


Office of the City Manager

ACTION CALENDAR
October 19, 2004

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Subject: Double Fines in School Zones (CF-05-03)

RECOMMENDATION:

Adopt first reading of an Ordinance amending the Berkeley Municipal Code (BMC) Title 14 Vehicles and Traffic, by adding Chapter 14.66 "Double Fines" Section 14.66.010 "Purpose of Program", 14.66.020 "Fine Enhancement: Passing a School", 14.66.030 "Double Fine School Zone", and 14.66.040 "Sunset".

FISCAL IMPACTS OF RECOMMENDATION:

See the Transportation Commission Report, dated October 19, 2004.

CURRENT SITUATION AND ITS EFFECTS:

See the Transportation Commission Report, dated October 19, 2004.

BACKGROUND:

On September 9, 2004, the Transportation Commission adopted the following:

It was MSC (Haselsteiner/Greenhut) that the City of Berkeley adopt an Ordinance to amend the Berkeley Municipal Code (BMC) Chapter 14 by adding a section "Double Fines in School Zones" in the Berkeley High School, Berkeley Alternative High School, Willard School, Malcolm X School and Longfellow School zones in the City of Berkeley, to double the fines for motor vehicle moving violations, and to establish a Pedestrian and Bicycle School Safety Fund. The pilot program would operate for one calendar year. The Transportation staff will evaluate the pilot program by means of speed studies and other methods as appropriate and report to the Commission as soon after the conclusion of the program as is practicable. Ayes: Greenhut, Haselsteiner, Landau, Lydon, Smulka Noes: None Absent: Alfsen, Campbell, Syed

Staff concurs with the Transportation Commission report and this report codifies their recommendation into a BMC amendment.

As requested by the Transportation Commission, staff will evaluate the pilot program by means of speed studies and other methods as appropriate after the pilot program has been in operation for one year. The enabling legislation has a sunset clause with a date of January 1, 2007. This date has been replicated in the sunset clause in the proposed ordinance language in this report.

RATIONALE FOR RECOMMENDATION:

See the Transportation Commission Report, dated October 19, 2004.

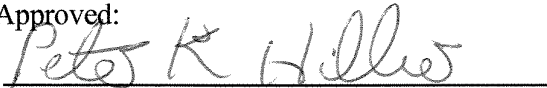
ALTERNATE ACTIONS CONSIDERED:

See the Transportation Commission Report, dated October 19, 2004.

CONTACT PERSON:

Peter K. Hillier, Assistant City Manager for Transportation, 981-7010
Roy Meisner, Chief of Police, 981- 5900

Approved:

A handwritten signature in cursive script, reading "Peter K Hillier", is written over a horizontal line.

Peter K. Hillier, Assistant City Manager for Transportation

Attachment:

A. Ordinance

ORDINANCE NO. XXXX-N.S.

AMENDING BERKELEY MUNICIPAL CODE (BMC) TITLE 14 BY ADDING CHAPTER 14.66, DOUBLE FINES, SECTION 14.66.010, PURPOSE OF PROGRAM, SECTION 14.66.020, FINE ENHANCEMENT: PASSING A SCHOOL ZONE, SECTION 14.66.030, DOUBLE FINE SCHOOL ZONE, AND SECTION 14.66.040, SUNSET

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code (BMC) Title 14, is amended by adding Chapter 14.66, Sections 14.66.010, 14.66.020, 14.66.030, and 14.66.040 to read as follows:

14.66.010 Purpose of Program.

The purpose of this program is to improve traffic safety in the City of Berkeley around schools. The doubling of fines for moving violations within school zones will discourage illegal driving that results in collisions around schools. The City of Berkeley continues to have a need for safety improvements around schools and safety education for students.

Funds generated from the enhanced portion may be used in a variety of ways. Examples of eligible uses for the additional funds include signs (initial installation), additional adult crossing guards, roadway improvements (wider sidewalks), installation of curbs and gutters contiguous to school grounds, increased street lighting, lighted in-pavement crosswalks, roadway geometric revisions (bulb outs), and educational programs. The additional funds cannot be spent on existing program levels. City staff will collaborate on the establishment of a priority list of safety projects that are eligible for the limited funding in this program.

14.66.020 Fine Enhancement: Passing a School.

A. For any offense specified in subdivision B that is committed by the driver of a vehicle under either of the following conditions, the fine in a misdemeanor case shall be double the base amount otherwise prescribed, not including any penalty assessments or other fees or additions, and in an infraction case, the fine shall be one category higher than the penalty otherwise prescribed by the uniform traffic penalty schedule established pursuant to California Vehicle Code (CVC) Section 40310, et seq., not including any penalty assessments or other fees or additions:

(1) When passing a school building or the grounds thereof, if the building or grounds are contiguous to a highway and posted with a standard "SCHOOL" warning sign and an accompanying sign notifying motorists that increased penalties apply for traffic violations that are committed within that school zone, and children are going to or leaving the school either during school hours or during the noon recess period. Warning signs may be placed at any distance up to 500 feet away from a school ground.

(2) When passing any school grounds that are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children, and the highway is posted with a standard "SCHOOL" warning sign and an accompanying sign notifying motorists that increased penalties apply for traffic violations that are committed within that school zone.

B. A violation of any of the following provisions is an offense that is subject to subdivision A:

1. Obedience to traffic devices (CVC 21450);

2. Driving, overtaking, and passing (CVC 21650);
3. Yielding the right-of-way (CVC 21800);
4. Turning and stopping and turn signals (CVC 22100);
5. Speed limits (CVC 22348);
6. Special traffic stops (CVC 22450);
7. Reckless driving (CVC 23103);
8. Reckless driving which results in bodily injury to another (CVC 23104);
9. Speed contests (CVC 23109);
10. Driving under the influence of alcohol or a controlled substance, or an alcohol-related reckless driving (CVC 23152, 23103, and 23103.5);
11. Driving under the influence of alcohol or a controlled substance, which results in bodily injury to another (CVC 23153);
12. Drinking while driving (CVC 23220);
13. Drinking in a motor vehicle while on the highway (CVC 23221);
14. Driving while possessing marijuana or an open alcoholic beverage container (CVC 23222);
15. Being in a vehicle on the highway while possessing an open alcoholic beverage container (CVC 23223);
16. Being a driver or passenger under the age of 21 years possessing an open alcoholic beverage container (CVC 23224);
17. Being the owner or driver of a vehicle in which there is an open alcoholic beverage container (CVC 23225);
18. Being a passenger in a vehicle in which there is an open alcoholic beverage container (CVC 23226).

C. (1) No increased fine shall be imposed under this Section if an increased fine is imposed under CVC Section 42009 or CVC Section 42010 because the offense occurred within a highway construction or maintenance area or safety enhancement area.

(2) The City shall promptly notify the California Highway Patrol and the law enforcement agency having the primary traffic investigative authority of any changes in road status referenced in 14.66.020 (C)(1).

14.66.030 Double Fine School Zones.

- A. Double Fines in the following school zones in the City of Berkeley for motor vehicle moving violations: Berkeley High School, Berkeley Alternative School, Willard School, Malcolm X School, and Longfellow School.

14.66.040 Sunset.

This Chapter shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

Section 2. Copies of this Bill shall be posted for two (2) days prior to adoption in the glass case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen (15) days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

