



METROPOLITAN  
TRANSPORTATION  
COMMISSION

Agenda Item 4c

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*Memorandum*

TO: Legislation Committee

DATE: April 6, 2012

FR: Executive Director

W. I. 1131

RE: SB 1310 (Simitian): Penalties for Driving or Bicycling While Using Hand-Held Cell Phone

**Background**

Senate Bill 1310 — authored by Senator Joe Simitian, the champion and author of California's initial prohibition on driving while talking on a cell phone without using a hands-free device — seeks to increase compliance with the law by:

- Increasing the base fine from \$20 to \$30 and from \$50 to \$60 for any subsequent offence. After all penalty assessments, fees, and surcharges are added to the base fine, the total bail for a base fine of \$20 would go from \$159 to \$199 for a first offense and from \$279 to \$371 for each subsequent violation.
- Requiring that each subsequent offence result in a point on a person's driving record.
- Using the increased funds to support driver education programs.
- Requiring the DMV to test a driver's license applicant's understanding of the dangers of handheld cell phone use and text messaging while driving.
- Making it a primary offense for a minor to use a wireless communications device while driving thereby allowing officers to stop a vehicle for the sole purpose of determining whether a driver is a minor and using such a device.
- Making it an infraction for a person to ride a bicycle while using a handheld wireless communication device to talk or text. Establishes a total fine of \$20 for a first violation and \$50 for any subsequent violation. No additional penalties, assessments, surcharges, or fees would be imposed on top of the base fine for this infraction.

Last year, Senator Simitian authored SB 28, which included all of the above provisions but raised the fine from \$20 to \$50 and from \$50 to \$100 for any secondary offences. SB 28 was vetoed by the Governor, who expressed concerns that it raised the penalty too high: "For people of ordinary means, current fines and penalty assessments should be sufficient deterrent." Accordingly, in SB 1310 the base fine is adjusted by only \$10 to slightly increase the penalty (and thereby, the deterrent) and to create a funding source for additional education campaigns regarding the dangers of driving or texting while using a hand-held cell phone.

**Recommendation: Support**

**Discussion**

SB 1310 is Senator Simitian’s third attempt to increase compliance with California’s hand-free cell phone law. MTC has supported each effort (SB 1475 in 2010, SB 28 in 2011) and staff recommends we do so once again. In their analysis of the bill, Senate Transportation and Housing Committee staff reference a recent study conducted by the Safe Transportation Research and Education Center at the University of California, Berkeley which found that the decline in fatal traffic accidents fell by more than twice the rate of accidents overall (47 percent vs. 22 percent) since the law took effect in July 2008. According to the Office of Traffic Safety (OTS), the overall drop in cell phone usage while driving has certainly been a contributing factor in the decline in fatal traffic accidents since 2008. A recent OTS survey showed 40 percent of California drivers reported talking less since the enactment of the handheld cell phone ban. This response suggests that some drivers have adjusted their behavior in response to the change in law; however it also underscores the fact that many Californians are not complying with the law, and supports Senator Simitian’s argument that stiffer penalties and additional resources for education campaigns are needed.

In order to improve the safety of the region’s local roads and highways for *all* roadway users, MTC recommends a support position on SB 1310.

**Known Positions**

**Support**

- Consumers for Auto Reliability and Safety
- California Association of Highway Patrolmen
- Peace Officers Research Association of California (PORAC)
- California Driving School Association

**Oppose**

- None on file



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Steve Heminger