

MEMORANDUM

Agenda Item No. 11(A)(5)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: June 17, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution urging the Florida
Legislature, the Florida
Department of Business and
Professional Regulation and the
Florida Department of Health to
impose reasonable regulations on
the use of liquid nitrogen to
create a steaming visual effect in
food and drink presentation in
bars and restaurants

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

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Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(5)
6-17-14

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE, THE FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND THE FLORIDA DEPARTMENT OF HEALTH TO IMPOSE REASONABLE REGULATIONS ON THE USE OF LIQUID NITROGEN TO CREATE A STEAMING VISUAL EFFECT IN FOOD AND DRINK PRESENTATION IN BARS AND RESTAURANTS

WHEREAS, there has been a recent increase in bars and restaurants using liquid nitrogen for a visual effect in the presentation of food and drinks; and

WHEREAS, nitrogen, which exists as a liquid between -346 and -320 degrees Fahrenheit, is increasingly being used in food and drinks to produce a steaming cauldron visual effect; and

WHEREAS, in particular, there is currently a trend to prepare “liquid nitrogen cocktails” or “cryogenic cocktails”, which are served to bar and restaurant patrons with smoking liquid nitrogen vapor emanating from the drink; and

WHEREAS, there have been recent news reports of persons suffering serious internal injuries following the consumption of drinks prepared with liquid nitrogen; and

WHEREAS, in 2012, an 18-year-old British woman had a portion of her perforated stomach removed after sipping a liquid nitrogen cocktail; and

WHEREAS, in May of 2014, a woman in Miami Beach allegedly suffered internal injuries after drinking a cocktail laced with liquid nitrogen; and

WHEREAS, the State of Florida does not itself currently regulate the use of liquid nitrogen to create visual effects in the presentation of food and drinks in bars and restaurants; and

WHEREAS, Florida law currently preempts cities and counties from regulating bars and restaurants pursuant to Chapter 561 and Chapter 509 of the Florida Statutes, respectively; and

WHEREAS, as such, cities and counties currently do not have the authority to regulate liquid nitrogen to create visual effects in the presentation of food and drinks; and

WHEREAS, this Board is concerned about the internal injuries that have resulted from liquid nitrogen cocktails, and would like to urge the Florida Legislature, the Florida Department of Business and Professional Regulation and the Florida Department of Health to impose reasonable regulations on the use of liquid nitrogen by bars and restaurants to create a visual effect in the presentation of food and drinks,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature to adopt legislation to impose reasonable regulations on the use of liquid nitrogen to create a visual effect in the presentation of food and drinks at bars and restaurants.

Section 2. Urges the Florida Department of Business and Professional Regulation, which has regulatory oversight over restaurants and bars in Florida, and the Florida Department of Health to impose reasonable regulations on the use of liquid nitrogen to create a visual effect in food and drink presentation in Florida restaurants and bars.

Section 3. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, the Senate President, the House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, the Secretary of the Florida Department of Business and Professional Regulation and Florida's Surgeon General, who leads the Florida Department of Health.

Section 4. Directs the County's state lobbyists to advocate the passage of legislation accomplishing the goals set forth herein, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2015 state legislative package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Chairwoman Rebeca Sosa. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose 'Pepe' Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata

Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of June, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Jorge Martinez-Esteve

