



# Mobile Operations Safety



Santa Clara County ARES/RACES  
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# Driving



- Drive safely, do not speed, follow all applicable laws
- Do not drive off-road unless trained and authorized to do so
- Do not go anywhere that you feel is not safe
- Professionally and responsibly withdraw from situations that become risky; advise net control and/or served agency promptly
- Observe “distracted driving” laws

# Distracted Driving Law

- California Vehicle Code 23123.5 prohibits use of “handheld wireless telephone or an electronic wireless communications device”, with some exceptions
  - 23123.5(f): “For the purposes of this section, “electronic wireless communications device” includes, but is not limited to, a broadband personal communication device, a handheld device or laptop computer with mobile data access, or a pager.”
- The law is vague and poorly worded.
  - A mobile amateur radio is not a broadband communications device, nor a device with mobile data access, nor a pager. So that’s good.
  - But “... is not limited to ...” can mean anything!

# Distracted Driving Law (2)

- The CHP issued an enforcement memo, which clarifies that this does not apply to mounted 2-way radio with a wired microphone
  - “For the purposes of Section 23123.5(f) CVC, a radio installed and mounted in a vehicle with a wired hand microphone (e.g., business band or citizen band [CB]radio) is not considered a wireless communication device, nor is it considered a specialized mobile radio device, and therefore is not subject to enforcement under this section.”
  - The memo has been removed from Lexipol, however that text has been added to Highway Patrol Manual 100.68, Traffic Enforcement Manual, Chapter 5, as stated in the memo. [Confirmed with San Jose CHP office on 12-Nov-2024]
- That’s clear
- But the CHP is not the only agency that enforces traffic laws

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# Distracted Driving Law (3)

- After many complaints, the law was amended and the author issued a press release to “clarify”
  - “The intent was to prohibit a person from holding a phone. It was never meant to prevent trained or licensed professionals, such as utility workers, from using their mounted and wired two-way radios for brief communications with one another or dispatch.”
  - “AB 1222 makes a technical change to the statute to clarify that the definition of “electronic wireless communication device” in Vehicle Code 23123.5(f) is not intended to be construed to limit the use of two-way wireless communications devices used by trained professionals or properly licensed individuals for brief, verbal communications essential to the functions of the job duties.”
- Now that’s clear
- But he didn’t actually put those words into the law!
- Note the repeated use of the word “mounted” in the CHP memo, and press release
  - In other words, holding an HT in your hand may get you into trouble

# Distracted Driving Law – What To Do

- The first consideration is safety. Distracted driving can occur with or without a radio.
- If you feel you are not distracted while operating a wired handheld microphone and can do so safely, then that is your decision.
- If you feel you are distracted while operating a wired handheld microphone, then do not do it.
- Santa Clara County ARES/RACES does not make any recommendations about your decision, we only provide you information for your consideration.
- We're not lawyers; use your own judgement.
- So what should you do?

# You feel using a wired microphone is a distraction

- You need to find a safe place to stop before using your radio.
- Do not stop on the side of a freeway, pull off the roadway and stop your vehicle in a parking lot or other designated parking spot.
- Contact Net Control and when asked provide the information they request.
- For Health and Welfare traffic this is normally your 3 digit odometer, and your approximate location (major cross streets).
- When finished, safely return to your travels.
- Another option if your radio supports it, or you can find an after market device, is a voice-operated and hands-free headset (one ear only) that can be used while driving. But again, you can still be distracted using that device.

# You feel using a wired microphone is not a distraction

- Safely respond to Net Control with the requested information.
- For Health and Welfare traffic this is normally your 3 digit odometer, and your approximate location (major cross streets).
- You can be ticketed for distracted driving with or without using your mobile radio, it is not about the use of the radio, but about your attention to the road and safety.
- Definitely keep a copy of the CVC 23123.5, the CHP memo, and the press release in your glove box
  - The average traffic enforcement officer may not have the correct info
  - All documents, and this presentation, are posted on the “Operations” page of our web site: <https://www.scc-ares-races.org/operations.shtml#mobile>
- Note the repeated use of the word “mounted” the CHP memo, and the press release
  - In other words, holding an HT in your hand may get you into trouble



# If you are pulled over and/or ticketed

- You can politely show the officer the CHP memo and Press Release. Reference the Highway Patrol Manual 100.68 Chapter 5 [mentioned in last sentence of CHP memo.
- ***Don't try to argue the case with the officer on scene.*** Keep your comments to yourself. Remember, anything you say can be written down and used against you later in court.
- Be polite and sign the citation when requested. Then take the printed copy of the CHP letter, a copy of the Press Release, a printed copy of your amateur license, a photo of the radio in question, and make a court date. Appear in court in decent attire, and argue your case respectfully with the judge.
- This is the best way to deal with any traffic violation you are cited for and don't agree with. Most traffic judges are primarily interested in maintaining compliance and public safety, not punishment.
- If the officer has other reasons for issuing you a ticket, you were weaving and obviously distracted, don't waste your time, pay the ticket. Depending on how you are cited, the ticket can be \$20 up to \$162 as of this writing.
- Again, we're not lawyers; use your own judgement.