



# Is using your cell phone while driving always illegal? It depends

BY REBECCA HIRSCH

You know that a California law passed in 2006 prohibits voice calls using a handheld phone. But what about using the GPS function of your smart phone for directions or checking the map for traffic? Or using the light of the device as a flashlight? Vehicle code section 23123.5, known as the cell phone law, regulates the use of mobile devices while driving. The law can be quite confusing, considering how versatile smart phones have become and how much technology has advanced since the law was passed.

True or false: You can legally hold your phone and talk while driving in a parking lot. If you answered true, you might be wrong. The answer depends on the law enforcement officer who stops you. If you are too distracted to even notice the officer driving behind you, you could get a “distracted driving” citation. So how do you decide what is allowed? The key word is “distracted.”

Are you using your wireless device to look up directions? Steven Spriggs, a Fresno driver, got a \$165 ticket for doing just that, on January 5, 2012. While stopped in construction traffic, Mr. Spriggs activated his smart phone’s map application and was pulled over. He was cited for looking at a map while driving. He fought the ticket and lost but continued to appeal it until he won. Mr. Spriggs argued that his conduct did not violate the

statute which specifically forbids talking on a handheld mobile device. When a three-judge panel of the 5th Circuit Court of Appeals unanimously ruled in his favor, they wrote: “...we conclude that the statute means what it says – it prohibits a driver from holding a wireless telephone while conversing on it. Consequently, we reverse his conviction.” (*People v. Steven R. Spriggs* (2014) 224 Cal.App.4th 150)

In other words, the Court concluded that the Legislature meant to forbid holding a conversation, and not any other cell phone activity. So, if you grab the phone to check the time, or use applications such as Google Maps or Waze, now you have clarification. Here is what the law says: “*A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.*” The court held that the term “use” in that context only refers to holding the cell phone and having a conversation, not just holding or looking at it.

## Distracted driving

So are what about texting, or talking hands-free? The Legislature clearly banned texting and driving in 2009. Texting drivers aren’t looking where they are going; they are more than simply distracted, they are impaired – as if they were under the influence of drugs or alcohol. The National Safety Council’s Website says that drivers

looking out of the windshield can miss up to 50 percent of what’s around them when talking on any phone, even hands free. Multi-tasking? While the human brain quickly toggles between two tasks, it can’t actually do two things at once.

If you get a ticket for distracted driving in Northern California, the base penalty is \$20, but after you add in court fees, the ticket can go up to \$160 for a first offense and \$279 for a second offense. When you add the administrative and court fees, the cost could be much higher. Several counties in California, including Contra Costa, Santa Clara, and San Joaquin Counties are allowed to increase the total bail amounts for traffic fines. If this isn’t enough of a deterrent for you, consider this: the law enforcement officer who initially pulled you over for the illegal use of your cell phone could also add in more charges of minor infractions such as lighting equipment malfunction, blocking traffic if caught in the middle of an intersection, etc.

Conclusion? It’s just not worth the risk.



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