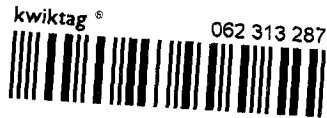


ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

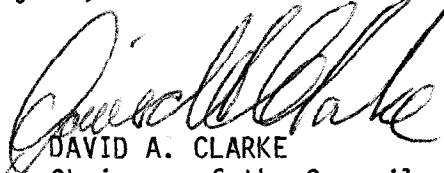
NOTICE

D.C. LAW 10-117

"Illegal Dumping Enforcement Act of 1994".

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. 10-249 on first and second readings, December 7, 1993, and January 4, 1994, respectively. Following the signature of the Mayor on January 25, 1994, this legislation was assigned Act No. 10-181, and published in the February 4, 1994, edition of the D.C. Register (Vol. 41 page 524) and transmitted to Congress on January 31, 1994 for a 60-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 10-117, effective May 20, 1994.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 60-day Congressional Review Period:

February	1,2,3,4,7,8,9,10,11,22,23,24,25,28
March	1,2,3,4,7,8,9,10,11,14,15,16,17,18,21,22,23,24
April	12,13,14,15,18,19,20,21,22,25,26,27,28,29
May	2,3,4,5,6,9,10,11,12,13,16,17,18,19

JANUARY 25, 1994

To establish an improved procedure for the enforcement of illegal dumping by revising the penalties, imposing criminal penalties for the unlawful disposal of solid waste, authorizing the seizure and forfeiture of vehicles used in the unlawful disposal of solid waste, denying, revoking, and not renewing applications for business licenses or permits substantially related to the offense, authorizing the Mayor to establish an enforcement unit for sanitation offenses, authorizing the Mayor to offer and pay rewards for information leading to the apprehension and charging of any person with illegal dumping and the collection of a penalty or fine from the person, and authorizing the Mayor to clean and clear the solid waste unlawfully disposed and to collect three times the cost of the clean-up; to amend the Litter Control Administration Act of 1985 to increase civil penalties for abating the nuisances; to amend the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 to authorize the Mayor to collect a recycling surcharge fee of \$2 for new motor vehicle tires sold in the District of Columbia; to amend D.C. Code § 23-581 to include the unlawful disposal of solid waste as a probable cause misdemeanor; and to amend chapter 13 of title 24 of the District of Columbia Municipal Regulations to increase and repeal certain fines for violations of the Litter Control Administration Act of 1985.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Illegal Dumping Enforcement Act of 1994".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Dispose" means to discharge, deposit, dump, or place any solid waste into or on any land or water.
- (2) "District" means the District of Columbia.
- (3) "Mayor" means the Mayor of the District of Columbia.
- (4) "Motor vehicle" means any conveyance propelled by an internal combustion engine, electricity, or steam.
- (5) "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.

New
Section
6-2911

Enrolled Original

(6) "Solid waste" means any combustible refuse, noncombustible refuse, medical waste, or hazardous waste. Solid waste includes dirt, sand, sawdust, gravel, clay, loam, stone, rocks, rubble, building rubbish, shavings, trade or household waste, refuse, ashes, manure, vegetable matter, paper, dead animals, garbage or debris of any kind, any other organic or inorganic material or thing, or any other offensive matter.

Sec. 3. Prohibition and penalties.

(a) It shall be unlawful for any person to cause or permit any solid waste transported in a motor vehicle to be disposed in or upon any street, lot, park, public place or other area whether publicly or privately owned, unless the site is authorized for the disposal of solid waste by the Mayor. A disposal of solid waste that is subject to a civil sanction under the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code §§ 6-2901 *et seq.*) shall not be unlawful under this act.

(b) Any person violating subsection (a) of this section shall be liable to arrest and upon conviction shall be deemed guilty of a misdemeanor and shall be subject to a fine for each offense not to exceed \$1,000, or shall be imprisoned for a period not to exceed 60 days, or both, in the discretion of the court. Any person who knowingly disposes of hazardous waste in violation of this act shall be punished by a fine not to exceed \$25,000 for each offense or imprisoned for a period not to exceed 1 year, or both, in the discretion of the court.

(c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of this act, or any rules or regulations issued under the authority of this act, provided that a civil fine up to \$5,000 may be assessed for each offense. Any person who knowingly disposes of hazardous waste in violation of this act shall be liable for a civil penalty in an amount not to exceed \$25,000 for each violation.

Adjudication of any civil infraction of this act shall be enforced by the Mayor pursuant to section 3 of the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code § 6-2902).

(d) In addition to any other penalties provided in this section, a person's ownership interest in a motor vehicle used in violating this act shall be subject to seizure and forfeiture. All seizures and forfeitures of motor vehicles under this act shall be in accordance with section 6.

(e) The Mayor is authorized to establish and collect a reasonable fee for the cost of towing and storing seized motor vehicles. A storage fee shall not be charged for the first 24-hour period following the seizure of a motor vehicle. If a person is found not liable for a violation of this act, the Mayor shall waive any towing and storage fees assessed under this act and to refund any penalties paid.

(f) Any person violating subsection (a) of this section, shall also be liable and responsible for paying 3 times the cost and expense incurred by the Mayor for cleaning and clearing the site where the unlawful disposal occurred and for properly disposing of the solid waste. Payment by the violator shall be made within 10 days of demand by the Mayor.

(g) The Mayor may deny, revoke, or not renew the business license, permit, or motor vehicle registration issued, or to be issued, to any person who has committed a violation of this act, provided that the business license, permit, or motor vehicle registration is substantially

New
Section
6-2912

related to the commission of the offense of unlawful disposal of solid waste in the District. The business license, permit, or motor vehicle registration may not be issued or reissued until all fines, penalties, and fees assessed under this section have been fully satisfied .

(h) The Mayor may impose any sanction provided in the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code § 6-2901 *et seq.*), to the extent that it is not inconsistent with this act.

Sec. 4. Enforcement.

The Mayor may establish a special law enforcement unit with police powers to enforce this act, the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code § 6-2901 *et seq.*), the District of Columbia Hazardous Waste Management Act of 1977, effective March 23, 1978 (D.C. Law 2-64; D.C. Code § 6-701 *et seq.*), the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Code § 6-921), and the Water and Sanitation Codes, as compiled in 21 DCMR 700, *et seq.*

New
Section
6-2913

Sec. 5. Bounty.

The Mayor is authorized to offer and pay rewards for information that, in the opinion of the Mayor, leads to the apprehension and charging of any person for violating section 3(a) and the collection of a penalty or fine from the person.

New
Section
6-2914

Sec. 6. Forfeitures.

(a) All motor vehicles which are used, or intended to be used, to transport, or in any manner to facilitate a violation of this act shall be subject to forfeiture, except that:

New
Section
6-2915

(1) No motor vehicle 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;

(2) No motor vehicle is subject to forfeiture under this section by reason of any act or omission that the owner establishes was committed or omitted by a third party without the owner's knowledge and consent; and

(3) A forfeiture of a motor vehicle encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of, nor consented to, the act or omission.

(b) A motor vehicle subject to forfeiture under this section may be seized by law enforcement officials upon process issued by the Superior Court of the District of Columbia having jurisdiction over the motor vehicle, or without process if authorized by law.

(c) (1) A motor vehicle taken or detained under this section shall not be subject to replevin, but shall be deemed to be in the custody of the Mayor. When a motor vehicle is seized under this act, the Mayor shall:

(A) Place the motor vehicle under seal;

(B) Remove the motor vehicle to a place designated by

the Mayor; or

(C) Remove the motor vehicle to an appropriate location for disposition in accordance with law.

(2) (A) After a proper showing of probable cause for the seizure of the motor vehicle is made, the Mayor shall cause notice of the seizure and the Mayor's intention to forfeit and sell or otherwise dispose of the motor vehicle in accordance with this section to be published for at least 2 successive weeks in a local newspaper of general circulation. In addition, the Mayor shall provide written notice of the seizure together with information on the applicable procedures for claiming the motor vehicle to each party who is known, or in the exercise of reasonable diligence should be known, by the Mayor to have a right of claim to the seized motor vehicle. Notice to each party shall be by registered or certified mail, return receipt requested.

(B) Any person claiming an interest in the motor vehicle may, at any time within 30 days from the date of receipt or publication of notice, whichever is later, of seizure, file with the Mayor a claim stating his or her interest in the motor vehicle. Upon the filing of a claim, the claimant shall give a bond to the District in the sum of \$2,500 or 10% of the fair market value of the claimed motor vehicle (as appraised by the Chief of the Metropolitan Police Department), whichever is lower, but not less than \$250, with sureties to be approved by the Mayor. In case of forfeiture of the claimed motor vehicle, the costs and expenses of the forfeiture proceedings shall be deducted from the bond. Any costs that exceed the bond amount and the proceeds from the sale of the conveyance shall be paid by the claimant. In determining the fair market value of the motor vehicle seized, the Chief of the Metropolitan Police Department shall consider any verifiable and reasonable evidence of value that the claimant may present. The balance of the proceeds shall be transferred to the Department of Public Works and used to offset the cost of implementing this act and the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code § 6-2901 *et seq.*), and to abate solid waste nuisances. Subject to the enactment of appropriations, excess monies shall be used to fund recycling activities in accordance with section 16 of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Code § 6-3415).

(C) If a claim and bond (or application for a waiver of bond) are not filed within 30 days of receipt or publication of notice, whichever is later, and the Mayor determines that the motor vehicle is forfeitable under this section, the Mayor shall declare the motor vehicle forfeited and shall dispose of the motor vehicle in accordance with the provisions of paragraph (3) of this subsection. If the Mayor determines that the seized motor vehicle is not forfeitable under this section, and is not otherwise subject to forfeiture, the Mayor shall return the motor vehicle to its rightful owner.

(D) If the seized motor vehicle is not forfeited or disposed of in accordance with subparagraph (C) of this paragraph, the Mayor shall request the Corporation Counsel to apply to the Superior Court of the District of Columbia for forfeiture of the motor vehicle.

(E) Whenever any person who has an interest in forfeited conveyance files with the Mayor, either before or after the sale or disposition of motor vehicle, a petition for remission or mitigation of the

forfeiture, the Mayor shall remit or mitigate the forfeiture upon the terms and conditions as the Mayor deems reasonable if the Mayor finds that:

(i) The forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law; or

(ii) Mitigating circumstances justify the remission or mitigation of the forfeiture.

(F) In all suits or actions brought for forfeiture of any motor vehicle seized under this section when the motor vehicle is claimed by any person, the burden of proof shall be on the claimant once the Mayor has established probable cause as provided in subsection (a) of this section.

(3) When a motor vehicle is forfeited under this section, the Mayor shall:

(A) Retain the motor vehicle for official use; or

(B) Sell the motor vehicle if it is not required by law to be destroyed and is not harmful to the public. All proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs shall be deducted from the proceeds.

(4) Any property contained in the motor vehicle at the time of seizure may be held for evidentiary purposes until such time as the forfeiture proceeding is concluded, or the Corporation Counsel determines that the property is no longer needed for evidentiary purposes, whichever is sooner. Any property that is not needed for evidentiary purposes may be returned to the person who has a right of claim to the property. The Mayor may dispose of any solid waste contained in the motor vehicle at the time of seizure and collect up to 3 times the cost and expense incurred for the proper disposal. If it appears to the Mayor that any property seized under this section is liable to perish, waste, or be greatly reduced in value by the keeping, or that the expense of keeping is disproportionate to the value of the property, the Mayor may proceed to advertise and sell the property at auction or otherwise dispose of the property.

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

Sec. 7. Rules.

The Mayor is authorized to promulgate regulations necessary to implement and enforce this act in accordance with title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*).

Sec. 8. Conforming amendments.

(a) The Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code § 6-2901 *et seq.*), is amended as follows:

(1) Section 6(g) (D.C. Code § 6-2905 (g)) is amended to read as follows:

"(g) Subject to the enactment of appropriations, civil fines, solid waste disposal fees, and other related fees collected from solid waste disposers and the proceeds from the sale of forfeited conveyances shall

Note,
New
Section
6-2911

Section
6-2905

be used to offset the cost of implementing this act, and abating solid waste nuisances. Subject to the enactment of appropriations, excess monies shall be used to fund recycling activities in accordance with section 16 of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Code § 6-3415)."

(2) Section 8(d) (D.C. Code § 6-2907(d)) is amended to read as follows:

Section 6-2907

"(d) The Mayor may recover up to 3 times the cost and expense incurred by the Mayor for abating the nuisance, preventing the recurrence of the violation, and cleaning and clearing the site where the unlawful disposal occurred and for properly disposing of the solid waste."

(3) Section 8(f)(4) (D.C. Code § 6-2907(f)(4)) is amended by adding the phrase "for use in accordance with section 16 of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Code § 6-3415)" after the phrase "District of Columbia"

Section 6-2907

(b) Section 16 of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Code § 6-3415), is amended as follows:

Section 6-3415

- (1) By designating the existing text as subsection (a); and
(2) Adding a new subsection (b) to read as follows:

"(b) The Mayor shall collect a recycling surcharge fee of \$2 for new motor vehicle tires sold in the District of Columbia. Subject to the enactment of appropriations for that purpose, the proceeds from this surcharge shall be deposited in accordance with subsection (a) of this section."

(c) Section 23-581(a)(2) of the District of Columbia Code is amended by adding a new subparagraph (E) to read as follows:

Section 23-581

"(E) The following offenses specified in the Illegal Dumping Enforcement Act of 1993, and listed in the following table:

Table with 2 columns: 'Offense:' and 'Specified in --'. Row 1: 'Unauthorized Disposal of Solid Waste..... Section 3.'

(d) Chapter 13 of title 24 of the District of Columbia Municipal Regulations is amended as follows:

DCMR

(1) Section 1380.2 is amended as follows:

Table with 4 columns: Description, No, \$, and Days. Rows include: (A) By striking the phrase 'No license (21 DCMR § 705.1)' and inserting the phrase 'No license (21 DCMR § 705.1)'; (B) By striking the phrase 'Collecting or transporting without a license (21 DCMR 710.1)'

and inserting the phrase
"Collecting or transporting
without a license
(21 DCMR 710.1)"
in its place.

No \$500 100

(3) Section 1380.3 is amended by striking the phrase
"Illegal Dumping
(24 DCMR 1000.1, 21 DCMR 700.4)"

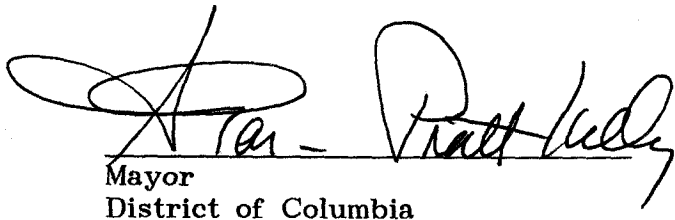
Yes \$1000 200

Sec. 9. Effective date.

This act shall take effect after a 60-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)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(2)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED : January 25, 1994



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period 10

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 10-249

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted First Reading, 12-7-93

[X] VOICE VOTE: Approved

Recorded vote on request

Absent: Chavous, Smith and Nathanson

[] ROLL CALL VOTE: - RESULT ()

Table with 16 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 4 times). Rows include CHMN. CLARKE, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, SMITH, JR., THOMAS, SR.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date January 7, 1994

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted Final Reading, 1-4-94

[X] VOICE VOTE: Approved

Recorded vote on request

Absent: Evans

[] ROLL CALL VOTE: - RESULT ()

Table with 16 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 4 times). Rows include CHMN. CLARKE, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, SMITH, JR., THOMAS, SR.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date January 7, 1994

[] Item on Consent Calendar

[] ACTION & DATE:

[] VOICE VOTE:

Recorded vote on request

Absent:

[] ROLL CALL VOTE: - RESULT ()

Table with 16 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 4 times). Rows include CHMN. CLARKE, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, SMITH, JR., THOMAS, SR.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date