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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(7)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	**DATE:**	December 16, 2014
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution urging the Florida Legislature to amend the Florida Ban on Texting While Driving Law to make texting while driving a primary offense Resolution No. R-1127-14

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/jls

MEMORANDUM

(Revised)

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

DATE: December 16, 2014

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

SUBJECT: Agenda Item No. 11(A)(7)

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)(7)
12-16-14

RESOLUTION NO. R-1127-14

RESOLUTION URGING THE FLORIDA LEGISLATURE TO AMEND THE FLORIDA BAN ON TEXTING WHILE DRIVING LAW TO MAKE TEXTING WHILE DRIVING A PRIMARY OFFENSE

WHEREAS, 49 percent of commuters admitted to texting while driving in AT&T's 2013 commuter survey, a component of AT&T's national "It Can Wait" campaign; and

WHEREAS, 98 percent of commuters recognized that sending a text or email while driving is dangerous; and

WHEREAS, despite the overwhelming recognition that texting while driving is dangerous, more than 40 percent of those who admitted to doing so called it a habit; and

WHEREAS, text messaging makes the likelihood of a crash 23 times greater than driving while not distracted, according to the Virginia Tech Transportation Institute; and

WHEREAS, texting while driving is a form of distracted driving; and

WHEREAS, distracted driving is defined as driving while performing another activity that shifts the driver's attention away from driving; and

WHEREAS, the National Highway Traffic Safety Administration (NHTSA) reported an estimated total of 908,000 crashes involving distracted drivers in 2012; and

WHEREAS, in 2012, approximately 421,000 people were injured in crashes involving distracted drivers, an increase of 9 percent from the 387,000 people injured in 2011, according to the NHTSA; and

WHEREAS, in 2012, 3,328 people were killed in crashes involving distracted drivers, according to the NHTSA; and

WHEREAS, in 2012, an estimated 28,000 people were injured in crashes involving mobile phone use, as reported by the NHTSA; and

WHEREAS, the degree of cognitive distraction with mobile phone use is so high that drivers using mobile phones exhibit greater impairment than legally intoxicated drivers, according to a University of Utah study; and

WHEREAS, the concern of the American public over distracted driving has grown exponentially, resulting in the first-ever national distracted driving enforcement and advertising campaign in April 2014 by the United States Department of Transportation; and

WHEREAS, a number of local jurisdictions have made it illegal to use hand-held cellular devices while driving; and

WHEREAS, in October 2001, this Board passed Ordinance No. 01-148 making Miami-Dade County among the first jurisdictions in Florida to pass an ordinance prohibiting the use of cellular telephones while operating a motor vehicle, except with the use of a hands-free device; and

WHEREAS, shortly thereafter, during the 2002 regular session, the Florida Legislature enacted Chapter 2002-179, Laws of Florida (Senate Bill (SB) 358), which preempted local governments from regulating the use of electronic communications devices in motor vehicles; and

WHEREAS, on September 30, 2009, President Barack Obama issued an executive order prohibiting federal employees from texting while driving owned, leased, or rented government vehicles or driving and texting with government-supplied equipment; and

WHEREAS, in November 2009, this Board enacted Resolution No. 1390-09, which prohibits Miami-Dade County employees, with certain exceptions, from text messaging,

emailing or talking on a cellular telephone or other personal wireless handheld device when driving county-owned or county-leased vehicles unless a hands-free device is used; and

WHEREAS, on October 27, 2010, the Federal Motor Carrier Safety Administration enacted a ban prohibiting commercial vehicle drivers from texting while driving; and

WHEREAS, on December 13, 2011, the National Transportation Safety Board urged all states to prohibit the use of cellular telephones and text messaging while behind the wheel of a motor vehicle; and

WHEREAS, as of November 2014, 44 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands have banned texting while driving for all drivers; and

WHEREAS, of the 44 states that have banned texting while driving, all but five consider texting while driving a primary offense; and

WHEREAS, Florida is among the five states that do not enforce texting while driving as a primary offense; and

WHEREAS, this Board has adopted a number of resolutions urging the Florida Legislature to fully ban texting while driving, including Resolution Nos. R-78-12, R-723-12 and R-933-13; and

WHEREAS, during the 2013 session, the Florida Legislature enacted Chapter 2013-58, Laws of Florida (SB 52), entitled the "Florida Ban on Texting While Driving Law," which prohibits the operation of a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a handheld wireless communication device, or sending or reading data in the device for the purpose of non-voice interpersonal communication; and

WHEREAS, under the Florida Ban on Texting While Driving Law, the prohibition on texting while driving is not considered a primary offense, but instead is enforceable only as a secondary offense; and

WHEREAS, a secondary offense is an offense for which a law enforcement officer can issue a ticket only if a driver has been pulled over for committing another violation; and

WHEREAS, House Bill (HB) 1 has been filed for consideration during the 2015 session of the Florida Legislature by Representative Richard Stark (D–Weston); and

WHEREAS, HB 9 and HB 17 have also been filed for consideration during the 2015 session by Representative Irving Slosberg (D–Boca Raton); and

WHEREAS, HB 1 would:

(1) remove the requirement that texting while driving is a secondary offense, which would have the effect of making it a primary offense;

(2) require that a fine for texting while driving in a legally posted school zone or designated school crossing area be doubled for both first and subsequent offenses; and

WHEREAS, HB 9 would establish criminal penalties for motor vehicle operators who cause the death of a human being or an unborn child while using a wireless communications device; and

WHEREAS, HB 17 would prohibit the use of cellular telephones and electronic devices in school zones; and

WHEREAS, it is anticipated that more bills will be filed to strengthen the Florida Ban on Texting While Driving Law and impose tougher penalties for texting while driving; and

WHEREAS, this Board urges the Florida Legislature to make texting while driving a primary offense,

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 amend the Florida Ban on Texting While Driving Law to make texting while driving a primary offense.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, Senator Nancy Detert, Representative Richard Stark, Representative Irving Slosberg, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 3. Directs the County's state lobbyists to advocate for the passage of the legislation set forth in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2015 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 **Esteban L. Bovo, Jr.**, who moved its adoption. The motion was seconded by Commissioner **Xavier L. Suarez** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman			**aye**
Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**aye**
Daniella Levine Cava	**aye**	Jose "Pepe" Diaz	**aye**
Audrey M. Edmonson	**aye**	Sally A. Heyman	**aye**
Barbara J. Jordan	**aye**	Jean Monestime	**aye**
Dennis C. Moss	**aye**	Sen. Javier D. Souto	**absent**
Xavier L. Suarez	**aye**	Juan C. Zapata	**aye**

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of December, 2014. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. APP

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