



Legislation Details (With Text)

File #: 041646 **Version:** 2

Type: Ordinance **Status:** Passed

File created: 3/16/2005 **In control:** PUBLIC SAFETY COMMITTEE

On agenda: **Final action:** 9/27/2005

Effective date:

Title: A substitute ordinance prescribing enhanced forfeitures for violations committed against certain people or property.

Sponsors: ALD. MCGEE JR.

Indexes: CRIME PREVENTION, CRIMES AND MISDEMEANORS, FINES AND PENALTIES, SOCIAL CONCERNS

Attachments: 1. City Attorney's Opinion.PDF, 2. U.S. Department of Justice-Hate Crime Data Collection Guidelines, 3. From the Boston Globe-Shepard trial near, town on the defensive, 4. Human Rights Campaign-Frequently Asked Questions page 5 only, 5. Chronicle-On The Lege-Pages 1 and 2, 6. ProQuest Newspapers-Hate crimes hard to prove, DA says, 7. Notice Published on October 13, 2005.PDF

| Date | Ver. | Action By | Action | Result | Tally |
|------------|------|-------------------------|---------------------------|--------|-------|
| 3/16/2005 | 0 | COMMON COUNCIL | ASSIGNED TO | | |
| 5/5/2005 | 0 | PUBLIC SAFETY COMMITTEE | HEARING NOTICES SENT | | |
| 5/12/2005 | 0 | PUBLIC SAFETY COMMITTEE | HELD IN COMMITTEE | Pass | 4:1 |
| 5/25/2005 | 0 | PUBLIC SAFETY COMMITTEE | HEARING NOTICES SENT | | |
| 5/25/2005 | 0 | PUBLIC SAFETY COMMITTEE | HEARING NOTICES SENT | | |
| 6/2/2005 | 0 | PUBLIC SAFETY COMMITTEE | HELD TO CALL OF THE CHAIR | Pass | 5:0 |
| 6/2/2005 | 2 | PUBLIC SAFETY COMMITTEE | HELD TO CALL OF THE CHAIR | Pass | 5:0 |
| 6/17/2005 | 0 | PUBLIC SAFETY COMMITTEE | HEARING NOTICES SENT | | |
| 6/23/2005 | 0 | PUBLIC SAFETY COMMITTEE | HELD TO CALL OF THE CHAIR | Pass | 5:0 |
| 8/23/2005 | 1 | CITY CLERK | DRAFT SUBMITTED | | |
| 9/12/2005 | 2 | CITY CLERK | DRAFT SUBMITTED | | |
| 9/15/2005 | 1 | PUBLIC SAFETY COMMITTEE | RECOMMENDED FOR PASSAGE | Pass | 5:0 |
| 9/27/2005 | 2 | COMMON COUNCIL | PASSED | Pass | 15:0 |
| 10/6/2005 | 2 | MAYOR | SIGNED | | |
| 10/13/2005 | 2 | CITY CLERK | PUBLISHED | | |

041646
SUBSTITUTE 2

ALD. MCGEE
A substitute ordinance prescribing enhanced forfeitures for violations committed against certain people or property.
50-15 m

50-15 cr
50-16 rn
50-17 rn

This ordinance provides for enhanced forfeitures for bias-inspired ordinance violations against people or property. The maximum forfeiture for a violation under chapters 105 (public safety), 106 (morals and welfare) or 110 (crimes against property) may be increased by not more than \$2,500 if the person committing the violation has selected the person against whom the code violation is committed or selects the property that is damaged or otherwise affected by the violation in whole or in part because of the actor's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of that person or the owner or occupant of that property, whether or not the actor's belief or perception was correct.

Whereas, Both s. 62.11(5), Wis. Stats., and s. 4-10, Milwaukee city charter, provide that the Common Council may enact legislation for the government and good order of the city, and the prevention of crime; and

Whereas, The Common Council, pursuant to statutory and charter authority, finds that it is desirable to enhance forfeitures imposed for ordinance violations relating to bias-inspired conduct in that such conduct inflicts greater individual and societal harm, that bias-motivated conduct is more likely to provoke retaliatory action, inflict emotional harms on their victims, and incite community unrest; and that it is reasonable to enhance forfeitures for conduct that is most destructive of the public safety; and

Whereas, Legislation proposed in this file is modeled closely after s. 939.645, Wis. Stats., which was upheld by the United States Supreme Court in 508 U.S. 476; now, therefore, be it

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Sections 50-15 to 50-17 of the code are renumbered 50-16 to 50-18.

Part 2. Section 50-15 of the code is created to read:

50-15. Violations Committed Against Certain People or Property.

1. If a person does all of the following, the forfeiture for the underlying code violation is increased as provided in sub. 2:
 - a. Commits a code violation under chs. 105, 106, or 110.
 - b. Intentionally selects the person against whom the violation under par. a. is committed or selects the property that is damaged or otherwise affected by the violation under par. a. in whole or in part because of the actor's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of that person or the owner or occupant of that property, whether or not the actor's belief or perception was correct.
2. If a person commits a violation under sub. 1, the maximum forfeiture may be increased by not more than \$2,500.
3. This section provides for the enhancement of the forfeiture applicable for the underlying code violation. This section shall not apply except upon proof of all the issues specified in sub 1.
4. This section does not apply to any code violation if proof of race, religion, color, disability, sexual orientation, national origin or ancestry or proof of any person's perception or belief regarding another's race, religion, color, disability, sexual orientation, national origin or ancestry is required for a conviction for that code violation.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB05089-3

BJZ/rk

9/12/2005