

COUNCIL OF THE DISTRICT OF COLUMBIA

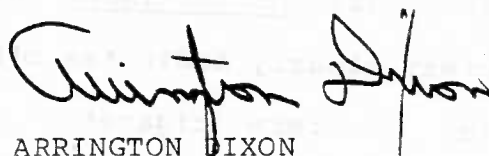
NOTICE

D.C. LAW 4-71

"Cigarette Tax Amendment 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. 4-152 on first and second readings, October 27, 1981 and November 10, 1981, respectively. Following the signature of the Mayor on December 2, 1981, this legislation was assigned Act No. 4-118, published in the December 11, 1981 edition of the D.C. Register, (Vol. 28 page 5243) and transmitted to Congress on December 11, 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 4-71, effective March 10, 1982.



ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

December	11,14,15,16
January	25,26,27,28,29
February	1,2,3,4,5,8,9,10,11,22,23,24,25,26
March	1,2,3,4,5,8,9

D.C. LAW 4-71
EFFECTIVE DATE MAR 10 1981

AN ACT

D.C. ACT 4-118

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 2 1981

To improve the enforcement of the cigarette tax laws of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Cigarette Tax Amendment Act of 1981".

Sec. 2. Title VI of the District of Columbia Revenue Act of 1949, approved May 27, 1949 (63 Stat. 136; D.C. Code, sec. 47-2801 et seq.) is amended to read as follows:

"Sec. 601. SHORT TITLE. This title may be cited as the 'District of Columbia Cigarette Tax Act of 1981'.

"Sec. 602. DEFINITIONS. As used in this title, unless the context clearly indicates otherwise:

"(a) The term 'cigarette' means any roll of tobacco, or any substitute therefor, which is wrapped in paper or in any substance other than tobacco.

"(b) The word 'consumer' means any person who manufactures or possesses cigarettes for his own consumption or for transfer, without consideration, to another consumer, but not for transfer to other persons or for transfer with consideration.

"(c) The term 'District' means the District of

CODIFICATION
Note,
D.C. Code,
sec. 47-2401
(1981 ed.)

D.C. Code,
sec. 47-2401
(1981 ed.)

Columbia.

"(d) The term 'Mayor' means the Mayor of the District of Columbia or his authorized representatives.

"(e) The term 'original package' means the individual package, box, parcel, or other container in which cigarettes are put up by the manufacturer. The term 'original package' also includes any wrapper immediately enclosing such package, box, parcel, or other container that is prescribed by the Mayor as part of the original package.

"(f) The term 'person' means any individual, partnership, society, club, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee, and any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise; any combination of individuals or entities acting as a unit, or any officer or employee of a corporation or member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect to which the violation occurs.

"(g) The term 'possession' includes actual or constructive possession, having legal title or an equitable interest which entitles a person to such possession, and the exercise of any right or power incident to such ownership or possession.

"(h) The term 'sell' or 'sale' means any transaction where title or possession, or both, of cigarettes is, or is to be, transferred in any manner or by any means whatsoever,

whether with or without consideration. The word 'sell' or 'sale' includes offering for sale, keeping for sale, or displaying for sale.

"(i) The term 'stamp' means any fusion decal stamps, impressions made by metering devices, or other indicia authorized by the Mayor as evidence that the tax levied and imposed by this title has been paid.

"Sec. 603. IMPOSITION AND PAYMENT OF TAX.

"(a) Except as otherwise provided in section 604, a tax is levied and imposed on the sale or possession of all cigarettes in the District at the rate of thirteen cents (13¢) for each twenty (20) cigarettes or fraction thereof.

"(b) Cigarettes on which the taxes levied and imposed by this section have been paid shall not be subject to additional taxation under this section: PROVIDED, That the burden of proof that the taxes levied and imposed by this section have been paid shall be upon the person who sells or possesses cigarettes in the District, against whom a tax assessment has been made, who has submitted an application for a refund, or whose cigarettes have been seized. For the purposes of this section, the term 'person' includes any officer or employee of a corporation responsible for payment of the tax, or any member of a partnership or association responsible for the payment of the tax.

"(c) The tax leveled and imposed by this section shall be paid by the affixture of stamps, purchased from the Mayor, evidencing the payment of the amount of tax imposed

D.C.Code,
sec. 47-2402
(1981 ed.)

by this section. Such stamps shall be affixed to the original packages of cigarettes and shall be cancelled, in the manner prescribed by the Mayor.

"(d) Except as otherwise provided in this subsection and subsection (f), each licensed wholesaler shall affix a stamp or stamps, evidencing the payment of the amount of tax imposed by this section, to each original package of cigarettes to be kept for sale, offered for sale, displayed for sale, or sold within the District. Such stamps shall be affixed to each original package of such cigarettes within seventy-two (72) hours after the receipt of such cigarettes and prior to the sale of such cigarettes unless such cigarettes are exempt from taxation under the provisions of this title. Whenever any cigarettes are found in the place of business of a licensed wholesaler without the stamps affixed as herein provided, or not segregated or marked as having been received within the preceding seventy-two (72) hours, or not segregated or marked as being held for sale outside of the limits of the District, or not segregated or marked as being held for sale to the United States or the District government, or any instrumentalities thereof, or not segregated or marked for other exempt purposes under this title, a prima facie presumption shall arise that such cigarettes are subject to the tax levied and imposed by this section and are possessed in violation of the provisions of this title.

"(e) Licensed retailers and vending machine operators

shall not accept deliveries of unstamped or improperly stamped cigarettes. Such licensees shall examine all packages of cigarettes immediately upon their receipt and shall immediately return any and all unstamped or improperly stamped cigarettes to the licensed wholesaler. Unless substantial evidence to the contrary is shown, the possession of any unstamped or improperly stamped cigarettes by such licensees shall be prima facie evidence that such cigarettes are possessed in violation of the provisions of this title. The Mayor may, however, authorize licensed retailers and vending machine operators to acquire and have in their possession cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction: PROVIDED, That such cigarettes are intended for sale in such other state or jurisdiction. Licensed retailers and vending machine operators shall not purchase, acquire, or have in their possession District tax stamps. Notwithstanding the provisions of this subsection, licensed retailers or vending machine operators, other than licensed retailers or vending machine operators who are also licensed wholesalers, who either have in their possession unused cigarette tax stamps or unstamped cigarettes on the effective date of the Cigarette Tax Amendment Act of 1981 shall not be deemed in violation of this subsection: PROVIDED, That such licensed retailers and vending machine operators affix or redeem such unused cigarette tax stamps and pay the tax levied and imposed by this section on such unstamped cigarettes in the

manner and within the time specified by the Mayor.

"(f) On sales of cigarettes to other licensed wholesalers, a licensed wholesaler may deliver such cigarettes without affixing stamps thereon, and such other licensed wholesalers shall be liable for the tax imposed by this section on such cigarettes.

"(g) All packages of cigarettes placed in cigarette vending machines shall be placed in such manner that the District cigarette tax stamps are visible whenever the packages are within that area of the vending machine which permits visibility of the packages.

"(h) Except as authorized by this section or section 604, no person shall willfully or knowingly sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any unstamped or improperly stamped cigarettes.

"(i) No person shall sell, transfer, or offer to sell or transfer any cigarette tax stamps to any person other than the Mayor; nor shall any person buy, receive or offer to buy or receive any cigarette tax stamps from any person other than the Mayor.

"(j) The Mayor may by regulation provide for the purchase of stamps at a discount not exceeding ten percent (10%) of the face value of such stamps.

"(k) The taxes imposed under this section shall be deemed to be a part of the selling price of cigarettes and shall be in addition to, and not in lieu of, any taxes

imposed by any other law.

"Sec. 604. EXEMPTIONS.

"(a) Sale or possession of cigarettes in the District under the following circumstances shall be exempt from the tax levied and imposed by section 603:

D.C.Code,
sec. 47-2403
(1981 ed.)

"(1) sales of cigarettes to or by the United States or the District government, or any instrumentalities thereof; possession of cigarettes lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes; and transfers, without consideration, of cigarettes lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes to other persons legally entitled to purchase or receive such cigarettes from such governmental entities;

"(2) transfers, without consideration, of sample cigarettes in original packages containing five (5) or fewer cigarettes to consumers on behalf of manufacturers by persons authorized by the Mayor to make such transfers; possession of such cigarettes by such authorized persons; and transfers, without consideration, of such cigarettes acquired by such transfers from one consumer to another consumer;

"(3) possession of cigarettes by licensed wholesalers for sale outside of the limits of the District or for sale to other licensed wholesalers as provided for in section 603(f); sales of cigarettes by licensed wholesalers

to other licensed wholesalers as provided for in section 603(f); and possession by authorized licensed retailers and vending machine operators of cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction for sale in such other state or jurisdiction: PROVIDED, That such authorized licensed retailers and vending machine operators are licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein:

"(4) possession by a consumer of two hundred (200) or fewer cigarettes, which do not bear proper evidence of the payment of the tax levied and imposed by section 603, transported into the District by a consumer or manufactured in the District by a consumer; transfers, without consideration, of such cigarettes from one consumer to another consumer; and

"(5) possession of cigarettes while being transported under such conditions that they are not deemed contraband under the provisions of section 606.

"(b) The burden of proof that any cigarettes are exempt from taxation under this title shall be upon the person who sells or possesses such cigarettes.

"Sec. 605. LICENSES.

"(a) No person shall manufacture for sale, keep for sale, offer for sale, display for sale in vending machines, or sell cigarettes in the District without having first obtained a license or licenses for such purpose or purposes

D.C. Code,
sec. 47-2404
(1981 ed.)

from the Mayor.

"(b) The Mayor may issue the following types of licenses, upon the filing of an application as prescribed by the Mayor:

"(1) Wholesaler's Licenses - A wholesaler's license shall authorize the licensee to manufacture, purchase, or otherwise acquire cigarettes and to keep for sale, offer for sale, and sell such cigarettes in original packages to consumers, to persons holding a license under this title as a wholesaler, retailer, or vending machine operator, and to persons for resale in other states or jurisdictions: PROVIDED, That with respect to sales made to persons for resale in other states or jurisdictions, such persons must be licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein. A wholesaler's license shall authorize the licensee to manufacture, keep for sale, offer for sale, and sell cigarettes only at the place or places designated therein. Except as provided by the Mayor by regulation, a separate license shall be required for each place where cigarettes are to be manufactured, kept for sale, offered for sale, or sold. The Mayor may provide, by regulation, for the issuance of a wholesaler's license for a place located outside of the District. The annual fee for a wholesaler's license shall be fifty dollars (\$50) for each place designated therein.

"(2) Retailer's Licenses - A retailer's license

shall authorize the licensee to keep for sale, offer for sale, and sell cigarettes to consumers in original packages from the place or places designated therein. A retailer's license shall not authorize the licensee to sell cigarettes to other licensees for resale. Except as provided by the Mayor by regulation, a separate license shall be required for each retail establishment. The annual fee for a retailer's license shall be fifteen dollars (\$15) for each retail establishment.

"(3) Vending Machine Operator's Licenses - A vending machine operator's license shall authorize the licensee to keep for sale, display for sale, offer for sale, and sell cigarettes in original packages from or by means of vending machines located in the place or places designated therein. A vending machine operator's license shall not authorize the licensee to sell cigarettes to other licensees for resale. Except as provided by the Mayor by regulation, a separate license shall be required for each vending machine. The Mayor may provide, by regulation, that evidence of the issuance of a vending machine operator's license be attached to each vending machine by markers, stickers, or other appropriate means. The annual fee for vending machine operator's license shall be fifteen dollars (\$15) for each vending machine.

"(c) The Mayor shall keep a complete record of applications made for licenses under this section and of the actions taken thereon.

"(d) The Mayor may, by regulation, adjust the license fees imposed by subsection (b) and may establish fees for duplicate licenses.

"(e) Licenses issued under this section shall remain in effect for such periods of time as may be prescribed by the Mayor by regulation, not exceeding one (1) year from the effective date of such licenses, or until such licenses are suspended or revoked by the Mayor under subsection (f).

"(f) The Mayor may, after a hearing, suspend or revoke any license issued under this section for any violation of this title or of the regulations promulgated under this title.

"(g) The licenses required by this section shall be in addition to the licenses required by any other law or regulation.

"Sec. 606. TRANSPORTATION OF CIGARETTES.

"(a) Any person, other than a consumer, who transports cigarettes not bearing District cigarette tax stamps over the public highways, roads, streets, waterways, or other public space of the District shall have in his actual possession invoices or delivery tickets for such cigarettes, which show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported.

"(b) If the cigarettes are consigned to or purchased by any person in the District, such purchaser or consignee

D.C. Code,
sec. 47-2405
(1981 ed.)

must be a person authorized by this title to possess unstamped cigarettes in the District. If the invoice or delivery ticket specifies that the cigarettes are to be delivered to any person in any state or jurisdiction other than the District, such person must be licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein. Any cigarettes transported in violation of any of the provisions of this section shall be deemed contraband cigarettes and such cigarettes, the conveyance in which such cigarettes are being transported, and any equipment or devices used in connection with, or to facilitate, the transportation of such cigarettes shall be subject to seizure and forfeiture as provided for in section 610.

"(c) Any person who transports cigarettes in violation of this section shall, upon conviction thereof, be fined not more than twenty-five dollars (\$25) for each two hundred (200) contraband cigarettes or fraction thereof so transported by him, or by imprisonment for not more than three (3) years, or both, and in addition shall be liable for the tax imposed by section 603 and the interest and penalties imposed by section 612.

"Sec. 607. OFFENSES RELATING TO STAMPS.

"(a) No person shall, with intent to defraud, alter, forge, make, or counterfeit any stamps authorized by the Mayor under this title; or procure or cause to be altered, forged, made, or counterfeited any such stamps; or sell,

D.C.Code,
sec. 47-2406
(1981 ed.)

transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any such altered, forged, or counterfeited stamps; or make, use, sell, transfer, buy, receive, have in his possession, or procure or cause to be made or used any equipment or material in imitation of the equipment or material used in the manufacture of such stamps.

"(b) No person shall, with intent to defraud, cut, tear, or remove from any package of cigarettes any stamp authorized by the Mayor under this title; or procure or cause to be cut, torn, or removed any such stamp; or sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any cut, torn, or removed stamp.

"(c) No person shall, with intent to defraud, alter the cancellation of or otherwise prepare, or cause to be altered or otherwise prepared, any stamp which has already been used for the payment of the tax imposed by this title; or sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any such washed or restored stamp.

"(d) No person shall, with intent to defraud, affix to any package of cigarettes, redeem, attempt to affix or redeem, or cause to be affixed or redeemed:

"(1) any stamp which has been cut, torn, or removed from any package of cigarettes;

"(2) any altered, forged, or counterfeited stamp;

or

"(3) any washed or restored stamp.

"(e) No person shall willfully sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any package of cigarettes to which is affixed a stamp described in subsection (d).

"(f) Any person who violates any provision of this section shall, upon conviction thereof, be fined not more than ten thousand dollars (\$10,000) or imprisoned for not more than five (5) years, or both.

"Sec. 608. REDEMPTION OF CIGARETTE TAX STAMPS.

"(a) The Mayor may, upon receipt of satisfactory evidence of the facts, redeem any stamps, issued under this title, which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use. Such redemption may be made either by allowing the owner of such stamps a credit on the purchase of new stamps equal to the amount paid for the spoiled, destroyed, or useless stamps or by refunding such amount: PROVIDED, That no refund shall be made in those cases where the owner can be made whole by allowing a credit on the purchase of new stamps. No refund or allowance shall be made under this section unless the owner of such stamps has filed a written claim, under oath, for such refund or allowance with the Mayor within six (6) months after the stamps were spoiled, destroyed, or rendered useless or unfit for the purposes intended, or, in the case of the stamps for

D.C. Code,
sec. 47-2407
(1981 ed.)

which the owner has no use, within six (6) months after the purchase of such stamps.

"(b) No refund or allowance shall be made until (1) the stamps so spoiled, destroyed, or rendered useless or unfit, or for which the owner has no use have been returned to the Mayor, or satisfactory proof has been made to the Mayor showing which such stamps cannot be returned, and (2) if required by the Mayor, the person making the claim for such refund or allowance has satisfactorily traced the history of the stamps from their issuance to the filing of his claim.

"(c) Notwithstanding the time limitations specified in subsection (a) for the redemption of stamps, a claim for the redemption of unused stamps which are owned by licensed retailers or vending machine operators on the effective date of the Cigarette Tax Amendment Act of 1981, other than stamps which were spoiled, destroyed, or rendered useless or unfit prior to the effective date of the Cigarette Tax Amendment Act of 1981, shall be filed within six (6) months after the effective date of the Cigarette Tax Amendment Act of 1981. Stamps owned by licensed retailers and vending machine operators which were spoiled, destroyed, or rendered useless or unfit prior to the effective date of the Cigarette Tax Amendment Act of 1981 shall be subject to the time limitation for the redemption of such stamps specified in subsection (a). If the Mayor authorizes the continued affixation of stamps after the effective date of the

Cigarette Tax Amendment Act of 1981, which stamps were purchased by licensed retailers and vending machine operators prior to the effective date of the Cigarette Tax Amendment Act of 1981, a claim for the redemption of such stamps shall be filed within the time prescribed by the Mayor.

"Sec. 609. RECORDS: REPORTS AND RETURNS: INSPECTIONS.

"(a) The Mayor may require licensed wholesalers, retailers, vending machine operators, and every other person liable for or exempt from the tax imposed by this title or otherwise subject to the provisions of this title or the regulations issued by the Mayor pursuant to this title, to keep, maintain, and preserve records, books, and other documents; to file reports, statements, and returns; and to comply with such regulations relating thereto as the Mayor may prescribe. The Mayor may require that any reports, statements, or returns be verified by oath. The records, books, and other documents which the Mayor requires to be kept, maintained, and preserved shall be made available for examination and copying by the Mayor at the place or places prescribed by him at the time specified in subsection (b).

"(b) For purposes of ascertaining the correctness of any report, statement, or return; making a report, statement, or return where a complete and accurate report, statement, or return has not been filed; determining that all taxes due under this title have been properly paid; and determining compliance with the provisions of this title and

D.C.Code,
sec. 47-2408
(1981 ed.)

the regulations issued hereunder, the Mayor may:

"(1) examine and copy any records, books, or other documents which may be relevant to such inquiry;

"(2) summon any person to appear before him at the time and place specified in the summons and produce such records, books, or other documents and give such testimony and answer such interrogatories, under oath, as may be relevant to such inquiry;

"(3) upon presenting appropriate credentials to the owner, operator, or agent in charge, enter any building or place during the usual business hours or any other time when such building or place is open:

"(A) where required records, books, or other documents are kept, maintained, or preserved for purposes of examining and copying such records, books, or other documents; and

"(B) where cigarettes are manufactured, kept for sale, offered for sale, or sold by a licensed wholesaler, retailer, or vending machine operator; and

"(4) stop any conveyance that the Mayor has knowledge or reasonable cause to believe is carrying more than two hundred (200) cigarettes and, upon presenting appropriate credentials to the operator thereof, examine the invoices or delivery tickets for such cigarettes and inspect the conveyance for contraband cigarettes.

"(c) Any owner, operator, or agent in charge of any building or place where required records, books, or other

Documents are kept, maintained, or preserved or where cigarettes are manufactured, kept for sale, offered for sale, or sold by a licensed wholesaler, retailer, or vending machine operator who refuses to permit the Mayor, acting under the authority of subsection (b)(3), to enter and examine such records, books, or other documents or to inspect such cigarettes, or who obstructs, impedes, or interferes with the Mayor while he is engaged in the performance of his official duties under subsection (b)(3) shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

"(d) Any person who, having been summoned, neglects or refuses to obey the summons issued as herein provided, shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both. If any person, having been summoned, neglects or refuses to obey the summons issued as herein provided, the Mayor may report that fact to the Superior Court of the District of Columbia, or one (1) of the judges thereof, and that Court, or any judge thereof, is empowered to compel obedience of such summons to the same extent and under the same penalties as witnesses may be compelled to obey the subpoenas of that Court. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(e) No person shall willfully file an application for

a license, permit, authorization, or refund; request for revision or abatement; claim for refund or allowance; or report, statement, or return; or keep or maintain any records, books, or other documents which are known to him to be false or fraudulent as to any material matter. No person shall willfully aid or assist in, or procure, counsel, or advise, the preparation, filing, or keeping of any applications, requests, claims, reports statements, returns, records, books, or other documents which are false or fraudulent as to any material matter.

"(f) Any person required to file any report, statement, or return or to keep, maintain, and preserve any records, books, or other documents, who fails to file a complete and accurate report, statement, or return on or before the date that such report, statement, or return is due (determined with regard to any extension of time for filing granted by the Mayor) or who fails to keep, maintain, and preserve complete and accurate records, books, or other documents, unless it is shown by such person that such failure is due to reasonable cause and not to neglect, shall pay a penalty of ten dollars (\$10) for each day during which such failure continues. The provisions of sections 1601 and 1602 of title XVI of the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 119; D.C. Code, sec. 47-312 & -313) shall be applicable to the tax imposed by the Cigarette Tax Amendment Act of 1981.

"(g) If any person required to keep, maintain, and

perserve any records, books, or other documents relating to exempt sales or possessions of cigarettes fails to keep, maintain, and preserve complete and accurate records, books, or other documents relating thereto, such sales and possessions shall, unless it is shown by such person that failure is due to reasonable cause and not to neglect, be deemed taxable sales and possessions.

"(h) The Mayor may, upon written application made before the date prescribed for filing any report, statement, or return, grant a reasonable extension of time for filing the report, statement or return required by this title, whenever good cause exists for such extension.

"Sec. 610. SEIZURE AND FORFEITURE OF PROPERTY.

"(a) The following shall be subject to seizure by the Mayor or any law enforcement officer of the District and to forfeiture to the District:

D.C.Code,
sec. 47-2409
(1981 ed.)

"(1) all cigarettes found in any place in the District at such times and under such circumstances that the taxes levied and imposed by this title should have been paid and on which such taxes have not been paid as required by this title or which do not bear proper evidence that such taxes have been paid;

"(2) all cigarettes, conveyances, and equipment or devices subject to seizure and forfeiture under section 606;

"(3) all cigarettes manufactured for sale, kept for sale, offered for sale, displayed for sale, or sold in

violation of section 605 or the terms and conditions of a license issued under such section and all money collected in connection with the sale of such cigarettes;

"(4) all unstamped or improperly stamped cigarettes possessed or sold by licensed retailers or vending machine operators in violation of section 603(e);

"(5) all cigarette tax stamps possessed by licensed retailers and vending machine operators in violation of section 603(e) or sold or transferred, or offered for sale or transfer, in violation of section 603(i);

"(6) all vending machines which are operated in violation of section 605 or the terms and conditions of a license under such section or which contain cigarettes described in subsection (a)(1), including all cigarettes, whether described in subsection (a)(1) or not, and money contained therein;

"(7) all altered, forged, counterfeited, cut, torn, removed, prepared, washed, or restored stamps as described in section 607; all cigarettes to which such stamps are affixed and all materials and equipment used, or intended to be used, to manufacture or produce such stamps;

"(8) all metering devices possessed with authorization from the Mayor and used or possessed in violation of the terms and conditions imposed by the Mayor;

"(9) all raw materials or equipment of any kind which are used, or intended for use, in manufacturing or

packaging cigarettes in violation of this title;

"(10) all property which is used, or intended for use, as a container for property described in subsection (a)(1), (a)(3), (a)(4), (a)(5), or (a)(7).

"(11) all books or records used, or intended for use in violation of this title;

"(12) all money which has been used, or is intended for use, in violation of this title; and

"(13) all conveyances, including aircraft, vehicles, or vessels, or any other property which are used to transport or conceal, or intended for use in transporting or concealing, or in any manner used to facilitate the transportation or concealment of, property described in subsection (a)(1), (a)(3), (a)(4), (a)(7), and (a)(9).

"(b) The following conveyances shall not be subject to forfeiture under this section:

"(1) a conveyance used by any person as a common carrier in the transaction of business as a common carrier, unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to the violation of this title on account of which the conveyance was seized; or

"(2) a conveyance that is subject to seizure and forfeiture under this section by reason of any act committed or omission established by the owner thereof, to have been committed or omitted by any person other than such owner, while such conveyance was unlawfully in the possession of a

person other than the owner, in violation of the criminal laws of the United States, the District, or any other state.

"(c) All property which is seized under subsection (a) shall be promptly delivered to the Mayor and placed under seal or removed to a place designated by the Mayor. Such property shall be proceeded against in the Superior Court of the District of Columbia by libel action brought in the name of the District of Columbia by the Corporation Counsel or any of his assistants and shall, unless good cause be shown to the contrary, be forfeited to the District: PROVIDED, That such property shall not be subject to replevin, but is deemed to be in the custody of the Mayor subject only to the orders, decrees, and judgments of the court having jurisdiction over the forfeiture proceedings, and: PROVIDED, FURTHER, That notwithstanding the provisions of this section, whenever such property is subject to seizure and forfeiture on account of failure to comply with the provisions of this title and the Mayor determines that such failure was excusable, the Mayor may return the property to the owner or owners thereof. Whenever the Mayor determines that any property seized under subsection (a) is liable to perish or become greatly reduced in price or value by keeping such property until the completion of forfeiture proceedings, the Mayor may (1) appraise the property and return the property to the owner thereof upon the owner paying any tax due under this title and giving satisfactory bond in an amount equal to the appraised value to abide the

final order, decree, or judgment of the court having jurisdiction over the forfeiture proceedings, and to pay the amount of such appraised value to the Mayor as may be ordered and directed by such court, or (2) if the owner neglects or refuses to pay such tax and give such bond, sell such property in the manner provided by the Mayor by regulation and the proceeds of the sale of such property, after deducting the reasonable costs of the seizure and sale, shall be paid to the court to abide its final order, decree, or judgment.

"(d) After the final order, decree, or judgment is made, forfeited property shall be made available for the official use of any agency of the District government, disposed of by public auction, or otherwise disposed of as the Mayor may prescribe. If there is a bona fide prior lien against such forfeited property, the Mayor may (1) make payment of such lien and retain the property for official use or (2) dispose of such property by public auction, and the proceeds of the sale of such property shall be made available, first, for the payment of any tax due under this title and all expenses incident to the seizure, forfeiture, and sale of such property, and, second, for the payment of such lien, and the remainder shall be deposited with Treasurer of the District of Columbia: PROVIDED, That no payment of a lien shall be made where the lienor was a consenting party or privy to the violation of this title on account of which the property was seized and forfeited. To

the extent necessary, liens against forfeited property shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property.

"(e) Whenever any cigarettes are found in any vending machine in violation of the provisions of section 603(g), the Mayor shall seal the machine to prevent the sale or removal of any cigarettes from the machine until such time as the violation is corrected in the presence of the Mayor. The operator of such vending machine shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than (1) year, or both: PROVIDED, That if the vending machine contains cigarettes described in subsection (a)(1), the operator shall, in addition, be subject to the penalties imposed by the other provisions of this title. Any person, other than the Mayor, who removes or otherwise tampers with any seals placed on a vending machine by the Mayor shall be subject to the penalties imposed by section 615(a).

"(f) Any person whose property has been seized and forfeited under this section shall not be relieved from any other penalty imposed by this title.

"Sec. 611. DEFICIENCY IN TAX.

"(a) The Mayor may determine, redetermine, assess, or reassess any tax due under this title. If a deficiency in tax is determined by the Mayor, the person liable for the payment thereof shall be notified of the determination of a

D.C.Code,
sec. 47-2410
(1981 ed.)

deficiency by registered or certified mail sent to such person's last known address. The notification shall give a period of not less than thirty (30) days after such notice is sent within which to file a protest with the Mayor, and show cause or reason why the deficiency should not be paid. If no protest is filed within such thirty (30)-day period, the deficiency as determined by the Mayor, shall be final. If a protest is filed within the period of thirty (30) days, opportunity for hearing thereon shall be granted by the Mayor, a final decision thereon shall be made, and notice of such decision, together with a statement of taxes finally determined to be due, shall be sent by registered or certified mail to the last known address of the person liable for the payment of the deficiency.

"(b) Any deficiency in tax which has become final in accordance with the provisions of subsection (a) shall, if no protest is filed, be due and payable within ten (10) days after the expiration of the thirty (30)-day period provided in subsection (a), and if a protest is filed, shall be due and payable within ten (10) days after notice of the final decision of the Mayor upon such protest is mailed to the person liable for payment of the deficiency.

"Sec. 612. PENALTIES AND INTEREST. There shall be added to the amount of tax assessed a penalty of five per centum (5%) of the tax for each month, or fraction thereof, not to exceed twenty-five per centum (25%) in the aggregate, plus interest at the rate of one and one-half per centum (1

D.C.Code,
sec. 47-2411
(1981 ed.)

1/2%) per month, or fraction thereof, from the date the tax is due until paid: PROVIDED, That the Mayor may, if he is satisfied that the failure to pay the tax was excusable, waive all or any part of the penalty or interest. Such penalties and interest shall be deemed to become part of the tax.

"Sec. 613. REFUNDS.

"Where any tax, penalty, or interest has been erroneously or illegally collected by the Mayor, the tax, penalty, or interest shall be refunded if an application for such refund, under oath, is filed with the Mayor within one (1) year after the date of the payment of such tax. An application for a refund may be filed only by the person upon whom such tax, penalty, or interest was imposed and who has actually paid the tax, penalty, or interest. An application for a refund shall be deemed a request for revision or abatement of an assessment. Upon filing of a valid application for refund, the Mayor shall either (1) grant the application, or (2) grant the applicant a hearing. After such hearing, the Mayor shall make findings, grant or deny the application for a refund in accordance with such findings, and notify the applicant of the findings and decision of the Mayor by regular mail.

D.C.Code,
sec. 47-2412
(1981 ed.)

"Sec. 614. APPEALS.

"Any person: (1) aggrieved by a final determination of tax; or, (2) aggrieved by a denial of a claim for refund (other than a refund of tax finally determined under section

D.C.Code,
sec. 47-2413
(1981 ed.)

611), may, within six (6) months from the date of the final determination or from the date of denial of the claim for refund, appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in sections 3, 4, 7, 10, and 11 of title IX of the District of Columbia Revenue Act of 1937, approved May 16, 1938 (52 Stat. 37; D.C. Code, sec. 47-2403, -2404, -2407, -2410, & -2411).

"Sec. 615. VIOLATIONS: PENALTIES.

"(a) Any person who is required by this title or by regulations issued hereunder to pay a tax or make a return, or to keep any records, or to supply any information for the purposes of computation, assessment, or collection of the taxes imposed by this title, who, willfully, fails to pay such tax, or to make any such return, or to keep any such records, or to supply any such information, at the time or times required by law or regulations shall, in addition to any other penalties provided by the Cigarette Tax Amendment Act of 1981 upon conviction thereof, be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than three (3) years, or both. Each and every failure and each and every day during which such failure continues shall constitute a separate and distinct offense.

D.C.Code,
sec. 47-2414
(1981 ed.)

"(b) Any person who violates any provision of this title or of the regulations issued under this title, for which no specific penalty is otherwise provided by this title shall, upon conviction, be fined not more than one

thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

"(c) The penalties imposed by this title shall be in addition to, and not in lieu of, any penalties imposed by any other law or regulation.

"Sec. 616. REGULATIONS. The Mayor may issue regulations necessary to carry out the provisions of this title.

D.C.Code,
sec. 47-2415
(1981 ed.)

"Sec. 617. SEVERABILITY. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of this act, and the application of such provisions to other persons or circumstances shall not be affected thereby."

D.C.Code,
sec. 47-2416
(1981 ed.)

Sec. 3. The provisions of Chapter I of Title 16 of District of Columbia Rules and Regulations are repealed.

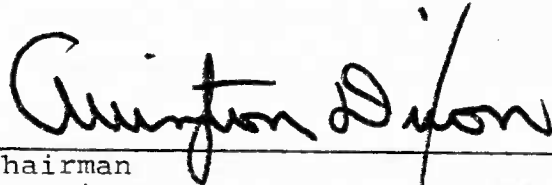
D.C. Municipal
Regulations
(DCMR)

Sec. 4. (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. 1-233(c)(1)).

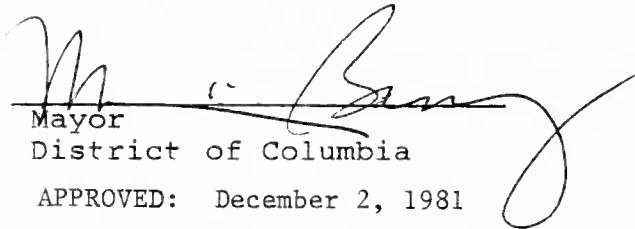
(b) The provisions of this act shall take effect on the first day of the first month which begins more than

D.C.Code,
sec. 47-2417
(1981 ed.)

thirty (30) days after the date this act becomes effective.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: December 2, 1981



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Four
First Session

DOCKET NO: B 4-152

Item on Consent Calendar

ACTION: Adopted First Reading, 10-27-81

VOICE VOTE: Unanimous

Absent: Moore

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.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

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

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

11-20-81

Date

Item on Consent Calendar

ACTION: Adopted Final Reading, 11-10-81

VOICE VOTE: Unanimous

Absent: Spaulding

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.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

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

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

11-20-81

Date

Item on Consent Calendar

ACTION: _____

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.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

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

CERTIFICATION OF RECORD

Secretary to the Council

Date