

COUNCIL OF THE DISTRICT OF COLUMBIA

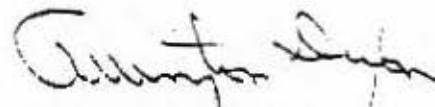
NOTICE

D.C. Law 3-128

"Closing of a Portion of a Public Alley in Square 5263; the Police Officers, Firefighters, and Teachers Retirement Amendments; the District of Columbia Depository Act of 1977 Amendments; and the District of Columbia Motor-Vehicle Fuel and Sales Tax Act and the District of Columbia Sales Tax Act Amendments of 1980 Act of 1980".

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. 3-394 on first and second readings, November 25, 1980 and December 9, 1980, respectively. Following the signature of the Mayor on January 7, 1981, this legislation was assigned Act No. 3-337, published in the January 16, 1981 edition of the D.C. Register, (Vol. 28 page 246) and transmitted to Congress on January 13, 1981 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 3-128, effective March 4, 1981.



ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30
February	2, 3, 4, 5, 6, 17, 18, 19, 20, 23, 24, 25, 26, 27,
March	2, 3

D.C. LAW 3-128

EFFECTIVE  
DATE MAR 04 1981

AN ACT

D.C. ACT 3-337

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JAN 07 1981

To order the closing of the portion of the east-west public alley abutting lots 36, 5, 6, and 19 in Square 5263, bounded by Dix Street, N.E., and 59th Street, N.E. (S.O. 79-439-Revised) (Ward 7); to amend the Police and Firemen's Retirement and Disability Act, and An Act for the Retirement of public school teachers in the District of Columbia to provide for the optional, voluntary retirement of police officers, firefighters and teachers; to amend the District of Columbia Depository Act of 1977, to allow for continuation for one (1) year of depository contracts expiring in Fiscal Year 1981, and to move the date for submitting social criteria information from December 1 to May 1; and to amend the District of Columbia Motor-vehicle Fuel and Sales Tax Act, and the District of Columbia Sales Tax Act; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Closing of a Portion of a Public Alley in Square 5263; the Police Officers, Firefighters, and Teachers Retirement Amendments; the District of Columbia Depository Act of 1977 Amendments; and the District of Columbia Motor-vehicle Fuel and Sales Tax Act and the District of Columbia Sales Tax Act Amendments of 1980 Act of 1980".

Sec. 2. The Council of the District of Columbia finds that:

(a) A public hearing was held on July 30, 1980, concerning an application to close the portion of the east-west public alley which abuts lots 36, 5, 6, and 19 in Square 5263, bounded by Dix Street, N.E., and 59th Street, N.E., as shown on a map on file in the Office of the Surveyor of the District of Columbia (S.O. 79-439).

(b) The proposed closing was referred to the National Capital Planning Commission for its recommendation.

(c) Subsequent to the public hearing, a revised plat signed by the owners of lots 5 and 19 was filed in the Office of the Surveyor of the District of Columbia requesting the closing of the portion of the east-west public alley which abuts lots 36, 5, 6, and 19 in Square 5263, bounded by Dix Street, N.E., and 59th Street, N.E., with title to the land to revert to the owners of lot 36 (S.O. 79-439-Revised).

Sec. 3. The Council of the District of Columbia, having considered the proposed closing, is of the opinion that the portion of the public alley referred to in section 2(c) should be closed.

Sec. 4. Pursuant to section 1 of The Street Readjustment Act of the District of Columbia, approved

December 15, 1932 (47 Stat. 747; D.C. Code, sec. 7-401), the portion of the public alley as shown on the plat filed in the Office of the Surveyor of the District of Columbia (S.O. 79-439-Revised) is ordered closed with title to the land reverting to the owners of lot 35 in Square 5253.

Sec. 5. Immediately after the effective date of this act, the Surveyor of the District of Columbia shall cause a public notice of this order to be given by advertisement and shall serve a copy of this order on each owner of property abutting the public alley to be closed in accordance with the procedures set forth in section 4 of The Street Readjustment Act of the District of Columbia, approved December 15, 1932 (47 Stat. 749; D.C. Code, sec. 7-404).

Sec. 6. If no objection is made in writing by any party interested within thirty (30) days after the service of the order referred to in section 5, the surveyor of the District of Columbia shall record in his Office a copy of this order and the appropriate plat or plats.

Sec. 7. The Secretary to the Council of the District of Columbia shall transmit true and accurate copies of this act, upon its effective date, to the Mayor of the District of Columbia and to the Surveyor of the District of Columbia.

Sec. 8. Section 12(n)(5) of the Policemen and Firemen's Retirement and Disability Act, approved August 21, 1957 (71

CODIFICATION  
D.C. Code,  
sec. 4-528

Stat. 395; D.C. Code, sec. 4-528), as amended by section 4 of the Securities Act Amendments, Personnel Act Clarification, and Voluntary Retirement Act of 1980, effective October 2, 1980 (Act 3-254; 27 DCR 4421), is amended by striking the phrase "or the date of expiration of the Police Officers and Firefighters Retirement Emergency Act of 1980, whichever occurs first."

Sec. 9. Section 3(e) of An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 876; D.C. Code, sec. 31-723), as amended by section 5 of the Securities Act Amendments, Personnel Act Clarification, and Voluntary Retirement Act of 1980, effective October 2, 1980 (Act 3-254; 27 DCR 4422), is amended by striking the phrase "or the date of expiration of the Teachers' Voluntary Retirement Emergency Act of 1980, whichever occurs first."

D.C. Code,  
sec. 31-723

Sec. 10. Section 4(c) of the District of Columbia Depository Act of 1977, effective October 26, 1977 (D.C. Law 3-32; D.C. Code, sec. 47-273(c)) is amended as follows:

D.C. Code,  
sec. 47-273

(a) Paragraph (2) is amended by deleting the phrase "Not later than December 1, 1977, unless an earlier date is set by the Mayor, and at intervals of not longer than every three (3) years thereafter" and inserting the phrase "On May

1st of every third year beginning with 1981" in lieu thereof.

(b) Paragraph (2) is amended by deleting the phrase "prior to soliciting bids for placing demand deposits" and inserting the phrase "which shall become effective the following October 1st" in lieu thereof.

(c) Paragraph (4) is amended by adding the following sentence at the end thereof to read as follows: "Contracts terminating prior to October 1, 1981, may be extended for periods not to exceed one (1) year without competition."

(d) Paragraph (7) is amended by deleting the phrase "three year period" and inserting the phrase "interval between rankings" in lieu thereof.

Sec. 11. The Act entitled "An Act To provide for a tax on motor-vehicle fuels sold within the District of Columbia, and for other purposes", approved April 23, 1924 (43 Stat. 106; D.C. Code, sec. 47-1901 et seq.) is amended as follows:

(a) Section 1 of such Act (D.C. Code, sec. 47-1901) is amended to read as follows:

"A tax of 11 cents per gallon on all motor-vehicle fuels within the District of Columbia, sold or otherwise disposed of by an importer or user, or used by them in a motor-vehicle operated for hire or for commercial purposes, shall be levied, collected, and paid in the

D.C. Code,  
sec. 47-190.

Enrolled Bill

manner hereinafter provided. Effective June 1, 1981, the rate of tax imposed by this section is increased to 13 cents per gallon.

\*Beginning with the calendar year 1982, the rate of tax as contained in the first paragraph of this section shall be calculated each year to be effective on June 1st of such year and shall be determined in the following manner:

\* (a) A new motor-vehicle excise tax rate (rounded to the nearest one-tenth of one cent) shall be imposed at a rate equal to the rate existing on April 15th multiplied by one plus the percentage change between the consumer price index for the first calendar year immediately preceding the current calendar year and the consumer price index for the second calendar year preceding the current calendar year. The consumer price index referred to in the preceding sentence shall be the annual average Washington, D.C., all items consumer price index, for all urban consumers, as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

\* (b) Beginning on April 15, 1982, and on April 15th of each year thereafter, the Mayor shall



submit to the Council of the District of Columbia a new motor-vehicle fuel excise tax rate as calculated in subsection (a) above to be applied beginning on the following June 1st: PROVIDED, HOWEVER, That the new rate shall not exceed by more than five cents (5¢) per gallon the lowest estimated aggregate state/local motor fuel and sales taxes imposed on motor fuels in the surrounding jurisdictions of Montgomery County and Prince Georges County, Maryland; and Alexandria City, Fairfax City, Arlington County, and Fairfax County, Virginia.

"(c) The motor-vehicle fuel excise tax rate proposed by the Mayor in subsections (a) and (b) above shall take effect on June 1st of each year unless the Council, after public hearing, shall impose a tax rate other than the rate proposed by the Mayor: PROVIDED, HOWEVER, That if the Council does not enact a different rate for the year prior to May 20th of such year, the rate proposed by the Mayor shall take effect.

"All proceeds of the taxes imposed under sections 2 through 18 (D.C. Code, secs. 47-1901 through 47-1916) and all moneys collect from fees charged for the



registration and titling of motor vehicles, including fees charged for the issuance of permits to operate motor vehicles, shall be deposited in the General Fund of the District of Columbia as established by the Revenue Funds Availability Act of 1975, effective January 22, 1976 (D.C. Law 1-42; D.C. Code, sec. 47-130c note)."

(b) Section 2(c) of such Act (D.C. Code, sec. 47-1902(c)) is amended by striking the "comma" after the word "importer" in the last sentence and inserting between the words "importer" and "who" the phrase "or user."

D.C. Code,  
sec. 47-190

(c) Section 2 of such Act (D.C. Code, sec. 47-1902) is amended by adding a new subsection (k) at the end thereof to read as follows:

D.C. Code,  
sec. 47-190

"(k) The term 'user' means anyone other than an importer or distributor who sells, uses, or otherwise disposes of, in the District of Columbia, motor-vehicle fuel upon which the tax imposed by this Act has not been paid."

(d) Section 3(a) of such Act (D.C. Code, sec. 47-1903(a)) is amended by striking the figure "\$20,000" and inserting in lieu thereof the figure "\$50,000".

D.C. Code,  
sec. 47-190

(e) The first sentence of section 3(c) of such Act (D.C. Code, sec. 47-1903(c)) is amended to read as follows:

D.C. Code,  
sec. 47-190

"If any importer fails, refuses, or neglects to file the monthly report, or to pay the tax within the time required by this Act, the Mayor shall promptly notify the importer and the bonding company by notice sent by registered mail or by certified mail to such importer requiring him to show cause why the license should not be revoked."

(f) Section 6 of such Act (D.C. Code, sec. 47-1906) is amended by adding an "(a)" at the beginning of the section and adding a new subsection (b) to read as follows:

D.C. Code,  
sec. 47-19

"(b) In the event a user obtains, sells, uses, or otherwise disposes of motor-vehicle fuel in the District of Columbia upon which the tax imposed by this Act has not been paid, he shall be liable for the tax, penalties, and interest on such motor-vehicle fuel as provided for in this Act."

(g) Section 7 of such Act (D.C. Code, sec. 47-1907) is amended by inserting between the words "distributor," and "or" the word "user,".

D.C. Code,  
sec. 47-19

(h) Section 11 of such Act (D.C. Code, sec. 47-1911) is amended to read as follows:

D.C. Code,  
sec. 47-19

"Sec. 11(a) Any person required to file a return or report or to perform any act under the provisions of this Act, who shall fail or neglect to file such return or report or to perform such act within the time

required shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than six (6) months, or both, for each and every failure or neglect. The penalty provided herein shall be in addition to the other penalties provided for in this Act.

"(b) Any person required to file a return or report or to perform any act under the provisions of this Act, who willfully fails or refuses to file such return or report or to perform such act within the time required shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned for not more than one (1) year, or both. The penalty provided herein shall be in addition to the other penalties provided for in this Act.

"(c) For the purposes of this section, the term 'person' also includes any officer of a corporation and any employee of a corporation responsible for the performance of any act under this Act; any member of a partnership or association, and any employee of a partnership or association responsible for the performance of any act under this Act."

(i) Following section 19 of such Act (D.C. Code, sec. 47-1915), add the following new sections in the appropriate sequence to read as follows:

D.C. Code,  
sec. 47-1916.1

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"Sec. 17(a) The Mayor shall determine, redetermine, assess or reassess any tax imposed under this Act as follows:

"(1) In the case of a fraudulent monthly report or failure to file a monthly report, the tax may be assessed at any time.

"(2) If the tax as imposed by this Act is determined to be due from any person other than a licensee under this Act, such tax may be assessed at any time.

"(3) In the case of an incorrect report, the tax shall be assessed or reassessed within five (5) years after the filing of such report.

"(4) If a report required by this Act is not filed, or if the report when filed is incorrect or insufficient, or if the tax as imposed by this Act has been determined to be due from a licensee or any other person, the amount of tax due shall be determined by the Mayor from such information as may be obtainable. Notice of such determination shall be given to the licensee or to any person required to file a report and/or pay the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom the tax is

assessed, within thirty (30) days after the giving of such determination, shall apply to the Mayor for a hearing, or unless the Mayor of his own motion shall redetermine the same. After such hearing or redetermination the Mayor shall give notice of his final determination to the person against whom the tax is assessed.

"(b) Any licensee or other person required to file a report and/or pay the tax who fails to file such report, who files a false or incorrect report, or who fails to pay the tax to the District of Columbia within the time required by this Act, shall be subject to a penalty of five (5) per centum of the tax due if the failure is for not more than one (1) month, with an additional five (5) per centum for each additional month or fraction thereof, during which such failure continues not to exceed twenty-five (25) per centum in the aggregate; plus interest at the rate of one and one-half (1 1/2) per centum of such tax for each month or fraction thereof during which such failure continues; but the Mayor may, if he is satisfied that the delay was excusable, waive all or any part of the penalty, or interest. Unpaid penalties and interest may be collected in the same manner as the tax imposed by this

act. The penalty and interest provided for in this section shall be applicable to any tax determined as a deficiency.

"(c) The tax imposed by this Act and interest and penalties thereon shall become, from the time due and payable, a personal debt of the person liable to pay the same to the District of Columbia. For the purposes of this subsection, the term 'person' also includes any officer of a corporation, and any employee of a corporation responsible for the payment of the tax; any member of a partnership or association, and any employee of a partnership or association responsible for the payment of the tax.

"Sec. 20. The taxes imposed by this Act and penalties and interest thereon may be collected by the Mayor in the manner provided by law for the collection of taxes due the District of Columbia on personal property in force at the time of such collection; and liens for the taxes imposed by this Act and penalties and interest thereon may be acquired in the same manner that liens for personal property taxes are acquired. If the Mayor believes that the collection of any tax imposed by this Act will be jeopardized by delay, the Mayor shall, whether or not the time otherwise

D.C. Code,  
sec. 47-19

prescribed by law for filing the monthly report and paying such tax has expired, immediately assess such tax, together with all interest and penalties, the assessment of which is provided by law. Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the Mayor for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful.

"Sec. 21. Where any tax has been erroneously or illegally collected by the District, the tax shall be refunded if application under oath is filed with the Mayor for such refund within three (3) years from the payment thereof. Such application must be made by the person upon whom such tax was imposed and who has actually paid the tax. Application for a refund as herein provided shall be deemed an application for a revision of tax, penalty, and/or interest complained of and the Mayor may receive evidence with respect thereto. After making his determination of whether any refund shall be made, the Mayor shall give notice thereof to the applicant.

D.C. Code,  
sec. 47-1916.3



"Sec. 22. Any person aggrieved by a final determination of tax or by a denial of a claim for refund, other than a refund of tax finally determined in section 19 of this Act, may within six (6) months from the date of assessment of the deficiency, or from the date of the denial of a claim for refund, appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in sections 3 and 4 of title IX of the District of Columbia Revenue Act of 1937, approved May 16, 1938 (52 Stat. 371; D.C. Code, secs. 47-2403 & 47-2404) as amended.

D.C. Code,  
sec. 47-1916.

"Sec. 23. All motor-vehicle fuels found in any place in the District of Columbia at such time and under such circumstances that the taxes levied and imposed by this Act should have been collected and paid and on which such taxes have not been paid as required by this Act, shall be declared contraband goods and be forfeited to the District of Columbia. The Mayor may seize any such motor-vehicle fuels wherever they are found.

D.C. Code,  
sec. 47-1916.

"(b) In any case where the Mayor has knowledge or reason to suspect that any vehicle is carrying motor-vehicle fuel in violation of any provisions of this Act, the Mayor is authorized to stop such vehicle and to inspect the same for contraband motor-vehicle fuel. If

such vehicle is carrying motor-vehicle fuel in violation of any provision of this Act, the motor-vehicle fuel and the vehicle shall be confiscated.

"(c) The Mayor shall not in any way be held responsible in any court for the seizure or the confiscation of any motor-vehicle fuel or vehicles which are seized or confiscated under the provisions of this Act. Any motor-vehicle fuel or vehicles so seized shall be sold in the same manner as personal property seized for the payment of District of Columbia taxes, and the proceeds of such sales shall be deposited to the credit of the District of Columbia. Notwithstanding the provisions of this section, if the Mayor believes that any failure to comply with the provisions of this Act is excusable, the Mayor may, in his discretion, return to the owner or owners thereof any motor-vehicle fuel or vehicles seized under the provisions of this section."

Sec. 12. Section 12B of the District of Columbia Sales Tax Act, approved May 27, 1949 (63 Stat. 112; D.C. Code, sec. 47-2605) is amended by adding a new subsection (u) to read as follows:

D.C. Code,  
sec. 47-2605

"(u) Sales of motor-vehicle fuels upon the sale of which a tax is imposed by an Act To provide for a tax on motor-vehicle fuels sold within the District of

Columbia, and for other purposes, approved April 23, 1924, as amended or as may be hereafter amended."

Sec. 13. The Mayor may issue rules and regulations not inconsistent with the provisions of section 11 or 12, or both, in order to properly administer the provisions of section 11 or 12, or both.

D.C. Code,  
sec. 47-1916

Sec. 14. (a) If any provision of section 11 or 12, or both, including any amendment made by section 11 or 12, or both, or the application thereof to any person or circumstance, is held invalid, the remainder of the provisions of section 11 or 12, or both, including the remaining amendments thereof, and the application of such provision to other persons or circumstances shall not be affected thereby.

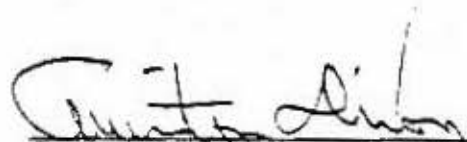
D.C. Code,  
sec. 47-1916

(b) The repeal or amendment by section 11 or 12, or both, or any provision of law shall not affect any act done or any right accrued or accruing under such provision of law before the effective date of section 11 or 12, or both, or any suit or proceeding had or commenced before the effective date of section 11 or 12, or both, but all such rights and liabilities under an Act to provide for a tax on motor-vehicle fuels sold within the District of Columbia, and for other purposes, approved April 23, 1924 (43 Stat. 105; D.C. Code, sec. 47-1901 et seq.), and section 128 of the District

of Columbia Sales Tax Act, approved May 27, 1949 (53 Stat. 112; D.C. Code, sec. 47-2605), shall continue, and may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

(c) All offenses committed, and all penalties incurred, prior to the effective date of section 11 or 12, or both, under any provision of law repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if section 11 or 12, or both, had not been enacted.

Sec. 15. This act shall take effect after a thirty (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. 1-147(c)(1)).

  
 Chairman  
 Council of the District of Columbia

  
 Mayor  
 District of Columbia

APPROVED: January 7, 1981

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**RECORD OF OFFICIAL COUNCIL ACTION**

DOCKET NO: B 3-394

ACTION: Adopted First Reading, 11-25-80

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	DATE	TIME	NO.	NAME	COUNCIL MEMBER	DATE	TIME	NO.	NAME
DIXON				KANE	SHACKLETON				
WINTER				MASON	SPALDING				
CLARKE				MOORE	MITCHELL				
WISBY				DAY					
ROBERTS				BOYD					

CERTIFICATION OF RECORD

*John P. Brown*  
 Secretary to the Council

ACTION: Adopted Final Reading, Consent Calendar, 12-9-80

VOICE VOTE: Unanimous

Absent: Clarke

ROLL CALL VOTE:

COUNCIL MEMBER	DATE	TIME	NO.	NAME	COUNCIL MEMBER	DATE	TIME	NO.	NAME
DIXON				KANE	SHACKLETON				
WINTER				MASON	SPALDING				
CLARKE				MOORE	MITCHELL				
WISBY				DAY					
ROBERTS				BOYD					

CERTIFICATION OF RECORD

*John P. Brown*  
 Secretary to the Council

ACTION: \_\_\_\_\_

VOICE VOTE: \_\_\_\_\_

Absent: \_\_\_\_\_

ROLL CALL VOTE:

COUNCIL MEMBER	DATE	TIME	NO.	NAME	COUNCIL MEMBER	DATE	TIME	NO.	NAME
DIXON				KANE	SHACKLETON				
WINTER				MASON	SPALDING				
CLARKE				MOORE	MITCHELL				
WISBY				DAY					
ROBERTS				BOYD					

CERTIFICATION OF RECORD

Secretary to the Council