

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ENDORSING THE PROACTIVE EFFORTS OF THE MIAMI BEACH POLICE DEPARTMENT TO COMMENCE ENFORCEMENT OF THAT PORTION OF HOUSE BILL 1435 (“HB 1435”) PERTAINING TO UNREASONABLY LOUD AND EXCESSIVE NOISE EMANATING FROM MECHANICAL OR ELECTRONIC SOUND-MAKING DEVICES IN MOTOR VEHICLES, AND DIRECTING THE CITY ADMINISTRATION TO INSTALL APPROPRIATE SIGNAGE IN STRATEGIC AREAS WITHIN THE CITY ADVISING MOTORISTS THAT THE POLICE DEPARTMENT ENFORCES ALL LAWS REGARDING UNLAWFUL MOTOR VEHICLE NOISE; AND FURTHER, REFERRING THIS MATTER TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE FOR AN UPDATE FROM THE POLICE DEPARTMENT AS TO THE STATUS OF THEIR ENFORCEMENT EFFORTS, AND THE APPLICABILITY AND UTILITY OF THE REMAINING PORTION OF HB 1435 REGARDING SPECIAL EVENTS TAKING PLACE ON STREETS AND ROADWAYS IN THE CITY.

WHEREAS, in the 2022 legislative session, the Florida Legislature passed and adopted House Bill 1435 (“HB 1435”), which has been signed by the Governor; and

WHEREAS, approximately ten (10) years after the Florida Supreme Court struck down Fla. Stat. 316.3045 for unconstitutional content-based restrictions (due to the fact that it impermissibly provided an exemption for sound-making devices used for business and political purposes), HB 1435 has amended Florida Statute 316.3045, with regard to the operation of sound-making devices in motor vehicles; and

WHEREAS, for the last ten (10) years the Miami Beach Police Department has retained the ability to enforce excessive sound (produced by sound-making devices) emanating from motor vehicles pursuant to Miami-Dade County Ordinance 21-28 and City Code Section 46-152; and

WHEREAS, the newly revised Fla. Stat. 316.3045 will further aid MBPD’s enforcement efforts with regard to sound emanating from sound-making devices in motor vehicles in two (2) primary ways:

1. County Ordinance 21-28 authorizes an arrest for violation, and City Code Section 46-152 is merely a City-issued fine; however, Fla. Stat. 316.3045 provides the Police Department with an intermediary option between arrest and a City-issued fine, in that violations of Fla. Stat. 316.3045 are punishable as noncriminal traffic infractions (wherein a Uniform Traffic Citation may be issued to the violator);
2. Fla. Stat. 316.3045 provides that if the sound produced by a sound-making device emanating from a motor vehicle is plainly audible at just twenty-five (25) feet or more from the motor vehicle, then that is a violation of the law; and

WHEREAS, in HB 1435, the Florida Legislature also created Fla. Stat. 316.1891 which authorizes the designation of “special event zones” in response to certain “special events” that take place (or are reasonably anticipated to take place) on roadways, streets, or highways; and

WHEREAS, a “special event” means an unpermitted, temporary activity or event that is organized or promoted via a “social media platform,” and which is attended by 50 or more persons

and substantially increases or disrupts the normal flow of traffic on a roadway, street, or highway (as it is important to remember that Fla. Stat. 316.1891 is within Chapter 316, entitled "State Uniform Traffic Control," which pertains to vehicles), and a "special event zone" means a contiguous area on or along a roadway, street, or highway which is designated by warning signs; and

WHEREAS, a person who commits a noncriminal traffic infraction in a "special event zone" must pay a fine double the amount provided in Chapter 318. In addition, the Police Department would be authorized to impound the motor vehicle of those persons who commit noncriminal traffic infractions (or criminal traffic infractions) in a "special event zone," and allows the City to recover from a promoter or organizer of a "special event" all relevant costs and fees associated with designating and enforcing the "special event zone," including, but not limited to, costs and fees for the provision of supplemental law enforcement, fire, EMT, or sanitation services; and

WHEREAS, although it has limited applicability, Fla. Stat. 316.1891 provides the Police Department with an additional tool to contend with those certain "special events" that meet the definition set forth in the statute.

NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, hereby endorse the proactive efforts of the Miami Beach Police Department to commence enforcement of that portion of House Bill 1435 ("HB 1435") pertaining to unreasonably loud and excessive noise emanating from mechanical or electronic sound-making devices in motor vehicles, and direct the City Administration to install appropriate signage in strategic areas within the City advising motorists that the Police Department enforces all laws regarding unlawful motor vehicle noise; and further, referring this matter to the Public Safety and Neighborhood Quality of Life Committee for an update from the Police Department as to the status of their enforcement efforts, and the applicability and utility of the remaining portion of HB 1435 regarding special events taking place on streets and roadways in the City.

PASSED AND ADOPTED this _____ day of _____, 2022.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Alex J. Fernandez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

7-12-22
Date

MAF