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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(16)

TO: Honorable Chairman Jean Monestime and Members, Board of County Commissioners

DATE: September 1, 2015

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-742-15

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

R. A. Cuevas, Jr.
County Attorney

RAC/smm

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

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

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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)(16)
9-1-15

RESOLUTION NO. R-742-15

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

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

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

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

WHEREAS, the National Highway Traffic Safety Administration (NHTSA) reported an estimated total of 904,000 crashes in the United States involving distracted drivers in 2013; and

WHEREAS, in 2013, approximately 424,000 people were injured in crashes in the United States involving distracted drivers, according to the NHTSA; and

WHEREAS, in 2013, 3,154 people were killed in crashes in the United States involving distracted drivers, according to the NHTSA; 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, the degree of cognitive distraction associated 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, 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 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 July 2015, 46 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 46 states that have banned texting while driving, all but five have made 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, but instead 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 traffic violation; 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, R-933-13, and R-1127-14; and

WHEREAS, the Florida Legislature has considered bills that would amend the Florida Ban on Texting While Driving Law to make texting while driving a primary offense; and

WHEREAS, however, to date, such bills have not been passed, allowing texting while driving to remain a secondary offense in Florida; 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, 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 2016 Legislative Package when it is presented to the Board.

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

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

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of September, 2015. 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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