

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Summer
Supp.

West Group
Publisher

To establish procedures for the control of public health nuisances relating to vector-borne infectious diseases including prohibiting certain activities that increase the probability that standing, untreated water could develop on a property and create a public health nuisance, authorizing the Mayor to inspect property to determine whether a public health nuisance exists, authorizing the Mayor to take corrective action to abate a public health nuisance, establishing a fund to cover the costs of corrective actions to abate public health nuisances, providing penalties for violations of this act, and requiring the Mayor to issue rules to implement this act, and to repeal unnecessary regulations pertaining to standing water on property.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Vector-Borne Infectious Diseases Control Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Abate" means to eliminate a public health nuisance, or to reduce the degree or intensity of a public health nuisance.

(2) "District" means the District of Columbia.

(3) "Person" means any individual; partnership; corporation, including a government corporation; trust association; firm; joint stock company; organization; commission; the District or federal government; or any other entity.

(4) "Property" means land, including any water thereon, and improvements to land.

(5) "Public health nuisance" means:

(A) Any property, including water, that supports the development, attraction, or harborage of vectors;

(B) Any property that has a vessel, container, or other structure holding water that provides a breeding place for vectors; or

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(C) Any activity that supports the development, attraction, or harborage of vectors, or that facilitates the introduction or spread of vectors.

(6) "Vector" means any animal capable of transmitting the causative agent of human or animal disease or capable of producing human discomfort or injury, including mosquitoes, flies, mites, ticks, or other arthropods.

Sec. 3. Prohibited activities.

(a) No person shall:

- (1) Cause or allow the open dumping of any tire;
- (2) Cause or allow the open burning of any tire;
- (3) Cause or allow the storage of any tire unless the owner or operator of the property where the tire is stored takes measures to prevent the tire from accumulating water by covering or altering the tire; or
- (4) Cause or allow a tire to be used in playground equipment unless the tire is altered to prevent the accumulation of water.

(b) No person shall cause or allow standing water on property unless the person takes measures to prevent the breeding or harborage of vectors, including the following:

- (1) Draining or replacing water frequently enough to prevent vector breeding;
- (2) Keeping swimming pools and other open waters used for bathing or swimming sufficiently chlorinated to prevent vector larva from hatching;
- (3) Covering water-bearing containers with fine netting to prevent access by vectors; or
- (4) Applying larvicide to the standing water.

Sec. 4. Inspection.

(a) The Mayor, acting on the Mayor's own information or observation, or on the information or observation of another person, may inspect occupied or vacant property to investigate an allegation of a public health nuisance.

(b) Upon the presentation of appropriate credentials to the owner or occupant of the property, the Mayor shall conduct the inspection during reasonable times and in a reasonable manner.

(c) If the owner or occupant of the property denies the Mayor access for the purposes of this section, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(d) If, as a result of an inspection, the Mayor determines that a public health nuisance exists, the Mayor may order the owner or occupant to take appropriate action to abate the public health nuisance in accordance with section 6.

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Sec. 5. Prima facie evidence of a public health nuisance.

The presence of vectors in their developmental stages on a property, or in a vessel, container, or other structure on a property, shall be prima facie evidence of a public health nuisance.

Sec. 6. Abatement of a public health nuisance.

(a) When the Mayor determines that a public health nuisance exists on a property, the Mayor shall issue a notice of violation to the person alleged to have created the public health nuisance or the owner or occupant of the property. The Mayor may serve the notice of violation on the owner, occupant, or any other responsible person at the premises, deliver the notice of violation by prepaid mail, return receipt requested to the owner or occupant of the property, or post the notice in a conspicuous place on the property in violation. The notice of violation shall include the following:

- (1) The location, date, and time that the public health nuisance took place or that the Mayor investigated the public health nuisance;
- (2) The nature of the public health nuisance;
- (3) The time, not later than 10 days, within which the public health nuisance shall be abated;
- (4) The specific corrective actions the owner or occupant shall take to abate the public health nuisance; and
- (5) A statement that failure to abate the public health nuisance shall constitute a violation of this act, with each day of violation constituting a separate offense.

(b) Upon receipt of a notice of violation, the person responsible for the property shall abate the public health nuisance within the time specified in the notice of violation. The Mayor may grant additional time to abate the public health nuisance upon a request from the responsible person and a good faith showing that the person has made an effort to abate the public health nuisance and that a longer time for abatement is necessary.

Sec. 7. Corrective actions by District to abate a public health nuisance.

(a) Subject to the availability of appropriations, the Mayor may undertake actions to correct certain health hazards that have resulted from the development, attraction, or harborage of vectors, including cleanup, abatement, and preventive measures, if the following conditions exist:

- (1) The District needs to take an action in order to protect human health; and
- (2) One or more of the following conditions exist:
 - (A) The action is required to protect public space;
 - (B) No person can be found who is the owner of the property in question, and is capable of proper implementation of the required corrective action within 30 days of the posting of notice on the property in question that violation of this act has occurred, or shorter period, if so determined by the Mayor, as may be necessary to protect human health;

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(C) A situation exists that requires immediate action by the Mayor to protect human health; or

(D) The responsible party has failed or refused to comply within 30 days of a mayoral order for compliance.

(b) If the District incurs costs for undertaking any corrective or enforcement action to abate development, attraction, or harborage of vectors, all parties found to be liable by the Mayor shall be jointly and severally liable to the District government for the costs incurred by the District. In addition to any other enforcement action, the Mayor may assess any reasonable costs for correcting the condition and any related expenses as a tax against the property, carry the tax on the regular tax rolls, and collect the tax in the same manner as real estate taxes are collected.

Sec. 8. Vector-Borne Infectious Diseases Control Fund.

(a) There is established the Vector-Borne Infectious Diseases Control Fund ("Fund") as a nonlapsing, revolving fund, to be administered by the Mayor as an agency fund as defined in section 373(2)(I) of Title 47 of the District of Columbia Official Code, to be used exclusively for the purposes stated in subsection (b) of this section.

(b) Disbursements from the Fund may be used by the District to undertake actions to correct certain public health hazards that have resulted from the harborage of vectors, including cleanup, abatement, and preventive measures, in accordance with section 7(a), and to cover the administrative and operational costs incurred by the District in the implementation of the corrective actions..

(c) The Fund shall be financed through fines, civil penalties, costs and judgments recovered, and monies received as reimbursement by the District government pursuant to this act and regulations promulgated by the Mayor.

(d) The Fund shall be accounted for under procedures established pursuant to subchapter V of Chapter 3 of Title 47 of the District of Columbia Official Code.

(e) Nothing in this section shall be construed to make the District government responsible for corrective action costs to any person in excess of the monies in the Fund.

Sec. 9. Penalties.

A violation of this act or the rules issued under authority of this act shall be a civil infraction for the purposes of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*) ("Civil Infractions Act"). Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this act, or the rules issued under authority of this act, pursuant to Titles I-III of the Civil Infractions Act. Adjudication of any infraction shall be pursuant to Titles I-III of the Civil Infractions Act.

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Sec. 10. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

Sec. 11. Repealer.

Subsections 106.1 and 106.2 of Title 22 of the District of Columbia Municipal Regulations (Public Health and Medicine) are repealed.

Sec. 12. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 13. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia