

MEMORANDUM

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Agenda Item No. 3(A)

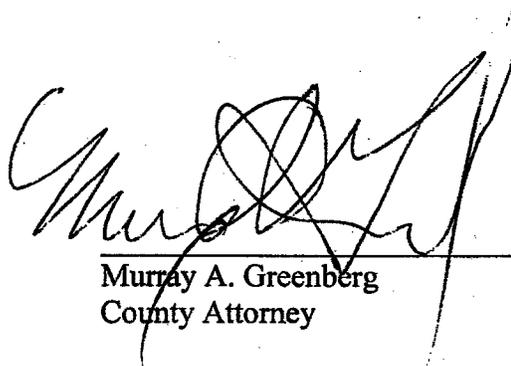
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 14, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance Amending Section
15-32 of the Code of Miami-
Dade County Concerning Solid
Waste So As To Provide For
Minimum Penalties for
Intentional Violations

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



Murray A. Greenberg
County Attorney

MAG/dc

Memorandum



Date:

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "Burgess".

Subject: Ordinance Amending Section 15-32 of the Code Pertaining to Solid Waste to Provide for Minimum Penalties for Intentional Violations

The ordinance amending Section 15-32 of the Code of Miami-Dade County pertaining to Solid Waste to provide for minimum penalties for intentional violations would yield a positive fiscal impact to Miami-Dade County in the form of revenues resulting from the provision of fines. Additionally, the provision of not only fines, but the potential for incarceration would, in theory, lower the probability of violations and therefore, potentially lower costs of illegal dumping clean-up.

A handwritten signature in black ink, appearing to read "G. M. Burgess".

Assistant County Manager

Fiscal00206



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 18, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 4(J)

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
Veto _____
Override _____

Agenda Item No. 4(J)
07-18-06

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 15-32 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, CONCERNING SOLID WASTE SO AS TO PROVIDE FOR MINIMUM PENALTIES FOR INTENTIONAL VIOLATIONS OF SECTION 15-6 OF THE CODE; PROVIDING PENALTIES FOR OTHER VIOLATIONS OF CHAPTER 15 OF THE CODE INCLUDING CIVIL PENALTIES; 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 15-32 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 15-32. Enforcement and penalties for violation of this chapter.

(a) Violations of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted. Any person found guilty of a violation of any provisions of this chapter shall pay a fine ~~[[in accordance with the minimum fine schedule indicated in paragraph (d) of this section]]~~ >>of not more than \$500<< or be subject to imprisonment in the County Jail not to exceed ~~[[thirty (30)]]~~ >>sixty (60)<< days, or both such fine and imprisonment, in the discretion of the appropriate court of competent jurisdiction. >>Any person who intentionally violates the provisions of sec. 15-6 of this chapter shall be punished by a fine of not less than five hundred dollars (\$500) and by imprisonment in the County Jail for a term of not less than five (5) days.<< At the discretion of the Director, violations of this chapter may be prosecuted pursuant to Chapter 8CC of the Code of Metropolitan Dade County.

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.

* * *

(d) In addition to any other remedies provided in this chapter, or in Chapter 8CC of the Code of Metropolitan Dade County, the Director shall have the following judicial remedies available for violations of this chapter or any other lawful rule or regulation promulgated hereunder:

- (1) To institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any costs incurred by the County in conjunction with the abatement of any condition prohibited by the provisions of this chapter.
- (2) To institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty >>of up to \$3,000<< for each violation. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.
- (3) To institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with the terms of this chapter or any rule or regulation promulgated hereunder, to enjoin and prohibit said violation or to mandatorily compel the cessation of the violation.
- (4) These remedies are cumulative and the use of any appropriate remedy shall not constitute an election of remedies by the Department. The use of one (1) remedy shall not preclude the use of any others.

Section 2. 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 3. 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.

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Section 4. 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:

LMay

Prepared by:

TC

Thomas H. Robertson

Sponsored by Sen. Javier D. Souto