

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 4-149

"Drug Paraphernalia Act of 1982".

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. 4-5 on first, amended first and second readings, May 25, 1982, June 8, 1982 and June 22, 1982, respectively. Following the signature of the Mayor on July 21, 1982, this legislation was assigned Act No. 4-220, published in the August 6, 1982, edition of the D.C. Register, (Vol. 29 page 3369) and transmitted to Congress on July 21, 1982 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 4-149, effective September 17, 1982.

  
ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

July 21, 22, 23, 26, 27, 28, 29, 30  
August 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20  
September 8, 9, 10, 13, 14, 15, 16

4-149

SEP 17 1982

AN ACT

D.C. ACT 4-220

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUL 21 1982

define and regulate the sale of drug paraphernalia in the District of Columbia, and for other purposes.

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

that this act may be cited as the "Drug Paraphernalia Act of 1982".

Sec. 2. Definitions.

For purposes of this act, the term:

CODIFICATION

New  
D.C. Code,  
sec. 33-571  
(1981 ed.)

(1) "Controlled substance" has the same meaning as that provided in section 102(4) of 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(4)).

(2) "Court" means the Superior Court of the District of Columbia and the District of Columbia Court of Appeals.

(3) "Drug paraphernalia" means:

(A) Kits or other objects used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(B) Kits or other objects used,

intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

(C) Isomerization devices or other objects used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(D) Testing equipment or other objects used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of a controlled substance;

(E) Scales and balances or other objects used, intended for use, or designed for use in weighing or measuring a controlled substance;

(F) Diluents and adulterants, including, but not limited to: quinine, hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting a controlled substance;

(G) Separation pans and sifters or other objects used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis or any other controlled substance;

(H) Blenders, bowls, containers, spoons, and other mixing devices used, intended for use, or designed for use in compounding a controlled substance;

(I) Capsules, balloons, envelopes, and containers used, intended for use, or designed for use in packaging small quantities of a controlled substance;

(J) Containers and other objects used, intended for use, or designed for use in storing or packaging a controlled substance;

(K) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting a controlled substance into the human body; and

(L) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, hashish oil, or other controlled substance into the human body, including, but not limited to:

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) water pipes;

(iii) carburetion tubes and

devices;

(iv) smoking and carburetion masks;

(v) roach clips;

(vi) miniature cocaine spoons and

cocaine vials;

(vii) chamber pipes;

- Enrolled with the
- (viii) carburetor pipes;
  - (ix) electric pipes;
  - (x) air-driven pipes;
  - (xi) bongos; and
  - (xii) ice pipes or chillers.

The term "drug paraphernalia" shall not include any article that is 50 years of age or older.

Sec. 3. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically and legally relevant factors, the following factors:

- (1) statements by an owner or by anyone in control of the object concerning its use;
- (2) the proximity of the object, in time and space, to a violation of section 4(a) or to a controlled substance;
- (3) the existence of any residue of a controlled substance on the object;
- (4) direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intends to use the object to facilitate a violation of section 4(a); the innocence of an owner, or of anyone in control of the object, as to a violation of section 4(a) shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (5) instructions, oral or written, provided

New  
D.C.  
Sec.  
(1981)

with the object concerning its use;

(6) descriptive materials accompanying the object which explain or depict its use;

(7) national and local advertising concerning use of the object;

(8) the manner in which the object is displayed for sale;

(9) whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, including, but not limited to, a licensed distributor or dealer of tobacco products;

(10) direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;

(11) the existence and scope of legitimate uses for the object in the community; and

(12) expert testimony concerning its use.

Sec. 4. (a) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inhale, ingest, or otherwise introduce into the human body a controlled substance. Whoever violates this subsection shall be imprisoned for not more than 30 days or fined for not more than \$100, or both.

New  
D.C. Code,  
sec. 33-573  
(1981 ed.)

(b) It is unlawful for any person to deliver or sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, possess with intent to deliver or sell drug paraphernalia, knowingly, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Whoever violates this subsection shall be imprisoned for not more than 6 months or fined for not more than \$1,000, or both, unless the violation occurs after the individual has been convicted in the District of Columbia of a violation of this act, in which case the individual shall be imprisoned for not more than 2 years, or fined not more than \$5,000, or both.

(c) Any person 18 years of age or over who violates subsection (b) by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years his or her junior is guilty of a special offense and upon conviction may be imprisoned for not more than 3 years, fined not more than \$15,000, or both.

Sec. 5. The following shall be subject to forfeiture immediately, and no property right shall exist in them after a final conviction by a court:

- (1) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of act;
- (2) All money or currency which shall be found in close proximity to drug paraphernalia or which otherwise has been used or intended for use in connection with the manufacture, distribution, delivery, sale, use, dispensing, or possession of drug paraphernalia in violation of section 4; and
- (3) All drug paraphernalia as defined in sections 2 and 3 and prohibited in section 4.

Sec. 6. If any provision, clause, sentence, or paragraph of this act or the application thereof to any person or circumstance shall be adjudged to be invalid by any court of competent jurisdiction, the order of judgment shall be confined in its operation to the controversy as to which it was rendered and shall not affect or invalidate the remainder of any provision, clause, sentence, or paragraph of this act or the application thereof to any person or circumstances, and to this end the provisions of each clause, sentence, or paragraph of this act are declared to be severable.


New  
D.C. Code,  
sec. 33-571  
(1981 ed.)

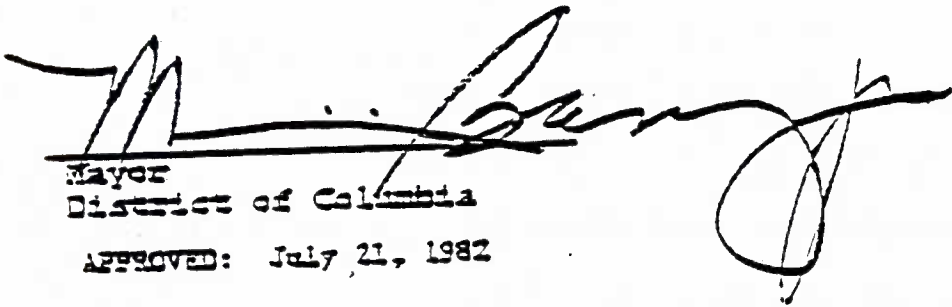
Sec. 7. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental

New  
D.C. Code,  
sec. 33-57  
(1981 ed.)



Reorganization Act, approved December 24, 1973 (87  
Stat. 813; D.C. Code, sec. 1-233(c)(1)):  
PROVIDED, That this act shall not take effect prior to  
January 1, 1983.

  
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Chairman  
Council of the District of Columbia

  
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Mayor  
District of Columbia  
APPROVED: July 21, 1982

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COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Four

Second Session

DOCKET NO: B 4-5

Item on Consent Calendar

ACTION: Adopted First Reading, 5-25-82

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
GEN. DEON					KANE					SPACKLETON				
WYNER					MASON					SPAULDING				
CARKE					MOORE, JR.					WILSON				
CRAWFORD					PAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

*Vivian R. Cunningham*  
Secretary to the Council

6/25/82  
Date

Item on Consent Calendar

ACTION: Adopted Amended First Reading, 6-8-82

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
GEN. DEON					KANE					SPACKLETON				
WYNER					MASON					SPAULDING				
CARKE					MOORE, JR.					WILSON				
CRAWFORD					PAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

*Vivian R. Cunningham*  
Secretary to the Council

6/25/82  
Date

Item on Consent Calendar

ACTION: Adopted Final Reading, 6-22-82

VOICE VOTE:

Absent:

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
GEN. DEON	X				KANE	X				SPACKLETON	X			
WYNER	X				MASON	X				SPAULDING	X			
CARKE	X				MOORE, JR.	X				WILSON			X	
CRAWFORD	X				PAY	X								
JARVIS	X				ROLARK	X								

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

*Vivian R. Cunningham*  
Secretary to the Council

6/25/82  
Date