enhanced Penalties, violations of California's hands free and no texting while driving statutes

Dear Governor Brown:

This letter is to respectfully request your signature on Senate Bill 28 (SB 28) which enhances the penalties for unlawful cell phone use/texting while driving.

The fundamental premise of the bill is simple and straightforward: Distracted driving is dangerous. California's distracted driving laws (hands free cell phone, teen safety, and no texting) have reduced the number of fatalities and collisions. Compliance has been good, but could be much better. Stiffer penalties would improve compliance and further reduce the number of fatalities on California streets and highways.

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Senate Bill 28 would strengthen the existing law by:

- Increasing the base fine for a violation of the hands free cell phone and texting while driving laws from \$20 to \$50 for a first offense, and from \$50 to \$100 for a second or subsequent offense (plus additional applicable fees and assessments);
- Make a violation of the hands free cell phone law, the texting law or the teen safety law a driver's license "point" on a **second** or subsequent offense;
- Use a portion of the increased fine revenue (i.e., \$10 of the \$30 increase) to establish and fund a cell phone/texting related distracted driving education program in the Office of Traffic Safety (OTS); and,
- Apply the distracted driving laws to bicyclists at a substantially reduced *total* fine level of \$20 for a first offense, and \$50 for each subsequent offense (correcting an oversight in the original legislation).

The consensus among highway safety professionals is that increased penalties, enforcement, and education lead to improved compliance with traffic safety laws. This view is in fact borne out by the data.

National Highway Transportation Safety Administration (NHTSA) data indicates that an increase in the fine for seat belt use from \$25 to \$100 increases compliance by six to seven percentage points, a significant boost given that the average compliance rate is already roughly 85%, and a fine increase closes almost half the gap. Similarly, until the 1980's seat belt use rates in the United States and Canada were virtually identical; but when Canada amended its law to add driver's license points for seat belt violations, compliance rose significantly over U.S. rates.

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The dramatic decrease in drunken driving in the past 25 years likewise corresponds to increased fines and penalties. And more broadly, a 2004 meta-analysis in the Journal of Safety Research on steps to improve problem drivers indicates that “driver improvement interventions” (a euphemism for fines and points) have a positive impact on improving driver compliance.

Background

According to NHTSA the number one source of driver inattention is the use of a wireless device. A January 2010 study by the National Safety Council found that 28 percent of traffic accidents occur when people are talking on cellphones or sending text messages while driving. Texting while driving has been shown to slow reaction time by 35 percent, nearly three times slower than the legal blood alcohol level (12 percent).

Fortunately, the general public understands these dangers and supports legislative efforts to address the problem. For example, surveys conducted by AAA and Nationwide indicate that 97.7 percent of people think that texting while driving is a serious threat, and that eight in 10 drivers support some type of cell phone usage restriction.

The existing hands free cell phone law in California has now been in place for three years. And the law has been effective; resulting in the largest year over year reduction in collisions on record.

In the first year, from July 1, 2008 thru June 30, 2009 there was a 20 percent reduction in fatalities and collisions equating to 700 fewer fatalities, and 75 to 100 thousand fewer accidents as compared to the annual average over the previous three and five year periods. The California Highway Patrol (CHP) data on collisions where the distraction was identified show a nearly 50% reduction in the number of collisions in which handheld cell phones was a factor since the enactment of the hands free law.

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Studies by AAA and OTS have shown a 60 to 70 percent compliance rate with the law. Enhanced penalties and education would boost the compliance rate and further reduce the number of deaths and collisions on our streets and highways. The current first offense fine of \$20 is a small fraction of the standard \$100 fine for vehicle code first offenses. Even at the proposed level of \$50 for a first offense the fine would be just half the cost of standard vehicle code violations.

Finally, it should be noted that the bill is supported by Verizon Wireless, the California Association of Highway Patrolmen, AAA Northern California, and the California Bicycle Coalition. There is no significant opposition. We have worked closely with the CHP on this and previous efforts, and we encourage your office to seek their input on SB 28.

I respectfully request your signature on Senate Bill 28.

Sincerely,

S. Joseph Simitian

State Senator, Eleventh District

cc: Nancy McFadden, Executive Secretary
Gareth Elliott, Legislative Affairs Secretary
Aaron Maguire, Deputy Legislative Secretary