



Legislation Text

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041619
SUBSTITUTE 1

ALD. DONOVAN and ALD. BOHL

Substitute resolution directing the Department of Administration - Intergovernmental Relations Division to seek introduction and passage of state legislation relating to prohibition of loud sounds emitting from radios and other electric sound amplification devices in motor vehicles.

This resolution directs the Department of Administration - Intergovernmental Relations Division to seek introduction and passage of state legislation revising s. 346.94(16), Wis. Stats., such that the provisions of this section become constitutional and enforceable by local law enforcement authorities. Section 346.94(16), Wis. Stats., prohibits a person from operating a radio in a motor vehicle such that the radio is audible from a distance of 75 feet or more. However, this statute has been found to be unconstitutional because, in its present form, it amounts to a content-based restriction on free speech, in violation of the First Amendment.

Whereas, Section 346.94(16), Wis. Stats., provides that "no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is audible under normal conditions from a distance of 75 or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition"; and

Whereas, Section 346.94(16), Wis. Stats., further provides a number of exceptions from the prohibition of loud sounds emitting from motor vehicles, including exceptions for operators of public utility vehicles and vehicles being used for advertising purposes; and

Whereas, The City of Milwaukee has adopted s. 346.94(16), Wis. Stats., in s. 101-1 of the Milwaukee Code of Ordinances; and

Whereas, Section 346.94(16), Wis. Stats., provides a mechanism for law enforcement authorities to respond to citizen complaints regarding loud car stereos; and

Whereas, In the past, the Milwaukee Police Department developed, used and distributed a "Loud Car Stereo Citizen Complaint Form" based on the provisions of s. 346.94(16), Wis. Stats.; and

Whereas, In June, 2003, Milwaukee Municipal Court Judge James Gramling issued a "memorandum decision" in which he indicates that the regulations of s. 346.94(16), Wis. Stats., are a content-based restriction on free speech (music) which violate the First Amendment to the U.S. Constitution; and

Whereas, Section 346.94(16), Wis. Stats., is a content-based, rather than content-neutral, restriction on free speech because it exempts vehicles being used for advertising, motorcycles (in certain circumstances) and utility-company vehicles, but not other types of vehicles; and

Whereas, The Common Council finds that loud music emanating from motor vehicles continues to be

a serious quality-of-life concern to residents of the City of Milwaukee; and

Whereas, For these reasons, the Common Council finds that it would be in the best interest of City of Milwaukee residents to seek the statutory revisions necessary to produce a legal and enforceable state law restricting loud car stereos; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Department of Administration - Intergovernmental Relations Division is directed to seek introduction and passage of state legislation revising s. 346.94(16), Wis. Stats., such that the provisions of this section become constitutional and enforceable by local law enforcement authorities.

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