

COUNCIL OF THE DISTRICT OF COLUMBIA

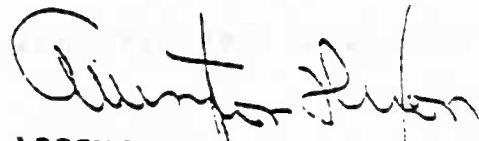
NOTICE

D.C. LAW 4-29

"District of Columbia Uniform Controlled Substances Act of 1981".

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. 4-123 on first and second readings, May 5, 1981 and May 19, 1981, respectively. Following the signature of the Mayor on June 9, 1981, this legislation was assigned Act No. 4-51, published in the July 10, 1981 edition of the D.C. Register, (Vol. 28 page 3081) and transmitted to Congress on June 15, 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 4-29, effective August 5, 1981.



ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

June	15, 16, 17, 18, 19, 22, 23, 24, 25, 26
July	8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31
August	3, 4

AN ACT

EFFECTIVE DATE AUG 0 5 1981

D.C. ACT 4 - 51

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUN 0 9 1981

To adopt a uniform law concerning controlled substances; to provide reasonable penalties for various narcotic and drug offenses; to provide for increased research into and prevention of drug abuse and drug dependence; to provide for education of abusers of controlled substances; to strengthen existing law enforcement authority in the field of drug abuse; to repeal the Uniform Narcotics Act and to amend other laws; and for other purposes.

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

That this act may be cited as the "District of Columbia Uniform Controlled Substances Act of 1981".

TITLE I--DEFINITIONS

Sec. 102. Definitions. As used in this act, the term:

CODIFICATION
D.C. Code,
sec. 33-401

(1) "administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(A) a practitioner (or, in the practitioner's presence, by the practitioner's authorized agent); or

(B) the patient or research subject at the direction of and in the presence of the practitioner.

(2) "agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term "agent" does not include a common or contract carrier, a public warehouseman, or an employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier's or warehouseman's business.

(3) "cannabis" means all parts of the plant genus Cannabis, including both marijuana and hashish defined as follows:

(A) "marijuana" includes the leaves, stems, flowers, and seeds of all species of the plant genus Cannabis, whether growing or not. The term "marijuana" does not include the resin extracted from any part of the plant, nor any compound, manufacture, salt, derivative, mixture, or preparation from the resin, including hashish

and does not include the mature stalks of the plant, fiber produced from such stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(B) "hashish" includes the resin extracted from any part of the plant genus Cannabis, and every compound, manufacture, salt, derivative, mixture, or preparation from such resin.

(4) "controlled substance" means a drug, substance, or immediate precursor, as set forth in Schedules I through V of Title II.

(5) "counterfeit substance" means a controlled substance which or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(6) "D.E.A." means the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

(7) "dispense" means to distribute a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(8) "dispenser" means a practitioner who dispenses.

(9) "distribute" means the actual, constructive, or attempted transfer from one (1) person to another other than by administering or dispensing of a controlled substance, whether or not there is an agency relationship.

(10) "distributor" means a person who distributes.

(11) "drug" means (A) substances recognized as drugs in the official United States Pharmacopoeia, the official Homeopathic Pharmacopoeia of the United States, or the official National Formulary, or any supplement to

any of them; (B) active substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (C) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (D) substances intended for use as a component of any article specified in paragraphs (A), (B), or (C). The term "drug" does not include devices or their components, parts, or accessories.

(12) "immediate precursor" means a substance which the Mayor has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(13) "manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by

means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term "manufacture" does not include the preparation or compounding of a controlled substance by an individual for his or her own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(A) by a practitioner as an incident to administering or dispensing a controlled substance in the course of the practitioner's professional practice, or

(B) by a practitioner, or by his or her authorized agent under supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(14) "Mayor" means the Mayor as provided for in section 401 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 814; D.C. Code, sec. 1-161), or the Mayor's designated agent.

(15) "narcotic 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) opium, its phenanthrene alkaloids, and their derivatives (except isoquiniline alkaloids of opium);

(B) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (A); or

(C) opium poppy and poppy straw.

(16) "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability and includes its racemic and levorotatory forms. The term "opiate" does not include, unless specifically designated as controlled under section 201, the dextrorotatory

isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).

(17) "opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(18) "person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, or association, or unincorporated business, or any other legal entity.

(19) "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) "practitioner" means:

(A) a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in the District of Columbia; or

(B) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a

controlled substance in the course of its professional practice or research in the District of Columbia.

(21) "production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(22) "state" when applied to a part of the United States, includes any state, the District of Columbia, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States government.

(23) "ultimate user" means a person who lawfully possesses a controlled substance for that person's own use or for the use of a member of that person's household or for administering to an animal owned by him or her or by a member of that person's household.

TITLE II - STANDARDS AND SCHEDULES

Sec. 201. Authority to Control.

(a) The Mayor shall administer this act and, with provision for public notice and comment, may add substances to or delete or reschedule all substances enumerated in the schedules in sections 204, 206, 208, 210, or 212 pursuant to title I of

D.C. Code,
sec. 33-411

the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.) and pursuant to the procedures set forth in this act. In making a determination regarding a substance, the Mayor shall consider the following:

- (1) the actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect, if known;
- (3) the state of current scientific knowledge regarding the substance;
- (4) the history and current pattern of abuse;
- (5) the scope, duration, and significance of abuse;
- (6) the risk to the public health;
- (7) the potential of the substance to produce psychological or physiological dependence; and
- (8) whether the substance is an immediate precursor of a substance already controlled under this title.

(b) After considering the factors enumerated in subsection (a) and after complying with title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Code, sec. 1-1501 et seq.), the Mayor shall make findings with respect thereto and issue a proposed rule controlling the substance if the Mayor finds the substance has a potential for abuse or deleting the substance if the Mayor finds the substance does not have a potential for abuse. The Mayor shall transmit such proposed rule to the Council of the District of Columbia and if the Council of the District of Columbia does not adopt a resolution disapproving the proposed rule within sixty (60) days it shall become effective. The Council of the District of Columbia may, by resolution, approve the proposed rule before the expiration of the sixty (60)-day period and it shall become effective upon that date. Such rule shall be published by the Mayor in the District of Columbia Register upon its becoming effective.

(c) If the Mayor designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not

be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law, the Mayor may similarly propose to control or delete the substance under this act pursuant to subsections (a) and (b).

(e) Authority to control under this section does not extend to tobacco or to distilled spirits, wine, or malt beverages, as those terms are defined or used in section 3 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 319; D.C. Code, sec. 25-103).

Sec. 202. Nomenclature. The controlled substances listed or to be listed in the schedules in sections 204, 206, 208, 210, and 212 are included by whatever official, common, usual, chemical, or trade name designated.

D.C. Code,
sec. 33-412

Sec. 203. Schedule I Tests. The Mayor shall place a substance in Schedule I if the Mayor finds that the substance:

D.C. Code,
sec. 33-413

(a) has high potential for abuse; and

(b) has no accepted medical use in treatment in the United States or in the District of Columbia or lacks accepted safety for use in treatment under medical supervision.

Sec. 204. Schedule I. The controlled substances listed in this section are included in Schedule I, unless and until removed therefrom pursuant to section 201:

D.C. Code,
sec. 33-414

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Diampromide;
- (14) Diethylmiambutene;
- (15) Difenoquin;
- (16) Dimenoxadol;
- (17) Dimepneptanol;
- (18) Dimethylmiambutene;

- (19) Dioxanonylbutyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoperidine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacymorphan;
- (29) Morpheridine;
- (30) Noracymethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Nordiphanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Proneptazine;
- (40) Properidine;
- (41) Propiram;
- (42) Racemoramide;
- (43) Thiopnene;
- (44) Trimeperidine;

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyrenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;

- salt);
- (10) Etorphine (except hydrochloride);
 - (11) Diacetylmorphine (heroin);
 - (12) Hydromorphone;
 - (13) Methylodesorphine;
 - (14) Methylalhydromorphone;
 - (15) Morphine methylbromide;
 - (16) Morphine methylsulfonate;
 - (17) Morphine-N-Oxide;
 - (18) Myrophine;
 - (19) Nicocodeine;
 - (20) Nicomorphine;
 - (21) Normorphine;
 - (22) Pholcodine;
 - (23) Thebacon;

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, its salts, isomers and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position, and geometric isomers):

- (1) 4-bromo-2, 5-dimethoxyamphetamine;
- (2) 2, 5 dimethoxyamphetamine;
- (3) 4-methoxyamphetamine;
- (4) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (5) 4-methyl-2, 5-dimethoxyamphetamine;
- (6) 3, 4-methylenedioxy amphetamine;
- (7) 3, 4, 5-trimethoxy amphetamine;
- (8) Bufotenine;
- (9) Diethyltryptamine;
- (10) Dimethyltryptamine;
- (11) Ethylamide analog of phenacyclidine, PCP;
- (12) Iboquine;

- (13) Lysergic acid diethylamide;
- (14) Mescaline;
- (15) Peyote;
- (16) N-ethyl-3-piperidyl benzilate;
- (17) N-methyl-3-piperidyl benzilate;
- (18) Psilocybin;
- (19) Psilocyn;
- (20) Pyrrolidine analog of phencyclidine, PCPY;
- (21) Thiopene Analog of Phencyclidine; and

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation Meclodualone.

Sec. 205. Schedule II Tests. The Mayor shall place a substance in Schedule II if the Mayor finds that:

D.C. Code,
sec. 33-415

(a) the substance has high potential for abuse;

(b) the substance has currently accepted medical use in treatment in the United States or the District of Columbia, or currently accepted medical use, with severe restrictions; and

(c) the abuse of the substance may lead to severe psychological or physical dependence.

Sec. 206. Schedule II.

The controlled substances listed in this section are included in Schedule II:

D.C. Code,
sec. 33-416

(a) Unless specifically excepted or unless listed in another schedule, 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 combination of extraction and chemical synthesis:

(1) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, naltrexone, and their respective salts, but including the following:

- (A) Raw Opium;
- (B) Opium Extracts;
- (C) Opium Fluid Extracts;
- (D) Powdered Opium;
- (E) Granulated Opium;
- (F) Tincture of Opium;
- (G) Codeine;

- (H) Ethylmorphine;
- (I) Etorphine Hydrochloride;
- (J) Hydrocodone;
- (K) Metopon;
- (L) Morphine;
- (M) Oxycodone;
- (N) Oxymorphone;
- (O) Thebaine;
- (P) Hydromorphone;
- (Q) Dihydrocodeine;

(2) any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subsection (a)(1), but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(5) concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the pnenanthrene alkaloids of the opium poppy);

(6) Hashish;

(7) Synthetic Tetrahydrocannabinols:

Chemical equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(A) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

(B) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers, or

(C) Delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (compounds of these structures, regardless of numerical designation of atomic positions covered); and

(b) Unless specifically excepted or unless in another schedule, any of the following opiates.

including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan excepted:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Buphetamine;
- (5) Dionenoxylate;
- (6) Eskatrol;
- (7) Fentanyl;
- (8) Fetamine;
- (9) Isomethadone;
- (10) Levomethorphan;
- (11) Levorphanol;
- (12) Metazocine;
- (13) Methadone;
- (14) Methadone--Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (15) Moramide--Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (16) Pethidine (meperidine);
- (17) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine;
- (18) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate;
- (19) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (20) Phenazocine;
- (21) Piminodine;
- (22) Racemethorphan;
- (23) Racemorphan;

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains

any quantity of the following substances having a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, its salts, isomers, and salts of its isomers;
- (3) Phenmetrazine and its salts;
- (4) Methylphenidate and its salts;
- (5) Cocaine, its salts, optical isomers, and salts of its optical isomers; and
- (6) Amphetamine/methamphetamine immediate precursor: Phenylacetone (Phenyl-2-Propanone), P2P.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Methadqualone;
- (2) Amobarbital;
- (3) Secobarbital;
- (4) Pentobarbital;
- (5) Phencyclidine;
- (a) Phencyclidine immediate precursors:
 - a) 1--phenylethylamine
 - b) 1--piperidinocyclohexanecarbonitrile (PCC).

Sec. 207. Schedule III Tests. The Mayor shall place a substance in Schedule III if the Mayor finds that:

D.C.Code,
sec. 33-417

(a) the substance has a potential for abuse less than the substances listed in Schedules I and II;

(b) the substance has currently accepted medical use in treatment in the United States or the District of Columbia; and

(c) the abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

Sec. 208. Schedule III. (a) The controlled substances listed in this section are included in Schedule III, unless and until removed therefrom pursuant to section 201:

D.C.Code,
sec. 33-418

(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and

salts of isomers is possible within the specific chemical designation:

(A) those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under section 1308.32 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

- (B) Benzphetamine;
- (C) Chlorphentermine;
- (D) Clortermine;
- (E) Mazindol;
- (F) Phendimetrazine;

(2) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(A) any compound, mixture, or preparation containing:

- (i) Amobarbital;
- (ii) Secobarbital;
- (iii) Pentobarbital;

or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule;

(B) any suppository dosage form containing:

- (i) Amobarbital;
- (ii) Secobarbital;
- (iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(C) any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid:

- (i) Chlorhexadol;
- (ii) Glutethimide;
- (iii) Lysergic acid;
- (iv) Lysergic acid amide;
- (v) Methyprylon;
- (vi) Sulfonethylethane;
- (vii) Sulfonethylmethane;
- (viii) Sulfonmethane;

(3) Nalorphine; and

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(A) not more than 1.8 grams of codeine per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) not more than 1.8 grams of codeine per one hundred (100) milliliters or not more than ninety (90) milligrams dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(C) not more than three hundred (300) milligrams of dihydrocodeinone per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) not more than three hundred (300) milligrams of dihydrocodeinone per one hundred (100) milliliters or not more than fifteen

(15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) not more than 1.8 grams of dihydrocodeine per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(F) not more than three hundred (300) milligrams of ethylmorphine per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

(G) not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams or not more than twenty-five (25) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(H) not more than fifty (50) milligrams of morphine per one hundred (100) milliliters or per one hundred (100) grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(b) The Mayor may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (a)(1) and (2) from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Sec. 209. Schedule IV Tests. The Mayor shall place a substance in Schedule IV if the Mayor finds that:

(a) the substance has a low potential for abuse relative to substances in Schedule III;

(b) the substance has currently accepted medical use in treatment in the United States or the District of Columbia; and

(c) the abuse of the substance may lead to limited physical dependence or psychological

D.C. Code,
sec. 33-419

dependence relative to the substances in Schedule III.

Sec. 210. Schedule IV.

D.C. Code,
sec. 33-420

(a) The controlled substances listed in this section are included in Schedule IV, unless and until removed therefrom pursuant to section 201:

(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Barbital;
- (B) Chloral betaine;
- (C) Chloral hydrate;
- (D) Clordiazepoxide;
- (E) Clonazepam;
- (F) Clorazepate;
- (G) Dextropropoxyphene;
- (H) Diazepam;
- (I) Ethchlorvynol;
- (J) Ethinamate;
- (K) Flurazepam;
- (L) Lorazepam;
- (M) Mebutamate;
- (N) Meproamate;
- (O) Methonexital;
- (P) Methylenobarbital
(methobarbital);
- (Q) Oxazepam;
- (R) Paraldehyde;
- (S) Petrichloral;

- (T) Phenobarbital;
- (U) Prazepam;

(2) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible, such as Fenfluramine:

(3) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Diethylpropion;
- (B) Phentermine;
- (C) Pemoline (including organometallic complexes and chelates thereof);

(4) Unless specifically excepted or unless listed in another schedule, any material,

compound, mixture or preparation which contains any quantity of the following substances, including its salts: (A) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-1-3-methyl-2-propionoxybutane; (B) Pentazocine;

(5) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof of not more than one (1) milligram of difenoxin and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit.

(b) The Mayor may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (a)(1), from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the

potential for abuse of the substances which have a depressant effect on the central nervous system.

Sec. 211. Schedule V Tests. The Mayor shall place a substance in Schedule V if the Mayor finds that:

D.C. Code,
sec. 33-421

(a) the substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(b) the substance has currently accepted medical use in treatment in the United States or the District of Columbia; and

(c) the substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

Sec. 212. Schedule V.

The controlled substances listed in this section are included in Schedule V, unless and until removed therefrom pursuant to section 201:

D.C. Code,
sec. 33-422

(a) any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or salts thereof, which also contains one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to

confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) not more than two hundred (200) milligrams of codeine per one hundred (100) milliliters or per one hundred (100) grams;
- (2) not more than one hundred (100) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams;
- (3) not more than one hundred (100) milligrams of dihydrocodeine per one hundred (100) milliliters or per one hundred (100) grams;
- (4) not more than one hundred (100) milligrams of ethylmorphine per one hundred (100) milliliters or per one hundred (100) grams;
- (5) not more than 2.5 milligrams of diphenoxylate and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit; and
- (6) not more than 0.5 milligrams of difenopin and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit.

(b) Cannabis.

(c) Loperamide.

Sec. 213. Republishing of Schedules. The Mayor shall revise and republish the schedules semi-annually for two (2) years from the effective date of this act, and thereafter annually. The published schedules may include the brand or trade names of the substances controlled.

D.C. Code,
sec. 33-423

TITLE III

REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF CONTROLLED SUBSTANCES

Sec. 301. Rules. The Mayor may issue rules and regulations and may charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within the District of Columbia.

D.C. Code,
sec. 33-431

Sec. 302. Registration Requirements.

(a) Every person who manufactures, distributes, or dispenses any controlled substance within the District of Columbia or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within the District of Columbia, must obtain annually a registration issued by the Mayor in accordance

D.C. Code,
sec. 33-432

with the rules. Applications to renew a registration must be filed in a timely manner, not less than sixty (60) days prior to the expiration of the registration, or the registration shall abate.

(b) Persons registered with the Mayor under this act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this title.

(c) The following persons need not register and may lawfully possess controlled substances under this act:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance acting in the usual course of business or employment;

(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance; and

(4) a law enforcement official or agent of the District of Columbia or the United States if he or she is on duty and is acting in the performance of officially authorized functions.

(d) The Mayor may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if the Mayor finds it consistent with the public health and safety.

(e) A separate registration is required for each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The Mayor may inspect the establishment of a registrant or applicant for registration in accordance with subsections (a) and (b).

Sec. 303. Registration.

(a) The Mayor shall register an applicant to manufacture, distribute, or dispense controlled substances included in Schedules I, II, III, IV,

D.C. Code,
sec. 33-433

and V unless the Mayor determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Mayor shall consider the following factors:

- (1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
- (2) compliance with applicable District of Columbia law;
- (3) any convictions of the applicant under any federal, state, or District of Columbia laws relating to any controlled substance;
- (4) past experience in the manufacture, distribution, or dispensing of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;
- (5) furnishing by the applicant of false or fraudulent material in any application filed under this act;
- (6) suspension or revocation of the applicant's federal registration to manufacture.

distribute, or dispense controlled substances as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) does not entitle a registrant to:

(1) manufacture or distribute controlled substances in Schedule I or II other than those specified in the registration; or

(2) manufacture, distribute, or dispense cannabis unless specified in the registration.

(c) Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the provisions of section 302. Separate registration shall be required for practitioners engaging in research with narcotic controlled substances set forth in Schedules II through V. The Mayor need not require separate registration under this title for practitioners engaging in research with non-narcotic controlled substances in Schedules II through V where the registrant is already registered under this title

in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances, may conduct research with Schedule I substances within the District of Columbia upon furnishing the Mayor evidence of that federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration entitles them to be registered under this act.

Sec. 304. Revocation and Suspension of Registration.

D.C. Code,
sec. 33-434

(a) A registration issued under section 303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Mayor upon a finding that the registrant:

(1) has been convicted of a felony under any District of Columbia, state, or federal law relating to any controlled substance;

(2) has had his or her federal or state registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(3) has had his or her practitioner's license suspended or revoked in the District of Columbia by the appropriate authority.

(b) A registration issued under section 303 to manufacture, distribute, or dispense a controlled substance may be suspended by the Mayor upon a finding that the registrant has been convicted of a misdemeanor under any District of Columbia, state, or federal law relating to any controlled substance.

(c) The Mayor may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(d) If the Mayor suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon

a revocation order becoming final, all controlled substances may be forfeited in accordance with the provisions of section 503(d).

(e) The Mayor shall promptly notify the D.E.A. of all orders suspending or revoking registration and all forfeitures of controlled substances.

Sec. 305. Revocation, Suspension, or Denial of Registration; Administrative Hearings.

D.C. Code,
sec. 33-435

(a) If it appears to the Mayor that an application for registration should be denied or that an existing registration should be suspended or revoked, the Mayor shall notify the applicant or registrant of the proposed denial, suspension, or revocation, briefly stating the reasons therefor. In the case of a denial of renewal of registration, notice shall be served not later than thirty (30) days before the expiration of the registration. Service may be made by delivering a copy of the notice to the applicant or registrant personally, or by leaving a copy thereof at the place of residence identified on the application or registration with some person of suitable age and discretion then residing therein, or by

mailing a copy of the notice by certified mail to the residence address identified on the application or certificate, in which case service shall be complete as of the date the return receipt was signed. In the case of an organization, service may be made upon the president, chief executive, or other officer, managing agent, or person authorized by appointment or law to receive such notice as described in the preceding sentence at the business address of the organization identified in the application or registration certificate. The person serving the notice shall make proof thereof with the Mayor in a manner prescribed by the Mayor. In the case of service by certified mail, the signed return receipt shall be filed with the Mayor together with a signed statement showing the date such notice was mailed; and if the return receipt does not purport to be signed by the person named in the notice, then specific facts from which the Mayor can determine that the person who signed the receipt meets the appropriate qualifications for receipt of such notice set out in this subsection. The applicant or registrant

shall have thirty (30) days from the date the notice was served in which to request a hearing before the Mayor to contest the proposed action to be taken by the Mayor: PROVIDED, That if the applicant or registrant does not request a hearing within thirty (30) days after the serving of the notice of the proposed action, the applicant or registrant shall be deemed to have conceded the validity of the reason or reasons stated in the notice, and the denial, suspension, or revocation shall become final. Within thirty (30) days of the date upon which any contest is noted, the Mayor shall convene a hearing. Within ten (10) days of the close of the hearing, the Mayor shall notify the applicant or registrant of the decision in the case. All proceedings, including the right to judicial review of the Mayor's decision, shall be in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.). Where the application for renewal of registration has been timely filed, proceedings to refuse renewal of registration shall not abate the existing registration, which shall remain in

effect pending the outcome of the administrative hearing. With regard to summary suspension of any registrant or the denial of renewal to any registration pursuant to subsection (b), a hearing shall be convened within five (5) days of the institution of proceedings in this section:

EXCEPT, That a registrant who has been summarily suspended or denied a renewal under this section shall be entitled upon request to a postponement of such hearing.

(b)(1) The Mayor may suspend, without prior notice and hearing, any registration simultaneously with the institution of proceedings under section 304, or where renewal of registration is refused, if the Mayor finds that there is an imminent danger to the public health or safety which warrants this action, including, but not limited to, the danger that would be created by the outbreak of a serious fire on the business premises of a registrant on which controlled substances are stored, resulting in heat in excess of one hundred ten (110) degrees Fahrenheit; grossly inadequate security measures; or while proceedings under section 304 are

pending, continued and flagrant violations of the same sort which led to the institution of the pending proceedings.

(2) The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the Mayor or dissolved by a court of competent jurisdiction.

Sec. 306. Records of Registrants. Persons registered to manufacture, distribute, or dispense controlled substances under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law, laws of the District of Columbia, and with any additional rules which the Mayor issues.

D.C. Code,
sec. 33-436

Sec. 307. Order Forms. Controlled substances in Schedules I or II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

D.C. Code,
sec. 33-437

Sec. 308. Prescriptions.

(a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner.

(b) In emergency situations, as defined by rule of the Mayor, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 306. No prescription for a Schedule II controlled substance may be refilled.

(c) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV which is a prescription drug as determined under section 503(b) of the Federal Food, Drug and Cosmetic Act, approved June 25, 1938 (52 Stat. 1051; 21 U.S.C. sec. 353(b)), shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6)

D.C. Code,
sec. 33-438

months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.

(d) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

(e) Whenever a practitioner dispenses any controlled substance on a written or oral prescription issued by a practitioner, the practitioner shall affix to the container in which such controlled substance is dispensed a label showing the name of the controlled substance or controlled substances contained therein unless otherwise so indicated by the prescribing practitioner; the serial number and date of initial filling; the directions for use; the practitioner's name and registry number; the name of the ultimate user, or if the ultimate user is an animal, the name of the owner and the species of the animal; the name of the practitioner issuing the prescription; and caution statements, if any, as required by law.

TITLE IV - OFFENSES AND PENALTIES

Sec. 401. Prohibited Acts & Penalties.

D.C. Code,
sec. 33-441

(a)(1) Except as authorized by this act, it is unlawful for any person knowingly or intentionally to manufacture, distribute, or possess with intent to manufacture or distribute, a controlled substance.

(2) Any person who violates this subsection with respect to:

(A) a controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than fifteen (15) years, or fined not more than one hundred thousand dollars (\$100,000), or both;

(B) any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifty thousand dollars (\$50,000), or both;

(C) a substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than three (3) years, fined not more than twenty-five thousand dollars (\$25,000), or both;

(D) a substance classified in schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one (1) year, fined not more than ten thousand dollars (\$10,000), or both.

(b)(1) Except as authorized by this act, it is unlawful for any person to create, distribute, or possess with intent to distribute a counterfeit substance.

(2) Any person who violates this subsection with respect to:

(A) a counterfeit substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than ten (10) years, fined not more than one hundred thousand dollars (\$100,000), or both;

(B) any other counterfeit substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifty thousand dollars (\$50,000), or both;

(C) a counterfeit substance classified in Schedule IV, is guilty of a crime

and upon conviction may be imprisoned for not more than three (3) years, fined not more than twenty-five thousand dollars (\$25,000), or both;

(D) a counterfeit substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one (1) year, fined not more than ten thousand dollars (\$10,000), or both.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than one thousand dollars (\$1,000), or both.

(d)(1) If any person who has not previously been convicted of violating any provision of this act, or any other law of the United States or any state relating to narcotic drugs or depressant or stimulant substances is found guilty of a

violation of subsection (c) and has not previously been discharged and had the proceedings dismissed pursuant to this subsection, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him or her on probation upon such reasonable conditions as it may require and for such period, not to exceed one (1) year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him or her from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him or her. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained solely for the purpose of use by the

courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under section 408 for second or subsequent convictions) or for any other purpose.

(2) Upon the dismissal of such person and discharge of the proceedings against him under subsection (d)(1), such person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained under subsection (d)(1)) all recordation relating to his or her arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this subsection. If the court determines, after hearing, that such person was dismissed and the proceedings against him or her discharged, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of this law, to the status he or she

occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge such arrest, or indictment, or trial in response to any inquiry made of him or her for any purpose.

(e) The prosecutor may charge any person who violates the provisions of subsections (a) or (b) relating to the distribution of or possession with intent to distribute a controlled or counterfeit substance with a violation of subsection (c) if the interests of justice so dictate.

Sec. 402. Prohibited Acts B; Penalties.

(a) It is unlawful for any person:

D.C. Code,
sec. 33-442

(1) who is subject to title III to distribute or dispense a controlled substance in violation of section 308;

(2) who is a registrant, to manufacture a controlled substance not authorized by registration, or to distribute or dispense a controlled substance not authorized by

registration to another registrant or other authorized person;

(3) to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this act;

(4) to refuse an entry into any premises for any inspection authorized by this act;

(5) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this act for the purpose of using these substances or which is used for keeping or selling them in violation of this act;

(b) who is a law enforcement official, as designated by the Mayor, to divulge any knowledge relating to the records, order forms, or prescriptions of registrants which he or she received by virtue of his or her office, except in connection with officially authorized duties or in connection with a prosecution or proceeding in court or before a licensing or registration board

or officer, to which prosecution or proceeding the registrant to whom such records, order forms, or prescriptions relate is a party; or

(7) to use to his or her own advantage or to reveal, other than to duly authorized officers or employees of the District of Columbia or the United States, or to the courts when relevant in any judicial proceeding under this title or title III, any information acquired in the course of an authorized inspection concerning any method or process which as a trade secret is entitled to protection.

(b) Except as provided for in subsection (c), any person who violates this section shall, with respect to any violation, be subject to a civil penalty of not more than fifty thousand dollars (\$50,000).

(c) If a violation of this section is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall be guilty of a crime and upon conviction may be imprisoned for not more than one (1) year, fined

not more than fifty thousand dollars (\$50,000), or both.

Sec. 403. Prohibited Acts C; Penalties.

D.C. Code,
sec. 33-443

(a) It is unlawful for any person knowingly or intentionally:

(1) to distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by section 307;

(2) to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4) to furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; or

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than four (4) years, fined not more than fifty thousand dollars (\$50,000), or both.

Sec. 404. Penalties Under Other Laws. Any penalty imposed for violation of this act is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

D.C. Code,
sec. 33-444

Sec. 405. Effect of Acquittal or Conviction Under Federal Law.

D.C. Code,
sec. 33-445

No person shall be prosecuted for a violation of any provision of this act if such person has been acquitted or convicted under any United States statute governing the sale or distribution

of controlled substances of the same act or omission which is alleged to constitute a violation of this act.

Sec. 406. Distribution to Persons Under Age Eighteen.

D.C. Code, sec. 33-446

(a) Any person who is twenty-one (21) years of age or over and who violates section 401(a) by distributing a controlled substance which is listed in Schedule I or II and which is a narcotic drug to a person who is under eighteen (18) years of age may be punished by the fine authorized by section 401(a)(2)(A), by a term of imprisonment of up to twice that authorized by section 401(a)(2)(A), or by both.

(b) Any person who is twenty-one (21) years of age or over and who violates section 401(a) by distributing for remuneration any other controlled substance which is listed in Schedules I, II, III, IV, or V to a person who is under eighteen (18) years of age may be punished by the fine authorized by section 401(a)(2)(B), (C), or (D), respectively, by a term of imprisonment up to twice that authorized by sections 401(a)(2)(B), (C) or (D), respectively, or both.

Sec. 407. Enlistment of Minors to Distribute
Controlled Substances.

D.C. Code,
sec. 33-447

(a) Any person who is twenty-one (21) years of age or over and who enlists, hires, contracts, or encourages any person under eighteen (18) years of age to sell or distribute any controlled substance, in violation of section 401(a), for the profit or benefit of such person who enlists, hires, contracts, or encourages this criminal activity shall be punished for sale or distribution in the same manner as if that person directly sold or distributed the controlled substance.

(b) Anyone found guilty of section 407(a) shall be subject to the following additional penalties:

(1) Upon a first conviction the party may be imprisoned for not more than ten (10) years, fined not more than ten thousand dollars (\$10,000), or both;

(2) Upon a second or subsequent conviction the party may be imprisoned for not more than twenty (20) years, fined not more than twenty thousand dollars (\$20,000), or both.

Sec. 408. Second or Subsequent Offenses.

(a) Any person convicted of a second or subsequent offense under this act may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

D.C. Code,
sec. 33-448

(b) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to commission of the offense, the offender has at any time been convicted under this act or under any statute of the United States or of any state relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

(c) A person who is convicted of violating section 406 may be sentenced according to the provisions of section 406 or according to the provisions of this section, but not both.

Sec. 409. Attempt and Conspiracy.

Any person who attempts or conspires to commit any offense defined in this title is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

D.C. Code,
sec. 33-449

Sec. 410. Possession of Drug Parapnenalia.

D.C. Code,
sec. 33-450

whoever, except for a physician, dentist, chiroprodist, or veterinarian licensed in the District of Columbia or a state, registered nurse, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, industrial user, official of any government having possession of the proscribed articles by reason of his or her official duties, nurse or medical laboratory technician acting under the direction of a physician or dentist, employees of a hospital or medical facility acting under the direction of its superintendent or officer in immediate charge, person engaged in chemical, clinical, pharmaceutical or other scientific research, acting in the course of their professional duties, has in his or her possession a hypodermic needle, hypodermic syringe, or other instrument that has on or in it any quantity (including a trace) of a controlled substance with intent to use it for administration of a controlled substance by subcutaneous injection in a human being shall be fined not more than five hundred dollars (\$500) or

imprisoned for not more than one (1) year, or both.

TITLE V - ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

Sec. 501. Cooperative Arrangements and Confidentiality.

D.C. Code,
sec. 33-451

(a) The Mayor shall cooperate with the Board of Education, federal, and other state agencies in discharging the Mayor's responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances.

To this end, the Mayor may:

(1) arrange for the exchange of general information among governmental officials concerning the general use and abuse of controlled substances;

(2) coordinate and cooperate in training programs concerning controlled substance law enforcement within the District of Columbia.

(b) Results, information, and evidence received from the D.E.A. relating to the regulatory functions of this act, including results of inspections conducted by it may be relied and acted upon by the Mayor in the exercise

of the Mayor's regulatory functions under this act.

(c)(1) A practitioner engaged in medical practice or research shall not nor shall be compelled to: (A) furnish to the Mayor the name or identity of a patient or research subject without the prior consent of the patient or research subject; or (B) furnish the name or identity of an individual that the practitioner is obligated to keep confidential in any civil, criminal, administrative, legislative, or other proceedings in the District of Columbia without prior consent of such individual.

(2) This section per se shall not limit, in a criminal investigation or prosecution or in an administrative proceeding by the Commission on Licensure to Practice the Healing Art in the District of Columbia, the authority to subpoena dispensing logs or other records of a practitioner containing information concerning the sale, prescription, or distribution of controlled substances under this act. The court may order sealed any information furnished without consent, pursuant to the provisions of this subsection.

Sec. 502. Forfeitures.

D.C. Code,
sec. 33-452

(a) The following are subject to forfeiture:

(1) all controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this act;

(2) all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, or delivering any controlled substance in violation of this act;

(3) all property which is used, or intended for use, as a container for property described in paragraph (1) or (2);

(4) all conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2): PROVIDED, That:

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the

conveyance is a consenting party or privy to a violation of this act;

(B) no conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his or her knowledge;

(C) a conveyance is not subject to forfeiture for a violation of section 401(c); and

(D) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he or she neither had knowledge of nor consented to the act or omission;

(5) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act; and

(6) all cash or currency which has been used, or was intended for use, in violation of this act.

(b) Property subject to forfeiture under this act may be seized by law enforcement officials, as designated by the Mayor, upon process issued by

the Superior Court of the District of Columbia having jurisdiction over the property, or without process if authorized by other law.

(c) In the event of seizure pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly.

(d)(1) All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, which come into the custody of law enforcement officials of the District of Columbia shall be delivered promptly to the United States Department of Justice or its delegate for disposal, except that controlled substances which may be needed as evidence in any criminal or administrative proceeding pursuant to the provisions of this act or the provisions of any federal controlled substances law shall, upon delivery to the United States Department of Justice, not be so disposed of until the public official in charge of prosecuting any violation under this act shall certify that such controlled substances are no longer needed as evidence.

(2) Property, other than controlled substances, taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the Mayor subject only to the orders and decrees of the Superior Court of the District of Columbia. When property is seized under this act, the Mayor shall:

(A) place the property under seal;

(B) remove the property to a place designated the Mayor; or

(C) remove the property to an appropriate location for disposition in accordance with law.

(3) When property, other than controlled substances, is forfeited under this act, the Mayor shall:

(A) retain it for official use;

(B) sell that which is not required to be destroyed by law and which is not harmful to the public (the proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs);

(C) remove the property for disposition in accordance with law; or

(D) forward it to the D.E.A. for disposition.

Sec. 503. Burden of Proof; Liabilities.

D.C. Code,
sec. 33-453

(a) It is not necessary for the prosecution to negate any exemption or exception in this act in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this act. The burden of proof of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this act, he or she is presumed not to be the holder of the registration or form. The burden of proof is upon him or her to rebut the presumption.

Sec. 504. Education and Research.

D.C. Code,
sec. 33-454

(a) The Mayor shall establish and operate an educational program consisting of films, lectures, panel discussions, or whatever other educational device the Mayor deems necessary and appropriate to enlighten persons on the habitual use of

controlled substances in general and to instill in persons participating in such a program a respect for the law and legal institutions.

(b) The Mayor shall cooperate with the Board of Education in preparing similar programs for school children with the purpose of preventing their abuse of controlled substances.

(c) The Mayor shall prepare and operate similar and appropriate programs for children found to be delinquent for violation of the provisions of this act.

(d) The Mayor may authorize the possession and distribution of controlled substances by persons engaged in research. Possession and distribution of controlled substances by such persons, in the course of their research and to the extent of the authorization, does not violate the provisions of this act.

Sec. 505. Administrative Inspections and warrants.

D.C. Code,
sec. 33-455

(a) The Mayor may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only,

the term "controlled premises" means:

(A) places where persons registered or exempted from registration requirements under this act are required to keep records; and

(B) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this act are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an administrative inspection warrant issued pursuant to subsection (D), an officer or employee designated by the Mayor, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the Mayor may:

(A) inspect and copy records required by this act to be kept;

(B) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (a)(5), all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this act; and

(C) inventory any stock of any controlled substance therein and obtain samples thereof.

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with section 507 nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(A) if the owner, operator, or agent in charge of the controlled premises consents;

(B) in situations presenting imminent danger to health or safety;

(C) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(D) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(E) in all other situations in which a warrant is not constitutionally required.

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

(b) Issuance and execution of administrative inspection warrants shall be as follows:

(1) A judge of the Superior Court of the District of Columbia, upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this act or rules hereunder, and seizures of property appropriate to the inspections. For purposes of

the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this act or rules hereunder, sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the issuance of the warrant exist or that there is probable cause to believe they exist, a warrant shall be issued identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(A) state the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(B) be directed to a person authorized and designated by the Mayor to execute it;

(C) command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(D) identify the item or types of property to be seized, if any; and

(E) direct that it be served during normal business hours and designate the judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the

presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one (1) person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

Sec. 506. Chemist Reports.

D.C. Code,
sec. 33-456

In a proceeding for a violation of this act, the official report of chain of custody and of analysis of a controlled substance performed by a chemist charged with an official duty to perform such analysis, when attested to by that chemist and by the officer having legal custody of the report and accompanied by a certificate under seal that the officer has legal custody, shall be admissible in evidence as evidence of the facts stated therein and the results of that analysis. A copy of the certificate must be furnished upon demand by the defendant or his or her attorney in accordance with the rules of the Superior Court of the District of Columbia or, if no demand is made, no later than five (5) days prior to trial. In

the event that the defendant or his or her attorney subpoenas the chemist for examination, the subpoena shall be without fee or cost and the examination shall be as on cross-examination.

Sec. 507. Administrative Subpoenas.

D.C. Code,
sec. 33-457

(a) In any investigation relating to the Mayor's functions under this title with respect to controlled substances, the Mayor may subpoena witnesses, compel the attendance and testimony of witnesses, and require the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Mayor finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in the District of Columbia. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the Superior Court of the District of Columbia.

(b) A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to that

person. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

(c) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Mayor may invoke the aid of any District of Columbia court within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Mayor to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

TITLE VI - MISCELLANEOUS

Sec. 601. Pending Proceedings.

D.C. Code,
sec. 33-461

(a) Prosecution for any violation of the laws repealed by this act, pursuant to section 604, which were initiated prior to the effective date of this act is not affected or abated by this act. If the offense being prosecuted is similar to an offense set out in title IV, then the penalties under title IV apply if they are less than those under prior law.

(b) Civil seizures or forfeitures commenced prior to the effective date of this act are not affected by this act.

(c) All administrative proceedings pending under prior laws which are superseded by this act shall be continued and brought to a final determination in accord with the laws and rules in effect prior to the effective date of the act.

(d) The Mayor shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to the effective date of this act and who are registered or licensed by the District of Columbia

on the effective date of this act pursuant to laws and rules in effect immediately prior thereto.

(e) This act applies to violations of law, seizures and forfeiture, administrative proceedings, and investigations which occur following its effective date.

Sec. 602. Continuation of Rules. Any orders and rules issued under any law affected by this act and in effect on the effective date of this act and not in conflict with it continue in effect until modified, superseded, or repealed.

D.C.Code,
sec. 33-462

Sec. 603. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

D.C.Code,
sec. 33-463

Sec. 604. Repealers and Amendments.

(a) The following laws of the District of Columbia are repealed:

(1) the Dangerous Drug Act for the District of Columbia, approved July 24, 1956 (70 Stat. 512; D.C. Code, sec. 33-701 -712);

D.C.Code,
secs. 33-701
to -712
(1973 ed.)

(2) section 209(a) of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (67 Stat. 97; D.C. Code, sec. 22-3601) is repealed.

D.C. Code,
sec. 22-3601
(1973 ed.)

(3) Sections 1, 3 through 13, 15 through 19, 20(a) and (c) through (g), and 21 through 25 of the Uniform Narcotic Drug Act, approved June 20, 1938 (52 Stat. 785; D.C. Code, sec. 33-401, -403-413, -415-419, -420(a) & (c)-(g), & -421-425)) are repealed.

D.C. Code,
secs. 33-401, -4
to -413, -415 to
-419, -421 to -4
repealed

(D) The following laws of the District of Columbia are amended as follows:

(1) section 10 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1124; D.C. Code, sec. 40-609) is amended by striking the phrase "narcotic drug" wherever it appears and inserting the phrase "any controlled substance (as designated pursuant to the District of Columbia Uniform Controlled Substances Act of 1981)" in lieu thereof.

D.C. Code,
sec. 40-609
(1973 ed.)

(2) section 37 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 130; D.C. Code, sec. 40-453) is amended by striking the

D.C. Code,
sec. 40-453

phrase "narcotic drug" and inserting the phrase "any controlled substance (as designated pursuant to the District of Columbia Uniform Controlled Substances Act of 1981)" in lieu thereof.

(3) D.C. Code, sec. 16-2320 is amended by adding a new subsection at the end thereof to read as follows:

D.C. Code,
sec. 16-2320

"(h) Any child who is found to be delinquent for violation of the provisions of the District of Columbia Uniform Controlled Substances Act of 1981 may, in addition to any other disposition ordered by the court for his supervision, care, and rehabilitation, be ordered to attend classes conducted by the Mayor pursuant to section 505(c) of the District of Columbia Uniform Controlled Substances Act of 1981."

(4) Section 14(h) of the Uniform Narcotic Drug Act, approved June 20, 1938 (52 Stat. 792; D.C. Code, sec. 33-414(h) & -420(b)) and section 20(b) are amended by striking the phrase "narcotic drugs" and inserting the phrase "controlled substances" in lieu thereof.

D.C. Code,
sec. 33-402
(1973 ed.) to
become
sec. 33-464;

D.C. Code,
sec. 33-414
(1973 ed.) to
become
sec. 33-465;

D.C. Code,
sec. 33-420
(1973 ed.) to
become
sec. 33-466

Sec. 605. (a) Except as provided in subsection (b), 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)).

(b) Section 604(a)(2) shall take effect after a 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)(2) 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)(2): PROVIDED, That the provisions of subsection (a) become effective.

Quinton Dixon
 Chairman
 Council of the District of Columbia

[Signature]
 Mayor
 District of Columbia
 APPROVED: June 9, 1981



Council Period Four
First Session

DOCKET NO: B 4-123

Item on Consent Calendar

ACTION: Adopted First Reading, 5-5-81

VOICE VOTE: Majority, Members Ray and Winter voted no
Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER/AVEINAV/N.V./A.B.	COUNCIL MEMBER/AVEINAV/N.V./A.B.	COUNCIL MEMBER/AVEINAV/N.V./A.B.
GEN. DIXON	KANE	SPACKLETON
WEYER	MASON	SPALDING
CLARKE	MOORE, JR.	WILSON
CRAWFORD	RAY	
JARVIS	POLARK	

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

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

5/28/81

Date

Item on Consent Calendar

ACTION: Adopted Final Reading, 5-19-81

VOICE VOTE:

Absent:

ROLL CALL VOTE:

COUNCIL MEMBER/AVEINAV/N.V./A.B.	COUNCIL MEMBER/AVEINAV/N.V./A.B.	COUNCIL MEMBER/AVEINAV/N.V./A.B.
GEN. DIXON	KANE	SPACKLETON
WEYER	MASON	SPALDING
CLARKE	MOORE, JR.	WILSON
CRAWFORD	RAY	
JARVIS	POLARK	

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

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

5/28/81

Date

Item on Consent Calendar

ACTION:

VOICE VOTE:

Absent:

ROLL CALL VOTE:

COUNCIL MEMBER/AVEINAV/N.V./A.B.	COUNCIL MEMBER/AVEINAV/N.V./A.B.	COUNCIL MEMBER/AVEINAV/N.V./A.B.
GEN. DIXON	KANE	SPACKLETON
WEYER	MASON	SPALDING
CLARKE	MOORE, JR.	WILSON
CRAWFORD	RAY	
JARVIS	POLARK	

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

CERTIFICATION OF RECORD