

MEMORANDUM

PSC

Agenda Item No. 3 (D)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: November 9, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance creating Section
8A-76, relating to penalties
for removal of shopping carts

The accompanying ordinance was prepared and placed on the agenda at the request of Senator Javier D. Souto.

This substitute ordinance differs from the original in that certain subsections have been renumbered, and section 8A-76(d) provides that violations shall be enforced through Chapter 8CC of the Code with stated penalties.



Robert A. Ginsburg
County Attorney

RAG/jls

Memorandum



Date:

To: Honorable Chairperson Barbara Carey-Shuler, Ed. D.
and Members Board of County Commissioners

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "G. Burgess", written over the printed name "George M. Burgess".

Subject: Ordinance creating Section 8A-76 of the Code of Miami-Dade County; requiring notice of penalties for removal of shopping carts to be affixed to each shopping cart

This ordinance amending Section 8A-76 of the Code Miami-Dade County requiring notice of penalties for removal of shopping carts will have no fiscal impact on the County.

fiscal05204



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: November 16, 2004

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor

Agenda Item No.

Veto _____

11-16-04

Override _____

ORDINANCE NO. _____

ORDINANCE CREATING SECTION 8A-76 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA REQUIRING NOTICE OF PENALTIES FOR REMOVAL OF SHOPPING CARTS TO BE AFFIXED TO EACH SHOPPING CART; SETTING FORTH PROCEDURE TO REQUEST EXEMPTION FROM THIS REQUIREMENT AND CONDITIONS FOR GRANTING EXEMPTIONS; AMENDING SECTION 8A-76.1 TO CONFORM TO FLORIDA STATUTES; AND AMENDING CHAPTER 8CC; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 8A-76 of the Code of Miami-Dade County, Florida, is hereby created as follows:

Sec. 8A-76. Notice of penalties for removal of shopping carts.

- (a) Shopping cart identification sign required for retail establishments. Every retail sales establishment which utilizes shopping carts, as defined by F.S. § 506.502(10), in the operation of its business shall affix an identification sign on the shopping cart providing the name, address and phone number of the retail establishment.
- (b) Every retail sales establishment which utilizes shopping carts, as defined by Florida Statutes, Section 506.502(10), in the operation of its business shall affix the following notice to all such carts which shall be clearly legible in the English and Spanish language and shall state the following:

WARNING

Any person who removes a shopping cart from the premises of the owner, or is in the possession of any shopping cart, shall be presumed to be in possession of stolen property and is guilty of a misdemeanor of the first degree, punishable by a term of imprisonment of up to one (1) year as provided by Sections 506.509 and 506.513 of the Florida Statutes.

- (c) Any establishment desiring an exemption from section 8A-76 (b) shall file a petition for exemption and enclose an appropriate application fee to be determined by the County Manager. A petition for an exemption from the requirements of this section may be granted by the Director of the Consumer Services Department to any retail establishment which:
- (1) Constructs barriers to prevent the removal of shopping carts; or
 - (2) Attaches alarm mechanisms to shopping carts to prevent their removal; or
 - (3) Implements a policy of not allowing the customer to exit the store with shopping carts, provides an employee to carry or wheel the customer's merchandise to the customers' vehicle, and agrees to implement a program to collect their own carts that are illegally removed.
- (d) Failure to abide by Section 8A-76(a) or (b) shall constitute a violation and result in a civil penalty as provided in Chapter 8CC.

Section 2. Section 8A-76.1 of the Code of Miami-Dade County, Florida, is hereby amended as follows:¹

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 8A-76.1. Shopping carts.

~~[[a) Shopping cart identification sign required for retail establishments. On or before February 1, 1998 every retail sales establishment which utilizes shopping carts, as defined by F.S. § 506.502(10), in the operation of its business shall affix an identification sign on the shopping cart providing the name, address and phone number of the retail establishment. Failure to abide by this provision shall constitute a violation and result in a civil penalty as provided in Chapter 8CC.]]~~

~~[[b)]]>>(a)<< Procedure for handling identifiable shopping carts found on public property.~~

(1) Employees and officers of Miami-Dade County shall be deemed agents of Miami-Dade County and any identifiable shopping carts found by them on public property during the course of their official duties shall be reported to the Department of Solid Waste Management. The Department shall collect the shopping carts and place them in storage.

(2) The Director of the Department of Solid Waste Management or his designee shall provide reasonable notice ~~[[within a reasonable period of time]]~~ to the owner of the shopping cart as designated on the shopping cart's identification sign to retrieve the property. ~~[[Said notice shall be sent by certified mail return receipt requested.]]~~

(3) The owner of the shopping cart shall have ten (10) days from receipt of the notice to retrieve the property. ~~[[Upon retrieval of the property, the owner shall pay all costs of removal and storage in the form of a fee as set forth in subsection (6).]]~~

~~[[4) The owner's failure to retrieve the property within the time stated in the notice shall constitute a violation and result in a civil penalty as provided in Chapter 8CC. Each unclaimed shopping cart shall be deemed a separate violation.~~

(5) ~~The owner of the shopping cart who, after notice as provided in this section, does not retrieve such~~

~~property within the specified period shall be liable to the Department of Solid Waste Management for all costs of removal, storage and disposal of such property in the form of a fee as set forth in subsection (6).~~

~~(6) The fees shall be in an amount to be determined by the County Manager by Administrative Order and approved by the Board of County Commissioners. All fees received hereunder shall be deposited in a separate County fund and shall be used exclusively by the Department of Solid Waste Management for the regulation, monitoring and implementation of this section.]]~~

[[~~(7)~~]]>>(4)<<If the shopping cart is not claimed by the owner within the time specified in this section>>or if the Department cannot contact the owner for failure to provide the identification information required under Section 8A-76 (a) of this Code<<, the title to such property shall vest in Miami-Dade County and shall be disposed of by the Department.

[[~~(e)~~]]>>(b)<< Procedure for handling unidentifiable shopping carts found on public property. All unidentifiable shopping carts found on public property shall be handled in accordance with F.S. ch. 705, as amended from time to time.

[[~~(d)~~]]>>(c)<< The Department of Solid Waste Management is delegated the authority to enforce this section.

Section 3.

Section 8CC-10 of the Code of Miami-Dade County is hereby amended to

read as follows:

Code Section	Description of Violations	Civil Penalty
>>8A-76(a)	<u>Failure of retail establishment to display identification on shopping carts</u>	<u>\$100.00</u>
8A-76(b)	<u>Failure of retail establishment to post warning notice on shopping cart</u> <<	<u>\$100.00</u>

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[[~~8A-76.1(A) Failure of retail establishment to display identification on shopping carts~~ \$100.00]]

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

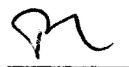
Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:
Thomas H. Robertson

RA 6


Sponsored by Senator Javier D. Souto