

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTER 5.05 TO ) ORDINANCE NO. 06-1104  
PROHIBIT FALSE STATEMENTS REGARDING )  
THE ORIGIN OF WASTE FROM WITHIN THE ) Introduced by Michael Jordan,  
METRO REGION ) Chief Operating Officer, with the  
 ) concurrence of David Bragdon,  
 ) Council President

WHEREAS, the collection of Metro solid waste fees and taxes at certain designated solid waste disposal facilities is dependent upon self-reporting by customers regarding the point of generation of the solid waste they deliver for disposal; and

WHEREAS, some disposal facility customers have been found to falsely state their waste is generated from outside the Metro region in order to escape the payment of appropriate Metro fees and taxes; and

WHEREAS, effective enforcement of the payment of Metro fees and taxes requires that customers be prohibited from making such false statements; and

WHEREAS, the Chief Operating Officer recommends approval of this Ordinance; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Section 5.05.025 is amended as follows:

5.05.025 Prohibited Activities

(a) Except as otherwise provided in this chapter it shall be unlawful for any waste hauler or other person to transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within ~~Metro~~the District, any solid waste facility or disposal site without an appropriate license from Metro.

(b) It shall be unlawful for any solid waste generator, hauler, contractor, or other person to state falsely, or to direct another person to state falsely, to the operator of a System facility that solid waste delivered to the facility for disposal was generated outside the District when, in fact, such solid waste was generated within the District. A solid waste generator, hauler, or contractor shall be deemed to have directed another person to make false statements regarding the origin of solid waste under this section if the solid waste generator, hauler, or contractor knew or should have known that the person that transported the solid waste to the System facility would state falsely to the operator of a System facility that the solid waste delivered to the facility for disposal or other processing was generated outside the District when, in fact, such solid waste was generated within the District.

2. Metro Code Section 5.05.070 is amended as follows:

5.05.070 Solid Waste Flow Control Enforcement; Fines, Penalties and Damages for Violations

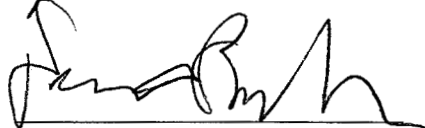
(a) Any waste hauler or person who violates or fails to comply with any provision of this chapter 5.05 or who fails to comply with the terms and conditions of any non-system license or required

use order shall be subject to the fines and penalties set forth in this section, which fines and penalties shall be assessed by the Chief Operating Officer.

- (1) A fine in the amount of not to exceed \$500 for each violation; and
  - (2) Such waste hauler or person shall not be extended any credit by Metro for the use of any facility constituting a part of the system until such time as all fines owing under this chapter as a result of such violation or failure to comply have been paid in full.
- (b) In addition to the foregoing fines and penalties:
- (1) Any waste hauler or person who fails to comply with the terms and conditions of any non-system license shall be required to pay to Metro a fine in the amount equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste generated within Metro transported, disposed of or otherwise processed in violation of the terms and conditions of such non-system license; ~~and~~
  - (2) Any waste hauler or person who, without having a non-system license then in effect, transports solid waste generated within Metro to, or utilizes or causes to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility shall be required to pay to Metro a fine in an amount equal to the ~~\$500 non-system license issuance fee~~, application fee that would have otherwise been required to authorize the waste disposed, plus an amount equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste generated within Metro transported, recycled, disposed of or otherwise processed to or at any non-system facility; ~~;~~ and
  - (3) Any waste hauler or person who violates Metro Code section 5.05.025(b) by falsely stating the origin of waste transported to a System facility shall be required to pay to Metro a fine in an amount equal to the regional system fee multiplied by the number of tons (or fractions thereof) of solid waste generated within the District transported to such System facility, plus the excise tax multiplied by the number of tons (or fractions thereof) of solid waste generated within the District transported to such System facility.
- (c) If in the judgment of the Chief Operating Officer such action is warranted, Metro shall commence an appropriate action in a state court of competent jurisdiction for the purpose of collecting the fines and penalties provided for above and/or enjoining any violations of the provisions of this chapter 5.05 or any non-compliance with the terms and conditions of any non-system license or required use order.
- (d) A required use order may be enforced by authorized gatehouse employees at any Metro facility, by denying facility access to a waste hauler or other person who is subject to a required

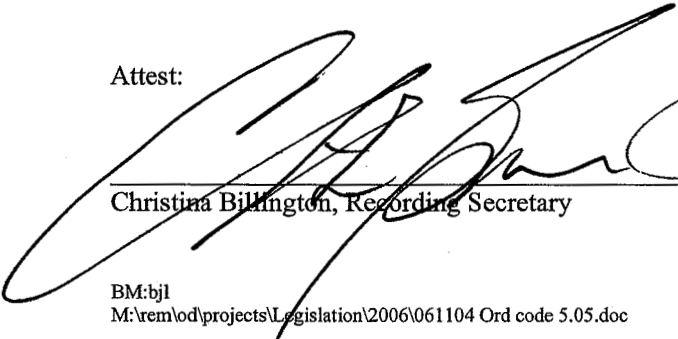
use order and is attempting to deliver waste to a facility not specified in the order. This enforcement shall be in addition to the fines and penalties that may be levied pursuant to this section.

ADOPTED by the Metro Council this 9<sup>th</sup> day of February 2006.



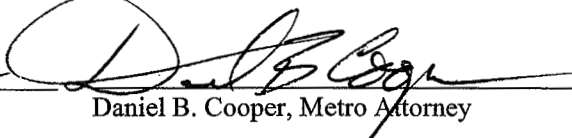
David Bragdon, Council President

Attest:



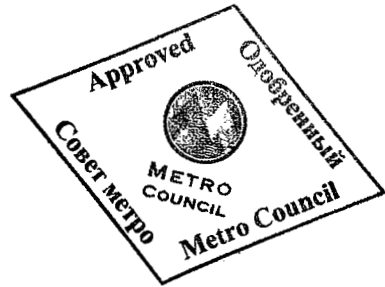
Christina Billington, Recording Secretary

Approved as to Form:



Daniel B. Cooper, Metro Attorney

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## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 06-1104 AMENDING METRO CODE CHAPTER 5.05 TO PROHIBIT FALSE STATEMENTS REGARDING THE ORIGIN OF WASTE FROM WITHIN THE METRO REGION

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January 3, 2006

Prepared by: Steve Kraten

## BACKGROUND

### Description of the Ordinance

Presently, Chapter 5.05 of the Metro Code relies on the collection of Metro solid waste fees and taxes at certain designated solid waste disposal facilities through self-reporting by customers regarding the point of generation of the solid waste delivered for disposal.

Through Metro solid waste investigations it has been discovered that some disposal facility customers have been found to falsely state that their waste is generated outside the Metro region in order to avoid the payment of appropriate Metro fees and taxes.

The purpose of this Ordinance is to enable Metro to effectively enforce the payment of fees and taxes owed to Metro, by prohibiting customers from making false statements about the origin of solid waste generated in the Metro region. This would make enforcement proceedings significantly more straightforward and easy to explain to a hearings officer, could make it easier to work out negotiated settlements of such violations, and could also make it easier to pursue criminal charges against such violations that were significantly egregious and repetitive to warrant such an action. The proposed changes also include an adjustment to the fines and penalties section in order to make recovery of non-system license ("NSL") fees consistent with the current NSL fee schedule.

## ANALYSIS / INFORMATION

### 1. Known Opposition

There is no known opposition to the proposed ordinance.

### 2. Legal Antecedents

Current provisions of Metro Code Chapter 5.05.

### 3. Anticipated Effects

The anticipated effect of the proposed ordinance is to prohibit false statements regarding the origin of solid waste generated within the Metro region.

### 4. Budget Impacts

The proposed ordinance is not anticipated to have a budget impact, but could result in the more efficient and less costly prosecution of enforcement actions and the recovery of additional Regional System Fees and Excise Taxes.

## RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 06-1104.

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