

COMMITTEE SUBSTITUTE FOR RESOLUTION NO. 060973

Directing the City Prosecutor to again offer “defective equipment” pleas for moving traffic violations.

WHEREAS, prior to February of 2006, there existed a practice followed in the City Prosecutor’s Office of entering into plea bargains with certain defendants represented by an attorney charged with a moving violation of the City’s traffic ordinances in which the defendant agreed to pay a higher monetary fine in exchange for the prosecutor amending the original charge of a moving violation to the lesser, nonmoving charge of “defective equipment”; and

WHEREAS, in February 2006 the City Attorney suspended, or placed a moratorium on, this practice so that he could, among other issues, assess ethical concerns involving this practice, evaluate the effect of the practice on traffic and public safety in Kansas City and assess the practice’s impact on the legislative intent and policy supporting the Missouri General Assembly’s legislation establishing a point system for the regulation of driving privileges in Missouri and supporting the Council’s ordinances regulating the operation of motor vehicles in the City, and

WHEREAS, in early May 2006, the suspension or moratorium was lifted by the City Attorney, and a revised policy for such plea bargains was implemented by the City Attorney which, among other changes, substituted a “no points” speeding charge of speeding less than five miles per hour over the posted speed limit for the charge of “defective equipment” as the lesser amended charge; and

WHEREAS, the Advisory Committee of the Supreme Court of Missouri has issued a written opinion stating the prior practice does not violate the Code of Professional Ethics of prosecutors or municipal court judges; and

WHEREAS, the Council disagrees with the above specific change in the plea bargaining practice and believes that public and traffic safety is satisfactorily protected by amending moving violations to the lesser charge of “defective equipment” in exchange for a higher fine; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF KANSAS CITY:

That the City Prosecutor is hereby directed to modify the practice implemented in May 2006 by the City Attorney relating to the practice of plea bargaining moving traffic violations in such a manner that traffic violations pending after the date of passage of this resolution can be amended to the lesser charge of “defective equipment” for all moving violations as a part of a plea bargain.

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