

COUNCIL OF THE DISTRICT OF COLUMBIA

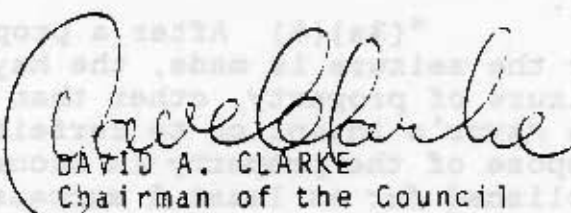
NOTICE

D.C. LAW 7-162

"District of Columbia Procedures for Forfeiture  
of Seized Property Amendment Act of 1988".

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. 7-361 on first and second readings, June 28, 1988, and July 12, 1988, respectively. Following the signature of the Mayor on July 15, 1988, this legislation was assigned Act No. 7-217, published in the July 29, 1988, edition of the D.C. Register, (Vol. 35 page 5733) and transmitted to Congress on July 25, 1988 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 7-162, effective September 29, 1988.

  
DAVID A. CLARKE  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

July 25,26,27,28,29

August 1,2,3,4,5,8,9,10,11

September 7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28

EFFECTIVE DATE SEP 29 1988

Codification,  
District of Columbia Cod  
(1989 Supplement)

AN ACT

D.C. ACT 7 - 217

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

EFFECTIVE DATE JUL 15 1988

To amend section 502 of the District of Columbia Uniform Controlled Substances Act of 1981 to streamline the process by which property seized pursuant to that act can be forfeited to the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Procedures for Forfeiture of Seized Property Amendment Act of 1988".

Sec. 2. Section 502(d) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code, sec. 33-552(d)), is amended as follows:

Section  
33-552

(a) Paragraph (2) is amended by striking the phrase "subject only to orders and decrees of the Superior Court of the District of Columbia".

(b) A new paragraph (3a) is added to read as follows:  
(d).

"(3a)(A) After a proper showing of probable cause for the seizure is made, the Mayor shall cause notice of the seizure of property, other than controlled substances, and the Mayor's intention to forfeit and sell or otherwise dispose of the property in accordance with this act 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 property 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 property. Notice to each party shall be by registered or certified mail, return receipt requested.

"(B) Any person claiming the property may, at any time within 30 days from the date of receipt of notice of seizure, file with the Mayor a claim stating his

or her interest in the property. Upon the filing of a claim, the claimant shall give a bond to the District government in the penal sum of \$2,500 or 10% of the fair market value of the claimed property (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. The bond shall be conditioned that, in case of forfeiture of the claimed property, the claimant shall pay all the costs and expenses of the forfeiture proceedings. In determining the fair market value of the property seized, the Chief of the Metropolitan Police Department shall consider any verifiable and reasonable evidence of value that the claimant may present. Upon a proper showing of the claimant's financial inability to give the bond, the Mayor shall waive the bond in accordance with rules promulgated by the Mayor.

"(C) If a claim and bond (or application for a waiver of bond) are not filed within 30 days of receipt of notice, and if either the property seized has a value of less than \$250,000 or the property seized is a conveyance subject to forfeiture under the provisions of paragraph (a)(4) of this section, the Mayor, after determining that the property is forfeitable under this act, shall declare the property forfeited and shall dispose of the property in accordance with the provisions of paragraph (4) of this subsection. If the Mayor determines that the seized property is not forfeitable under this act and is not otherwise subject to forfeiture, the Mayor shall return the property to its rightful owner.

"(D) If it appears to the Mayor that any property seized under this paragraph 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 under rules promulgated by the Mayor.

"(E) If the property seized is not forfeited or disposed of in accordance with subparagraphs (C) and (D) 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 property in accordance with the rules of the Superior Court of the District of Columbia.

"(F) Whenever any person who has an interest in forfeited property files with the Mayor, either before or after the sale or disposition of property, 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:

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

"(ii) That mitigating circumstances justify the remission or mitigation of the forfeiture.

"(G) In all suits or actions brought for forfeiture of any property seized under this act when the property 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.

"(H) The Mayor shall, pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.), issue proposed rules to implement the provisions of this paragraph. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.)".

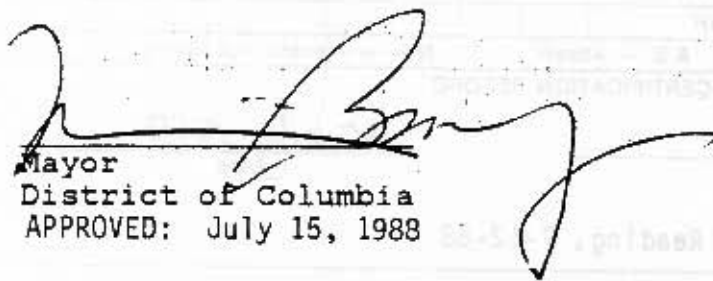
Sec. 3. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia

RECORD OF OFFICIAL COUNCIL VOTE

Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED: July 15, 1988

COUNCIL MEMBER	YAY	NAY	N.V.	A.B.	COUNCIL MEMBER	YAY	NAY	N.V.	A.B.
MARION					SMITH JR.				
KANE					SCHWARTZ				
JARVIS					ROLAND				
CRAWFORD					RAY				
CLARK					HATHAMSON				
THOMAS JR.					THOMAS JR.				

COUNCIL MEMBER	YAY	NAY	N.V.	A.B.	COUNCIL MEMBER	YAY	NAY	N.V.	A.B.
MARION					SMITH JR.				
KANE					SCHWARTZ				
JARVIS					ROLAND				
CRAWFORD					RAY				
CLARK					HATHAMSON				
THOMAS JR.					THOMAS JR.				



**COUNCIL OF THE DISTRICT OF COLUMBIA**  
Council Period Seven

**RECORD OF OFFICIAL COUNCIL VOTE**

DOCKET NO: B7-361

- Item on Consent Calendar
- ACTION & DATE: Adopted First Reading, 6-28-88
- VOICE VOTE: Approved
- Recorded vote on request
- Absent: all present
- ROLL CALL VOTE: — RESULT \_\_\_\_\_

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. CLARKE					NATHANSON					THOMAS SR.				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SCHWARTZ									
MASON					SMITH, JR.									

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

CERTIFICATION RECORD

Russell D. Smith  
Secretary to the Council

15 July 1988  
Date

- Item on Consent Calendar
- ACTION & DATE: Adopted Final Reading, 7-12-88
- VOICE VOTE: Approved
- Recorded vote on request
- Absent: Thomas and Winter
- ROLL CALL VOTE: — RESULT \_\_\_\_\_

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. CLARKE					NATHANSON					THOMAS, SR.				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SCHWARTZ									
MASON					SMITH, JR.									

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

CERTIFICATION RECORD

Russell D. Smith  
Secretary to the Council

15 July 1988  
Date

- Item on Consent Calendar
- ACTION & DATE: \_\_\_\_\_
- VOICE VOTE: \_\_\_\_\_
- Recorded vote on request
- Absent: \_\_\_\_\_
- ROLL CALL VOTE: — RESULT \_\_\_\_\_

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. CLARKE					NATHANSON					THOMAS, SR.				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SCHWARTZ									
MASON					SMITH, JR.									

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

CERTIFICATION RECORD