

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 8-138

"Omnibus Narcotic and Abusive Drug Interdiction
Amendment Act of 1990".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 8-495 on first and second readings, March 13, 1990, and March 27, 1990, respectively. Following the signature of the Mayor on April 17, 1990, this legislation was assigned Act No. 8-194, published in the April 27, 1990, edition of the D.C. Register, (Vol. 37 page 2638) and transmitted to Congress on April 23, 1990 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 8-138, effective June 13, 1990.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

April 23,24,25,26,27,30

May 1,2,3,4,7,8,9,10,11,14,15,16,17,18,21,22,23,24

June 5,6,7,8,11,12

JUN 13 1990

Codification,
District of Columbia Code
New Subchapter VII of Chapter 5 of
Title 33
(1991 Supplement)

A BILL

D.C. ACT 8 - 194

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APR 17 1990

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

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Narcotic and Abusive Drug Interdiction Amendment Act of 1990".

Sec. 2. Controlled Substances.

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

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

Section
33-501

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

- (A) By striking the last "or" in subparagraph (B);
- (B) By striking the period in subparagraph (C) and inserting a semicolon in its place; and
- (C) By adding the following new subparagraphs to read as follows:
 - "(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

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

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

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

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

"(A) Phencyclidine or a phencyclidine immediate precursor;

"(B) Methamphetamine, its salts, isomers, and salts of its isomers; and

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

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

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

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

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

Section 33-516

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

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

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

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

Section 33-541

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

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

(2) By amending subsection (a)(2)(B) by striking the phrase "except for phencyclidine or a phencyclidine

immediate precursor," and inserting the phrase "except for a narcotic or abusive drug," in its place;

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

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

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

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

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

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

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

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

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

"(iv) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance that contains methamphetamine, its salts, isomers, and salts of its isomers; or

"(v) 500 grams of phenmetrazine."; and

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

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

"(A-2) Any person who violates subsection (a)(1) or (b)(1) of this section with respect to a

controlled or counterfeit substance classified in Schedule II that is the narcotic drug cocaine, shall serve a mandatory-minimum sentence of:

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

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

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

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

"(ii) less than 50 grams of methamphetamine, its salts, isomers, and salts of its isomers; or

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

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

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

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

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

Section 33-552

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

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

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

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

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

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

"(B) Real property shall not be subject to forfeiture for a violation of section 401(c); and

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

(2) By amending the last sentence of subsection (d)(3)(B) to read as follows:

"The balance of the proceeds shall be transferred to the Drug Interdiction and Demand Reduction Fund ("Fund") created by Title VII. The Fund shall remain available until expended regardless of the expiration of the fiscal year in which the proceeds were collected. The Fund shall be distributed in the following descending order of priority:

"(1) To fund law enforcement activities of the Metropolitan Police Department of the District of Columbia, except that, beginning October 1, 1990, not more than 49% of the total amount deposited to the fund in the immediately preceding quarter-year period shall be used for this purpose in the next succeeding quarter-year period; and

"(2) To fund community based drug education, prevention, and demand reduction programs." and

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

"(e) During the course of any civil forfeiture proceeding pursuant to this section, which involves real property, the Mayor shall file a notice of the proceeding with the Recorder of Deeds. The notice shall include the legal description of the property and indicate that civil forfeiture is being sought. The Recorder of Deeds shall record the notice against the title of any real property for which civil forfeiture is being sought. Upon resolution of the proceeding, the Recorder of Deeds shall be notified of the disposition of the action.";

(e) By adding a new section 411 to read as follows:

"Section 411. Prohibited acts D; penalties.

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

New, Section
33-543a