

ENROLLMENT(S)

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COUNCIL OF THE DISTRICT OF COLUMBIA

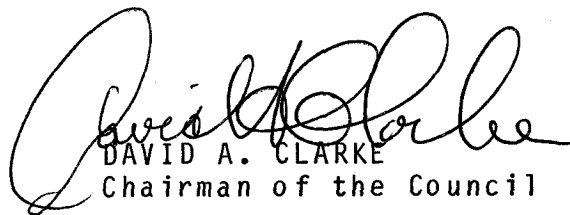
NOTICE

D.C. LAW 8-50

"Omnibus Narcotic and Abusive Drug Interdiction
Amendment Temporary Act of 1989".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 8-295 on first and second readings, June 27, 1989, and July 11, 1989, respectively. Following the signature of the Mayor on August 1, 1989, this legislation was assigned Act No. 8-83, published in the August 11, 1989, edition of the D.C. Register, (Vol. 36 page 5792) and transmitted to Congress on August 8, 1989 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 8-50, effective October 19, 1989.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

September 6,7,8,11,12,13,14,15,18,19,20,21,22,25,26,27,28,29

October 2,3,4,5,6,10,11,12,13,16,17,18

OCT 1 9 1989

AN ACT

D.C. ACT 8 - 83

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUG 0 1 1989

To amend, on a temporary basis, the District of Columbia Uniform Controlled Substances Act of 1981 to define Isomer and Cocaine, its salts, optical and geometric isomers, and salts of isomers as narcotic drugs, to remove cocaine, its salts, optical isomers and salts of its isomers from the definition of abusive drug and add cocaine, its salts, optical isomers and salts of its isomers to the Schedule II enumeration of controlled substances; and to amend the Drug Paraphernalia Act of 1982 to include miniature spoons, wired cigarette papers, and cocaine freebase kits within the definition of drug paraphernalia, to provide for the civil forfeiture of real property, and to establish a Drug Interdiction and Demand Reduction Fund.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Narcotic and Abusive Drug Interdiction Amendment Temporary Act of 1989".

Sec. 2. Controlled Substances.

The District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code, sec. 33-501 et seq.) is amended as follows:

(a) By amending section 102 (D.C. Code, sec. 33-501)) as follows:

(1) By amending paragraph (15) as follows:

(A) By striking the last "or" in subparagraph (B);

(B) By striking the period in subparagraph (C) and inserting a semicolon in its place; and

(C) By adding the following new subparagraphs to read as follows:

"(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(E) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

"(F) Any compound, mixture, or preparation that contains any of the substances referred to in this subsection.";

(2) By amending paragraph (26) to read as follows:

"(26) "Abusive drug" means any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

"(A) Phencyclidine or a phencyclidine immediate precursor; and

"(B) Phenmetrazine and its salts."; and

(3) By adding new paragraphs (27) and (28) to read as follows:

"(27) "Isomer" means the optical isomer, except as used in section 204(c) and section 206(a)(4). As used in section 204(c) 'isomer' means any optical, positional, or geometric isomer. As used in section 206(a)(4), 'isomer' means any optical or geometric isomer.";

"(28) "Real property" means any right, title, or interest in any tract of land, or any appertenance or improvement on a tract of land."

(b) By amending section 206 (D.C. Code, sec. 33-516) as follows:

(1) By amending subsection (a)(4) (D.C. Code, sec. 33-516(1)(D)) to read as follows:

"(4) Coca leaves, except coca leaves or extracts of coca leaves from which cocaine, ecgonine, or derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; or any compound, mixture, or preparation that contains any substance referred to in this subsection."; and

(2) By striking subsection (c)(5) (D.C. Code, sec. 33-516(3)(E));

(c) By amending section 401 (D.C. Code, sec. 33-541) as follows:

(1) By amending subsection (a)(2)(A) to read as follows:

"(A) A controlled substance classified in Schedule I or II that is a narcotic or abusive drug shall be imprisoned for not more than 30 years, fined not more than \$500,000, or both.";

(2) By amending subsection (a)(2)(B) by striking the phrase "except for phencyclidine or a phencyclidine immediate precursor," and inserting the phrase "except for a narcotic or abusive drug," in its place;

(3) By amending subsection (b)(2)(A) to read as follows:

"(A) A counterfeit substance classified in Schedule I or II that is a narcotic or abusive drug shall be imprisoned for not more than 30 years, fined not more than \$500,000, or both;"

(4) By amending subsection (b)(2)(B) by striking the phrase "except for phencyclidine or a phencyclidine immediate precursor," and inserting the phrase "except for a narcotic or abusive drug", in its place;

(5) By amending subsection (c)(1) as follows:

(A) By amending subparagraph (A) to read as follows:

"(A) Any person who violates subsection (a)(1) or (b)(1) of this section with respect to a controlled or counterfeit substance classified in Schedule I or II that is a narcotic or abusive drug shall serve a mandatory-minimum sentence of not less than 5 years for the 1st offense and 10 years for the 2nd or subsequent offense, if the violation involves:

"(i) 500 grams or more of a mixture or substance that contain a detectable amount of a narcotic drug;

"(ii) 50 grams or more of a mixture or substance described in sub-subparagraph (i) of this subparagraph that contain a cocaine base;

"(iii) 50 grams or more of phencyclidine or 500 grams or more of a mixture or substance that contain phencyclidine; or

"(iv) 50 grams of phenmetrazine."; and

(B) By adding the following new subparagraphs to read as follows:

"(A-1) Any person who violates subsection (a)(1) or (b)(1) of this section with respect to a controlled or counterfeit substance classified in Schedule I or II that is a narcotic drug, except cocaine, shall serve a mandatory-minimum sentence of not less than 4 years for the 1st offense, 7 years for the 2nd offense, and 10 years for the 3rd or subsequent offense, if the violation involves less than 500 grams of a mixture or substance that contains a detectable amount of a narcotic drug;

"(A-2) Any person who violates subsection (a)(1) or (b)(1) of this section with respect to a controlled or counterfeit substance classified in Schedule II that is the narcotic drug cocaine, shall serve a mandatory-minimum sentence of:

"(i) 4 years for the 1st offense, 7 years for the 2nd offense, and 10 years for the 3rd or subsequent offense, if the violation involves less than 50 grams of a mixture or substance that contains a cocaine base; or

"(ii) 5 years for the 1st offense, 8 years for the 2nd offense, and 10 years for the 3rd or subsequent offense, if the violation involves less than 500 grams of cocaine as defined in section 206(a)(4);

"(A-3) Any person who violates subsection (a)(1) or (b)(1) of this section with respect to a controlled or counterfeit substance classified in Schedule I or II that is an abusive drug, shall serve a mandatory minimum sentence of 20 months for the 1st offense, 5 years for the 2nd offense, and 10 years for the 3rd or subsequent offense, if the violation involves:

"(i) less than 50 grams of phencyclidine or less than 500 grams of a mixture or substance that contains phencyclidine; or

"(ii) less than 500 grams of phenmetrazine.";

(6) By amending subsection (e)(1) by striking the phrase "narcotic drugs" and inserting the phrase "narcotic or abusive drugs" in its place; and

(7) By adding a new subsection (g) to read as follows:

"(g) For the purposes of this section, "offense" means a prior conviction for a violation of this section or a felony that relates to narcotic or abusive drugs, marijuana, or depressant or stimulant drugs, that is rendered by a court of competent jurisdiction in the United States.";

(d) By amending section 502 (D.C. Code, sec. 33-552) as follows:

Note
Section
33-552

(1) By amending subsection (a) as follows:
(A) By striking the word "and" at the end of paragraph (5);

(B) By striking the period at the end of paragraph (6) and inserting a semicolon in its place;

(C) By striking the period at the end of paragraph (7)(B) and inserting the phrase "; and" in its place; and

(D) By adding a new paragraph (8) to read as follows:

"(8) Any real property that is used or intended to be used, in any manner to commit or facilitate the commission of a violation of this chapter, except that;

"(A) No real property shall be forfeited under this paragraph by reason of an act or omission established by the owner to have been committed or omitted without the knowledge and consent of the owner;

"(B) Real property is not subject to forfeiture for a violation of section 401(c) of the Uniformed Controlled Substances Act of 1981 (D.C. Law 4-29; D.C. Code, sec. 33-541(d)); and

"(C) The forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party had no knowledge and did not consent to the act or omission that constituted a violation of this act";

(2) By adding a new subsection (e) to read as follows:

"(e) During the course of any civil forfeiture proceeding pursuant to this section or any forfeiture proceeding pursuant to the United States Code, the Recorder of Deeds shall record a notice of lis pendens against the title of any real property for which forfeiture is sought. Upon resolution of such proceeding, the Recorder of Deeds shall be notified of the disposition of the action.";

(e) By adding a new section 411 to read as follows:
"Section 411. Prohibited acts D; penalties.

"(a) It shall be unlawful for any person to knowingly open or maintain any place to manufacture, distribute, or store for the purpose of manufacture or distribution a narcotic or abusive drug.

"(b) Any person who violates this section shall be imprisoned for not less than 5 years nor more than 25 years, fined not more than \$500,000, or both."; and

(f) By adding a new Title VII to read as follows:

"Title VII -- Drug Interdiction and Demand Reduction Fund.

"(a) There is established within the District of Columbia Treasury a nonlapsing revolving fund to be known as the Drug Interdiction and Demand Reduction Fund ("Fund"). This fund shall consist of all fines collected and assets derived from the enforcement of section 411 or 502.

"(b) The fund shall be used exclusively for drug interdiction and demand reduction programs, except that an amount not to exceed 51% of the annual operating revenues shall be allocated for community-based drug education, prevention, and demand reduction programs."

Sec. 3. Drug Paraphernalia.

The Drug Paraphernalia Act of 1982, effective September 17, 1982, (D.C. Law 4-149; D.C. Code, sec. 33-601 et seq.), is amended as follows:

(a) By amending section 2 (3)(L) (D.C. Code, sec. 33-601(3)(L)) as follows:

(1) By amending sub-subparagraph (vi) to read as follows:

"(vi) Miniature spoons with level capacities of one-tenth cubic centimeter or less;"

(2) By amending sub-subparagraph (xi) by striking the word "and";

Note
Section
33-601

(3) By amending sub-subparagraph (xii) by striking the period and inserting a semicolon in its place; and

(4) By adding the following sub-subparagraphs:

"(xiii) Wired cigarette papers; or

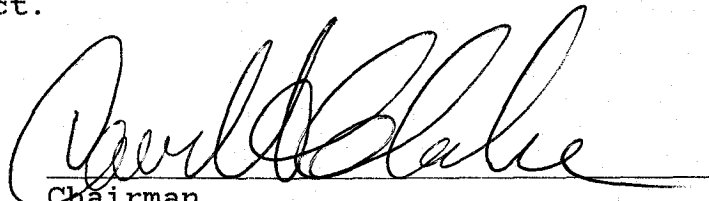
"(xiv) Cocaine freebase kits."; and

(b) By amending section 4(b), (D.C. Code, sec. 33-603(b)), by striking the word "individual" and inserting the word "person" in its place.

Sec. 4. Within 10 days of the effective date of this act, the Mayor shall implement an extensive public information program to detail the new penalty structure established under this act.

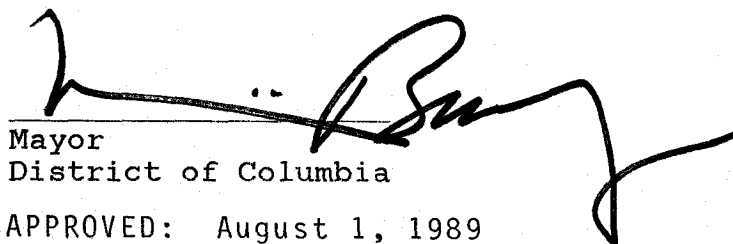
Sec. 5. (a) This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.

(b) This act shall expire on the 225th day of its having taken effect.



Chairman

Council of the District of Columbia



Mayor
District of Columbia

APPROVED: August 1, 1989



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Eight

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 8-295

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 6-27-89

VOICE VOTE: Approved

Recorded vote on request

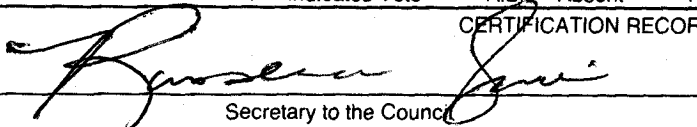
Absent: Clarke

ROLL CALL VOTE: -- RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD


 Secretary to the Council

7-17-89
 Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 7-11-89

VOICE VOTE: Approved, Chairman Clarke voted present

Recorded vote on request

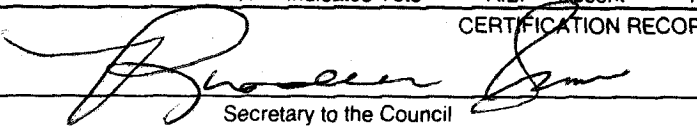
Absent: Crawford

ROLL CALL VOTE: -- RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD


 Secretary to the Council

7-17-89
 Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: -- RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date