



SENATE BILL 949 (OROPEZA).

VEHICLES: LOCAL AUTHORITY: ASSESSING PENALTIES

MARCH 2010

SB 949 (Oropeza): Moving Violations Bill

This bill prohibits local authorities from enforcing all vehicle, pedestrian and bicycle violations under a municipal code if that code overlaps with a similar state vehicle code.

Author's Intent

The Senator is concerned that drivers should be able to expect moving violations to be uniformly enforced throughout the State. The author states that such inconsistency in the enforcement of the state's vehicle code fosters confusion and distrust among drivers. In addition, it inhibits accurate collection of statewide data on moving violations which is used to track unsafe drivers, calculate insurance rates, and puts the state in danger of losing millions in federal transportation dollars.

Background

- **State Vehicle Code** – A state vehicle code violation carries with it a fine for the violation as well as a point on the person's driving record regardless of whether the violation occurred while driving, walking or biking.
- **Municipal Code** – Municipal code violations carry a fine, but do not impose a point on the person's driving record. Municipal codes are designed to specifically address the public safety and traffic safety issues in the individual cities that pass them.
- **When to use a state code versus a municipal code** – Police officers encountering the violation use their discretion to decide whether the person receives a citation under the state code or municipal code. This decision takes into account the nature of the situation, and provides the officers the ability to determine the most appropriate citation.

Current Situation

- Long Beach has a few long-standing municipal codes that at times can overlap with the state's vehicle codes. These codes have been recognized as law since November 4, 1964. They include:
 - **10.08.030 LBMC** – Failure to obey a traffic-control device. This section is used to cite vehicle violations of any official traffic-control device.
 - *Examples:* Cruising, private vehicles on the Transit Mall (1st Street), failure to yield to bicycles in a sharrow, Traffic Circle signaling or lane violation, or any other traffic sign, marking or traffic-control device.
 - **10.48.080 LBMC** – Bicycle – signaling device required, used to cite violations of riding a bicycle on a sidewalk without a proper audible signaling device.
 - *Examples:* Riding a bike on a sidewalk without using a bell or horn to alert walkers of your presence.
 - **10.58.040 LBMC** – Pedestrian, Walking on roadway prohibited.
 - *Example:* Walking in the roadway, interfering with traffic.

- Long Beach has a few unique areas where public safety professionals feel that the state vehicle code falls short of specifically addressing. Examples where municipal code is used instead of State Code include:
 - Bike sharrows in Belmont Shore.
 - “Buses only” in the Transit Mall on 1st Street.
 - “Cruising” in certain neighborhoods when posted.
- Long Beach does not have a Police Department policy stating that the officer should use the Municipal Code violation as opposed to the State vehicle code in order to generate additional revenue. The Police Department's traffic enforcement efforts are focused on traffic safety, rather than revenue generation. Each officer uses their own discretion when writing citations. The Police Department feels that it is imperative for officers to have the opportunity to exercise situational judgment when issuing citations.

Statistics

- The Police Department studied data from six months of all traffic citations (July 1, 2009 to December 31, 2009) and reviewed each citation in a two week sample to estimate that:
 - Over a 6-month period, an estimated 550 of 35,148 traffic citations (1.5%) were written for vehicle-related moving violations under 10.08.030 LBMC. All others are cited under the State vehicle code.
 - During the same period, an estimated 81 of 35,148 traffic citations (less than 0.2%) were stop sign and traffic signal violations written under MC 10.08.030.
 - Less than one percent (0.9%) of all traffic citations come from bicycle and pedestrian traffic violations.

Impacts to Other Cities

SB 949 impacts all cities with municipal traffic codes. The cities that have been identified as utilizing municipal codes include Roseville, Berkeley, Alameda, Oakland, and Riverbank.

Potential Fiscal Impact

It is expected that this bill will have a negative fiscal impact on Long Beach; however, the amount cannot be determined or even estimated. Currently, there is no method to track individual citation revenue generation. The City receives two traffic fine checks per month, one from the Los Angeles Superior Court, and the other from the Long Beach Courthouse. The checks are for a lump sum of traffic violation fines that have been paid with no way of tracking payment amounts or the amount per type of violation. Long Beach proposes a method to track these statistics, as they would provide government with useful information for determining traffic violation revenues.

Legislative History

- Introduced February 4, 2010
- Referred to Senate Transportation and Housing

Long Beach Staff Concerns With SB 949

Long Beach staff has significant concerns with this bill as currently written.

1. The bill appears to be written so broadly that it may affect local parking citations as well. Senator Oropeza's staff has indicated that their intent is to address moving citations only, so amendments should be taken to clearly exempt parking from the bill.
2. This bill removes the individual officer's discretion when writing a citation. By removing the ability to cite under the Municipal Code, the officer will only have the ability to write a citation under the State code or give a warning. This has the potential to result in less revenue for the State if more warnings are issued.
3. There is no ability to determine the fiscal impact, as local jurisdictions do not have the information from the courts to determine how much of each ticket we are receiving. Before a bill such as this goes into effect, there should be a detailed fiscal analysis with the courts providing information on which citations have been upheld and what the payment amount was to each jurisdiction.
4. Law enforcement should have the discretion to write citations for pedestrian and bicycle violations under the Municipal Code so that these violations do not result in a point against the license if the officer feels it is appropriate to do so. As written, SB 949 would remove that ability.
5. This bill removes local enforcement over specific local problems such as cruising and bike sharrow violations. Officers would have to cite under a less applicable State vehicle code, which has a higher potential of being dismissed in court.
6. Courts often use the Municipal Code citation as a plea bargain, allowing court commissioners to help manage their case loads and allowing the commissioner additional discretion. This practice should be allowed to continue.

Long Beach Position

- This issue is not covered in the City's State Legislative Agenda, thus additional policy direction from the State Legislation Committee and Long Beach City Council is needed.
- The options for a position include:
 1. Oppose SB 949
 2. Support SB 949
 3. Request amendments to SB 949 including: removing parking from the bill; requiring courts to report on the specific citation revenue; exempting pedestrian and bicycling violations; exempting specific local issues (sharrows, transit mall, cruising, etc), restricting this bill to only apply to "hazardous" moving violations.
 4. Watch – no position