

AN ACT

D.C. ACT 16-265

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2006

Codification
District of
Columbia
Official Code

2001 Edition

2006 Spring
Supp.

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Publisher

To amend the District of Columbia Official Code to grant domestic partners similar rights and responsibilities currently held by spousal couples in the areas of spousal immunity, inheritance, surviving spouses and children, spousal support, and public assistance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Domestic Partnership Equality Amendment Act of 2006".

Sec. 2. Chapter 3 of Title 14 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase "Husband and wife" and inserting the phrase "Spouse or domestic partner" in its place.

(b) Section 14-306 is amended to read as follows:

"§ 14-306. Spouse or domestic partner.

Amend
§ 14-306

"(a) In civil and criminal proceedings, a spouse or domestic partner is competent but not compellable to testify for or against their spouse or domestic partner.

"(b) In civil and criminal proceedings, a spouse or domestic partner is not competent to testify as to any confidential communications made by one to the other during the marriage or the domestic partnership.

"(c) For the purposes of this section, the term:

"(1) "Domestic partner" shall have the same meaning as provided in § 32-701(3).

"(2) "Domestic partnership" shall have the same meaning as provided in § 32-701(4)."

(c) Section 14-309(3) is amended to read as follows:

Amend
§ 14-309

"(3)(A) communication made to him, in his professional capacity, by either spouse or domestic partner, in connection with an effort to reconcile estranged spouses or domestic partners, without the consent of the spouse or domestic partner making the communication.

"(B) for the purposes of this paragraph, the term "domestic partner" shall

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have the same meaning as provided in § 32-701(3).”.

Sec. 3. Section 15-502 of the District of Columbia Official Code is amended to read as follows:

“§ 15-502. Mortgage or other instrument affecting exempt property.

Amend
§ 15-502

“(a) A mortgage, deed of trust, assignment for the benefit of creditors, or bill of sale upon exempted articles is not binding or valid unless it is signed by the spouse or domestic partner of a debtor who is living with his or her spouse or domestic partner.

“(b) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3).”.

Sec. 4. Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-571 is amended to add a new paragraph (4) to read as follows:

Amend
§ 16-571

“(4) The term “domestic partner” shall have the same meaning as provided in § 32-701(3).”.

(b) Section 16-577 is amended by striking the phrase “a person’s spouse, or former spouse, or children,” and inserting the phrase “a person’s spouse or former spouse, domestic partner or former domestic partner, or children,” in its place.

Amend
§ 16-577

(c) Section 16-901 is amended to add new paragraphs (1A) and (1B) to read as follows:

Amend
§ 16-901

“(1A) “Domestic partner” shall have the same meaning as provided in § 32-701(3).

“(1B) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).”.

(d) Section 16-910 is amended as follows:

Amend
§ 16-910

(1) The lead-in language is amended by striking the phrase “or divorce,” and inserting the phrase “or divorce, or upon the termination of a domestic partnership pursuant to § 32-702 and the filing of a petition for relief under this section,” in its place.

(2) Subsection (a) is amended by striking the word “marriage” both times it appears and inserting the phrase “marriage or domestic partnership” in its place.

(3) Subsection (b) is amended as follows:

(A) The lead-in language is amended by striking the word “marriage” and inserting the phrase “marriage or domestic partnership” in its place.

(B) Paragraph (1) is amended by striking the phrase “marriage,” and inserting the phrase “marriage or domestic partnership,” in its place.

(C) Paragraph (5) is amended by striking the word “marriage” and inserting the phrase “marriage, a prior domestic partnership,” in its place.

(D) Paragraph (9) is amended by striking the word “marriage” and inserting the phrase “marriage, the domestic partnership,” in its place.

(e) Section 16-911(a) is amended as follows:

Amend
§ 16-911

(1) The lead-in language is amended to read as follows:

“(a) During the pendency of an action for divorce, the termination of a domestic partnership pursuant to § 32-702, where one of the domestic partners has filed a petition for relief under this section, or an action by a spouse to declare the marriage null and void, where the nullity is denied by the other spouse, the court may:”.

(2) Paragraph (1) is amended as follows:

(A) Strike the phrase “husband or wife” each time it appears and insert the phrase “spouse or domestic partner” in its place.

(B) Strike the word “spouse” each time it appears and insert the phrase “spouse or domestic partner” in its place.

(3) Paragraph (2) is amended by striking the word “spouse’s” and inserting the phrase “spouse or domestic partner’s” in its place

(4) Paragraph (3) is amended by striking the word “spouse” and inserting the phrase “spouse or domestic partner” in its place.

(f) Section 16-913 is amended as follows:

(1) Subsection (a) is amended by striking the phrase “divorce or legal separation is granted,” and inserting the phrase “divorce or legal separation is granted, or when a termination of a domestic partnership becomes effective under § 32-702 and one partner has filed a petition for relief under this section,” in its place.

(2) Subsection (d) is amended as follows:

(A) Paragraph (3) is amended by striking the word “marriage” and inserting the phrase “marriage or domestic partnership” in its place.

(B) Paragraph (4) is amended by striking the word “marriage” and inserting the phrase “marriage or domestic partnership” in its place.

(C) Paragraph (9)(B) is amended by striking the phrase “both marital or non-marital” and inserting the phrase “both those that are the property of the marriage or domestic partnership and those that are not” in its place.

(g) Section 16-916 is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) Whenever a spouse or domestic partner shall fail or refuse to maintain his or her needy spouse, domestic partner, minor children, or both, although able to do so, or whenever any parent shall fail or refuse to maintain his or her children by a marriage since dissolved, although able to do so, the court, upon proper application and upon a showing of genuine need of a spouse or domestic partner, may decree, pendente lite and permanently, that such spouse or domestic partner shall pay reasonable sums periodically for the support of such needy spouse or domestic partner and of the children, or such children, as the case may be, and the court may decree that he or she pay suit money, including counsel fees, pendente lite and permanently, to enable plaintiff to conduct the case.”.

(2) Subsection (b) is amended to read as follows:

Amend
§ 16-913

Amend
§ 16-916

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“(b) Whenever a former spouse or domestic partner has obtained a foreign ex parte divorce or termination of the domestic partnership, the court thereafter, on application of the other former spouse or domestic partner and with personal service of process upon such former spouse or domestic partner in the District of Columbia, may decree that he or she shall pay him or her reasonable sums periodically for his or her maintenance and for suit money, including counsel fees, pendente lite and permanently, to enable plaintiff to conduct the case.”

(h) Section 16-2701 is amended to read as follows:

Amend
§ 16-2701

“(a) When, by an injury done or happening within the limits of the District, the death of a person is caused by the wrongful act, neglect, or default of a person or corporation, and the act, neglect, or default is such as will, if death does not ensue, entitle the person injured, or if the person injured is married or domestic partnered, entitle the spouse or domestic partner, either separately or by joining with the injured person, to maintain an action and recover damages, the person who or corporation that is liable if death does not ensue is liable to an action for damages for the death, notwithstanding the death of the person injured, even though the death is caused under circumstances that constitute a felony.

“(b) The damages shall be assessed with reference to the injury resulting from the act, neglect, or default causing the death, to the spouse or domestic partner and the next of kin of the deceased person; and shall include the reasonable expenses of last illness and burial. Where there is a surviving spouse or domestic partner, the jury shall allocate the portion of its verdict payable to the spouse or domestic partner and next of kin, respectively, according to the finding of damage to the spouse or domestic partner and next of kin. If, in a particular case, the verdict is deemed excessive, the trial judge or the appellate court, on appeal of the cause, may order a reduction of the verdict. An action may not be maintained pursuant to this chapter if the party injured by the wrongful act, neglect, or default has recovered damages therefor during his life.

“(c) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3).”

Sec. 5. Title 19 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase “Rights of Surviving Spouse and Children” and inserting the phrase “Rights of Surviving Spouse or Domestic Partner and Children” in its place.

(b) The table of contents for Chapter 1 is amended by striking the phrase “Rights of Surviving Spouse and Children” and inserting the phrase “Rights of Surviving Spouse or Domestic Partner, and Children” in its place.

(c) Section 19-101.02 is amended as follows

(1) Strike the phrase “surviving spouse” both times it appears and insert the phrase “surviving spouse or surviving domestic partner” in its place.

(2) Strike the “surviving spouse or surviving minor” and insert the phrase “surviving spouse, surviving domestic partner, or surviving minor” in its place.

Amend
§ 19-101.02

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(d) Section 19-101.03 is amended to read as follows:

“§ 19-101.03. Exempt property.

Amend
§ 19-101.03

“In addition to the homestead allowance, the decedent's surviving spouse or surviving domestic partner is entitled from the estate to a value, not exceeding \$10,000 in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse or surviving domestic partner, the decedent's surviving children are entitled jointly to the same value. If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of exempt property in the estate, the spouse, domestic partner, or children are entitled to other assets of the estate, if any, except for real property, to the extent necessary to make up the \$10,000 value. Rights to exempt property have priority over all claims against the estate, except the homestead allowance, the family allowance, and as provided in section 20-906. These rights are in addition to any benefit or share passing to the surviving spouse, surviving domestic partner, or surviving children by the decedent's will, unless otherwise provided by intestate succession or by way of elective share.”

(e) Section 19-101.04 is amended to read as follows:

“§ 19-101.04. Family allowance.

Amend
§ 19-101.04

“(a) In addition to the right to homestead allowance and exempt property, the decedent's surviving spouse or surviving domestic partner, and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration. It is payable to the surviving spouse or surviving domestic partner, if living, for the use of the surviving spouse or surviving domestic partner and the decedent's surviving minor and dependent children; otherwise to the children, or persons having their care and custody. If a minor child or dependent child is not living with the surviving spouse or surviving domestic partner, the allowance may be made partially to the child or his or her guardian, or other person having the child's care and custody, and partially to the spouse or domestic partner, as their needs may appear. The family allowance is exempt from and has priority over all claims, except the homestead allowance, and as provided in section 20-906.

“(b) The family allowance is not chargeable against any benefit or share passing to the surviving spouse, surviving domestic partner, or children by the will of the decedent, unless otherwise provided, by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates the right to allowances not yet paid.”

(f) Section 19-101.05 is amended to read as follows:

“§ 19-101.05. Source, determination, and documentation; equitable apportionment when minor children are not in custody of the surviving spouse or surviving domestic partner.

Amend
§ 19-101.05

“(a) If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to homestead allowance or exempt property. Subject to this restriction, the surviving spouse, surviving domestic partner, guardians of minor children, or children who are

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adults may select property of the estate as homestead allowance and exempt property. The personal representative may make those selections if the surviving spouse, the surviving domestic partner, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time, or there is no guardian of a minor child. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. The personal representative may disburse the family allowance in a lump sum not exceeding \$15,000 in cash or in personalty at its fair value as the surviving spouse or surviving domestic partner may elect. The personal representative or an interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

“(b) If there are minor or other dependent children of the decedent who are not in the custody of the surviving spouse or surviving domestic partner, the personal representative shall equitably apportion the family allowance under this section between the surviving spouse or surviving domestic partner, minor and dependent children, and other children of the decedent.”

(g) Section 19-112 is amended to read as follows:

“§ 19-112. Devise or bequest to a spouse or domestic partner.

Amend
§ 19-112

“Subject to section 19-114, and unless it is otherwise expressed in the will, a devise of real estate or an interest therein, or a bequest of personal estate or an interest therein, to the surviving spouse or surviving domestic partner, bars his or her share in the decedent's estate.”

(h) Section 19-113 is amended as follows:

Amend
§ 19-113

(1) Subsection (a) is amended to read as follows:

“(a) Subject to section 19-114, a surviving spouse or surviving domestic partner is, by a devise or bequest specified in section 19-112, barred on any statutory rights or interest he has in the real and personal estate of the deceased spouse or deceased domestic partner unless, within 6 months after the will of the deceased spouse or deceased domestic partner is admitted to probate, he files in the Probate Court a written renunciation to the following effect: “I, A B, surviving spouse or surviving domestic partner of ___ late of ___, deceased, renounce and quit all claim to any devise or bequest made to me by the last will of my spouse or domestic partner exhibited and proved according to law; and I elect to take in lieu thereof my legal share of the real and personal estate of my deceased spouse or deceased domestic partner.”

(2) Subsections (c), (d), (e), and (f) are amended to read as follows:

“(c) If, during the period of 6 months specified by subsection (a) of this section, a suit is instituted to construe the will of the deceased spouse or deceased domestic partner, the period of 6 months for the filing of the renunciation or election commences to run from the date when the suit is finally determined. A renunciation or election may be made in behalf of a spouse or domestic partner unable to act for himself by reason of infancy, incompetency, or inability to manage his property, by the guardian or other fiduciary acting for the spouse or domestic partner

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when so authorized by the court having jurisdiction of the person of the spouse or domestic partner. The time for renunciation by a spouse or domestic partner may be extended before its expiration by an order of the Probate Court for successive periods of not more than 6 months each upon petition showing reasonable cause and on notice given to the personal representative and to the other persons herein referred to in such manner as the Probate Court directs.

“(d) Where a decedent has not made a devise or bequest to the spouse or domestic partner, or nothing passes by a purported devise or bequest, the surviving spouse or surviving domestic partner is entitled to his legal share of the real and personal estate of the deceased spouse or deceased domestic partner without filing a written renunciation.

“(e) The legal share of a surviving spouse or surviving domestic partner under subsection (a) or (d) of this section is such share or interest in the real or personal property of the deceased spouse or deceased domestic partner as he would have taken if the deceased spouse or deceased domestic partner had died intestate, not to exceed one-half of the net estate bequeathed and devised by the will.

“(f) A valid antenuptial or postnuptial agreement entered into by the spouses or domestic partners determines the rights of the surviving spouse or the surviving domestic partner in the real and personal estate of the deceased spouse or deceased domestic partner and the administration thereof, but a spouse or domestic partner may accept the benefits of a devise or bequest made to him by the deceased spouse or deceased domestic partner.”

(i) Section 19-114 is amended to read as follows:

“§ 19-114. Right of surviving spouse or surviving domestic partner if there is no renunciation.

Amend § 19-114

“A surviving spouse or surviving domestic partner who does not renounce as provided by section 19-113 is entitled to the benefit of all provisions in his favor in the will of the deceased spouse or deceased domestic partner and shall share, in accordance with sections 19-301 and 19-302 in any estate of the deceased spouse or deceased domestic partner undisposed of by the will.”

Amend § 19-115

(j) Section 19-115 is amended to read as follows:

“§ 19-115. Definitions.

For the purposes of this chapter, the term:

“(1) “Domestic partner” shall have the same meaning as provided in § 32-701(3).

“(2) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).

“(3) “Probate Court” means the Superior Court of the District of Columbia.”

(k) The table of contents for Chapter 3 is amended by adding the following phrase at the end:

“19-322. Definitions.”

(l) Section 19-301 is amended by striking the phrase “surviving spouse,” and inserting

Amend § 19-301

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the phrase "surviving spouse or surviving domestic partner," in its place.

(m) Section 19-302 is amended as follows:

Amend
§ 19-302

(1) The section heading is amended by striking the word "spouse" and inserting the phrase "spouse or domestic partner" in its place.

(2) The lead-in language is amended by striking the phrase "surviving spouse" and inserting the phrase "surviving spouse or surviving domestic partner" in its place.

(3) Paragraph (2) is amended by striking the phrase "surviving spouse" both times it appears and inserting the phrase "surviving spouse or surviving domestic partner" in its place.

(4) Paragraph (4) is amended by striking the phrase "surviving spouse" both times it appears and inserting the phrase "surviving spouse or surviving domestic partner" in its place.

(5) Paragraph (5) is amended by striking the phrase "surviving spouse" and inserting the phrase "surviving spouse or surviving domestic partner."

(n) Section 19-305 is amended as follows:

Amend
§ 19-305

(1) The section heading is amended by striking the phrase "surviving spouse" and inserting the phrase "surviving spouse or surviving domestic partner" in its place.

(2) The text is amended by striking the phrase "surviving spouse" both times it appears and inserting the phrase "surviving spouse or surviving domestic partner" in its place.

(o) A new section 19-322 is added to read as follows:

"§ 19-322. Definitions.

Amend
§ 19-322

For the purposes of this chapter, the term "domestic partner" shall have the same meaning as provided in § 32-701(3)."

(p) Section 19-602.01 is amended to add a new paragraph (3A) to read as follows:

"(3A) "Domestic partner" shall have the same meaning as provided in § 32-701(3)."

Amend
§ 19-602.01

(q) Section 19-602.11(b) is amended by striking the phrase "As between parties married to each other," and inserting the phrase "As between parties either married to or domestic partners of each other," in its place.

Amend
§ 19-602.11

(r) Section 19-602.12(a) is amended by striking the phrase "surviving spouse" each time it appears and inserting the phrase "surviving spouse or surviving domestic partner" in its place.

Amend
§ 19-602.12

(s) Section 19-602.15(a) is amended by striking the phrase "married to each other" and inserting the phrase "married to or domestic partners of each other" in its place.

Amend
§ 19-602.15

(t) Section 19-701 is amended to read as follows:

"§ 19-701. Escheatment generally.

Amend
§ 19-701

"(a) Where there is no surviving spouse, surviving domestic partner, or relations of the intestate within the fifth degree, reckoned by counting down from the common ancestor to the more remote, the surplus of real and personal property escheats to the District of Columbia to be used by the Mayor of the District of Columbia for the benefit of the poor.

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“(b) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3).”

(u) Section 19-904 is amended as follows:

(1) Designate the existing language as subsection (a).

Amend
§ 19-904

(2) The newly designated subsection (a) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Subparagraph (C) is amended to read as follows:

“(C) A spouse or domestic partner’s election under section 19-113;”

(ii) Subparagraph (D) is amend to read as follows:

“(D) A similar arrangement arising out of a prospective, existing, or previous marital relationship or domestic partnership relationship between the parties;”

(B) Paragraph (6) is amended to read as follows:

“(6) A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries, spouses, or domestic partners, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries, spouses, or domestic partners, the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary, spouse, or domestic partner;”

(3) A new subsection (b) is added to read as follows:

“(b) For the purposes of this section, the term:

“(1) “Domestic partner” shall have the same meaning as provided in § 32-701(3).

“(2) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).”

Sec. 6. Section 20-303 of the District of Columbia Official Code is amended as follows:

Amend
§ 20-303

(1) Subsection (a)(1)(B) is amended to read as follows:

“(B) the surviving spouse, domestic partner, or children of an intestate decedent or the surviving spouse or domestic partner of a testate decedent;”

(2) Subsection (b)(6) is amended by striking the phrase “surviving spouse” and inserting the phrase “surviving spouse or surviving domestic partner” in its place.

(3) A new subsection (e) is added to read as follows:

“(e) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3).”

Sec. 7. Title 21 of the District of Columbia Official Code is amended as follows:

(a) Section 21-2011 is amended by adding new paragraphs (5A) and (5B) to read as follows:

Amend
§ 22-2011

“(5A) “Domestic partner” shall have the same meaning as provided in § 32-701(3).

“(5B) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).”

(b) Section 21-2043(c)(1) is amended by striking the word “spouse” each time it appears and inserting the phrase “spouse or domestic partner” in its place.

Amend
§ 21-2043

(c) Section 21-2065(e)(3) is amended by striking the phrase “blood or marriage” and inserting the phrase “blood, marriage, or domestic partnership” in its place.

Amend
§ 21-2065

(d) Section 21-2068 is amended as follows:

(1) The lead-in language is amended by striking the phrase “the spouse,” and inserting the phrase “the spouse, domestic partner,” in its place.

Amend
§ 21-2068

(2) Paragraph (3) is amended by striking the phrase “blood or marriage” and inserting the phrase “blood, marriage, or domestic partnership” in its place.

(e) Section 21-2113(1) is amended as follows:

Amend
§ 21-2113

(1) Designate the existing language as subsection (a).

(2) The newly designated subsection (a)(1) is amended by striking the phrase “principal’s spouse,” and inserting the phrase “principal’s spouse, domestic partner,” in its place.

(3) A new subsection (b) is added to read as follows:

“(b) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3).”

Sec. 8. The Uniform Premarital Agreement Act of 1995, effective February 9, 1996 (D.C. Law 11-82; D.C. Official Code § 46-501 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 46-501) is amended to read as follows:

“Sec. 2. Definitions.

Amend
§ 46-501

“For the purposes of this act, the term:

“(1) “Domestic partner” shall have the same meaning as provided in § 32-701(3).

“(2) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).

“(3) “Premarital agreement” means an agreement between prospective spouses or prospective domestic partners made in contemplation of marriage or domestic partnership and to be effective upon marriage or domestic partnership.

“(4) “Property” means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.”

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(b) Section 4(a) (D.C. Official Code § 46-503(a)) is amended as follows:

Amend
§ 46-503

(1) Paragraph (3) is amended by striking the phrase "annulment," and inserting the phrase "annulment, termination of a domestic partnership under section 3 of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702)," in its place.

(2) Paragraph (4) is amended by striking the phrase "spousal support" and inserting the phrase "spousal or domestic partner support" in its place.

(c) Section 5 (D.C. Official Code § 46-504) is amended to read as follows:

Amend
§ 46-504

"Sec. 5. Effect of marriage or domestic partnership.

"A premarital agreement becomes effective upon marriage or the registration of a domestic partnership under section 3 of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702)."

(d) Section 6 (D.C. Official Code § 46-505) is amended by striking the phrase "After marriage," and inserting the phrase "After marriage or the registration of a domestic partnership under section 3 of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702)," in its place.

Amend
§ 46-505

(e) Section 7(b) (D.C. Official Code § 46-506(b)) is amended to read as follows:

"(b) If a provision of a premarital agreement modifies or eliminates spousal or domestic partner support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation, marital dissolution, or termination of a domestic partnership under section 3 of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702), a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility."

Amend
§ 46-506

(f) Section 8 (D.C. Official Code § 46-507) is amended as follows:

Amend
§ 46-507

(1) The section heading is amended by striking the word "marriage" and inserting the phrase "marriage or domestic partnership" in its place.

(2) The text is amended by striking the word "marriage" both times it appears and inserting the phrase "marriage or domestic partnership" in its place.

(g) Section 9 (D.C. Official Code § 46-508) is amended by striking the word "marriage" and inserting the phrase "marriage or domestic partnership" in its place.

Amend
§ 46-508

Sec. 9. Fiscal impact statement.

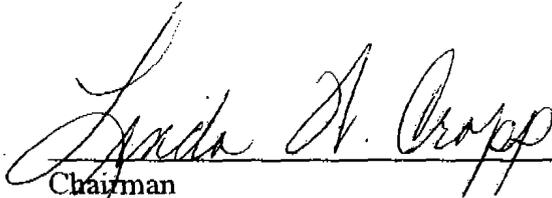
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 10. Effective date.

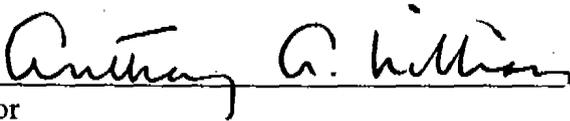
This act shall take effect following approval by the Mayor (or in the event of veto by the

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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
APPROVED
January 26, 2006

AN ACT

D.C. ACT 16-266

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2006

*Codification
District of
Columbia
Official Code*

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Publisher

To prohibit the transport of large shipments of certain extremely hazardous materials within 2.2 miles of the United States Capitol unless the transporter has obtained an authorizing permit, to provide for an exception to the permit requirement in cases of emergency, to authorize the District Department of Transportation to issue an authorizing permit upon a demonstration that there is no practical alternative route, and to require the Mayor to issue regulations to implement the provisions of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Terrorism Prevention in Hazardous Materials Transportation Act of 2006".

Sec. 2. Findings.

The Council of the District of Columbia finds that:

(1) A terrorist attack on a large-quantity hazardous material shipment near the United States Capitol ("Capitol") would be expected to cause tens of thousands of deaths and a catastrophic economic impact of \$5 billion or more.

(2) The threat of terrorism facing District of Columbia residents and workers in the vicinity of the Capitol requires an urgent response that recognizes and addresses the unique status of this area in American politics and history, and the risk of terrorism that results from this status.

(3) While the federal government has occupied the field of en route security and routing in the aviation context, it has not addressed the subject of rail car routing for security purposes. Moreover, the federal government has not acted to address the terrorist threat resulting from the transportation of ultra-hazardous materials within 2 miles of the Capitol, the White House, and the United States Supreme Court, unique terrorist targets.

(4) Shippers of ultra-hazardous materials do not need to route large quantities of ultra-hazardous chemicals near the Capitol in order to ship these chemicals to their destinations, and alternative routes would substantially decrease the aggregate risk posed by terrorist attacks.

(5) Requiring permits for ultra-hazardous shipments from a Capitol Exclusion Zone that encompasses all points within 2.2 miles of the Capitol would impose no significant burden on interstate commerce.

Sec. 3. Definitions.

For the purposes of this act, the term:

(1) "Capitol Exclusion Zone" means all points within 2.2 miles of the United States Capitol Building; provided, that the Capitol Exclusion Zone shall not extend beyond the geographic boundaries of the District of Columbia.

(2) "Emergency" means an unanticipated, temporary situation that threatens the immediate safety of individuals or property, as determined by the District Department of Transportation.

(3) "Person" means an individual or a commercial entity.

(4) "Practical alternative route" means a route:

(A) Which lies entirely outside the Capitol Exclusion Zone; and

(B) Whose use would not make shipment of the materials in question

cost-prohibitive.

Sec. 4. Prohibition on shipments of hazardous materials.

Except in cases of emergency, it shall be illegal in the Capitol Exclusion Zone, without a permit, to:

(1) Transport any of the following:

(A) Explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms;

(B) Flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters;

(C) Poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116; and

(D) Poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133; or

(2) Operate a vehicle or move a rail car which:

(A) Is capable of containing explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms, and has exterior placarding or other markings indicating that it contains such materials;

(B) Is capable of containing flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters, and has exterior placarding or other markings indicating that it contains such materials;

(C) Is capable of containing poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116, and has exterior placarding or other markings indicating that it contains such materials; or

(D) Is capable of containing poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133, and has exterior placarding or other markings indicating that it contains such materials.

Sec. 5. Permits.

(a) The District Department of Transportation may issue permits authorizing the transportation of materials listed in section 4 upon a demonstration that there is no practical alternative route. A permit may require adoption of safety measures, including time-of-day restrictions.

(b) The District Department of Transportation may collect fees for the permits in accordance with the rules issued under section 7.

(c) Permit fees collected pursuant to this section shall not exceed the cost of

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implementing and enforcing this act.

Sec. 6. Penalties.

(a) Any person who violates section 4 or rules issued under section 7 shall be subject to a civil penalty not to exceed:

- (1) \$10,000 for a first offense; or
- (2) \$25,000 for any subsequent offense.

(b) The fines assessed and collected under subsection (a) of this section shall be deposited into the General Fund of the District of Columbia.

Sec. 7. 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.*), and in consultation with the District of Columbia Department of Transportation, the Emergency Management Agency, the Fire and Emergency Medical Services Department, and the Metropolitan Police Department, shall issue rules to implement the provisions of this act, including a schedule of permit fees to support analysis, communications to shippers and carriers, and the enforcement program.

Sec. 8. 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. 9. 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

APPROVED
January 26, 2006

ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-267

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 26, 2006Codification
District of
Columbia
Official Code

2001 Edition

2006 Spring
Supp.West Group
Publisher

To amend the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 to add definitions to clarify that the District's summary closure provisions extend to unlicensed business operations, and to establish the unlicensed practice of a health occupation (unless the occupation is exempt from licensure) as a *per se* imminent danger to health or safety of the residents of the District; to amend the Drug-Related Nuisance Abatement Act of 1998 to include prostitution-related nuisances within its provisions to allow the United States Attorney for the District of Columbia, the Attorney General for the District of Columbia, or a community-based organization to file an action in the Superior Court of the District of Columbia to enjoin, abate, or prevent a prostitution-related nuisance, and to create the Drug or Prostitution-Related Nuisance Abatement Fund as a fund separate from the General Fund of the District of Columbia; to amend AN ACT to provide for the abatement of nuisances in the District of Columbia by the Commissioners at said District, and for other purposes, to allow the Mayor to apply directly to a District of Columbia court for an administrative search warrant to inspect and abate code violations; and to amend Title 47 of the District of Columbia Official Code to add prostitution to the list of activities that merit revocation of a license, to relocate authority in current law to issue cease and desist orders to non-health related occupations and professions to include all licensed activity covered by Chapter 28, to require that cease and desist orders be served upon the owner of record and holder of the certificate of occupancy, when they are different from the licensee.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Nuisance Abatement Reform Amendment Act of 2006".

Sec. 2. 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.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 2-1801.02) is amended as follows:

(1) A new paragraph (1B) is added to read as follows:

"(1B) "Health occupation" means any occupation or profession identified in section 102 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.02), for which a license is required or for which there is an exemption from licensing."

(2) A new paragraph (2A) is added to read as follows:

"(2A) "Licensee" means any person:

"(1) Licensed under Chapter 28 of Title 47 of the District of Columbia Official

Amend
§ 2-1801.02

ENROLLED ORIGINAL

Code; or

“(2) Who engages in an activity that requires licensure under Chapter 28 of Title 47 of the District of Columbia Official Code who has not obtained the appropriate license or whose license has lapsed, has been suspended, or has been revoked.”

(b) Section 106(a) (D.C. Official Code § 2-1801.06(a)) is amended by adding a new sentence at the end to read as follows: “Engaging in or attempting to engage in a health occupation without a license shall be a *per se* imminent danger to the health or safety of the residents of the District unless the person engaging in or attempting to engage in the health occupation is exempt from licensure pursuant to section 103 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99: D.C. Official Code § 3-1201.03).”

Amend
§ 2-1801.06

Sec. 3. The Drug-Related Nuisance Abatement Act of 1998, effective March 26, 1999 (D.C. Law 12-194; D.C. Official Code § 42-3101 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 42-3101) is amended as follows:

Amend
§ 42-3101

(1) Paragraph (1) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase “value which is related to the use, sale, or manufacture of controlled substances or drug paraphernalia in and around” and inserting the phrase “value that is related to prostitution or the use, sale, or manufacture of controlled substances or drug paraphernalia in or near” in its place.

(B) Subparagraph (B) is amended by striking the phrase “due to the use” and inserting the phrase “due to prostitution or the use” in its place.

(C) Subparagraph (C) is amended by striking the phrase “which is related to the use, sale, or manufacture of controlled substances or drug paraphernalia in and around” and inserting the phrase “that is related to prostitution or the use, sale, or manufacture of controlled substances or drug paraphernalia in or near” in its place.

(D) Subparagraph (D) is amended by striking the phrase “which are related to the use” and inserting the phrase “that are related to prostitution or the use” in its place.

(E) Subparagraph (E) is amended by striking the phrase “wishing to sell” and inserting the phrase “wishing to engage in prostitution or to sell” in its place.

(F) Subparagraph (G) is amended by striking the phrase “paraphernalia by” and inserting the phrase “paraphernalia or investigative actions relating to prostitution by” in its place.

(G) Subparagraph (H) is amended by striking the phrase “relating to the use” and inserting the phrase “relating to prostitution or the use” in its place.

(H) Subparagraph (I) is amended by striking the phrase “relating to the use” and inserting the phrase “relating to prostitution or the use” in its place.

(I) Subparagraph (J) is amended by striking the phrase “associated with the use, sale, or manufacture of controlled substances or drug paraphernalia in and around” and inserting the phrase “associated with prostitution or the use, sale, or manufacture of controlled substances or drug paraphernalia in or near” in its place.

(2) Paragraph (2) is amended as follows:

(A) Strike the phrase “drug related” and insert the phrase “drug or prostitution-related” in its place.

(B) Strike the phrase “drug-related” and insert the phrase “drug or

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prostitution-related" in its place.

(3) Paragraph (5) is amended as follows:

(A) The lead-in text is amended by striking the phrase "Drug-related" and inserting the phrase "Drug or prostitution-related" in its place.

(B) Subparagraph (B) is amended as follows:

(1) Strike the word "or".

(2) Strike the phrase "facilitate the use, sale, distribution, possession, storage, transportation, or manufacture of any controlled substance or drug paraphernalia which has an adverse impact on the community" and inserting the phrase "facilitate prostitution or the use, sale, or manufacture of controlled substances or drug paraphernalia that has an adverse impact on the community" in its place.

(C) A new subparagraph (C) is added to read as follows:

"(C) Any real property, in whole or in part, used or intended to be used to facilitate any violation of AN ACT For the suppression of prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Official Code § 22-2701 *et seq.*); section 2 of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; D.C. Official Code § 22-2701.01); section 813 of AN ACT To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22-2704); AN ACT In relation to pandering, to define and prohibit the same, and to provide for the punishment thereof, approved June 2, 1910 (36 Stat. 833; D.C. Official Code § 22-2705 *et seq.*); and section 1 of AN ACT To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat. 192; D.C. Official Code § 22-2722)."

(4) Paragraph (7) is amended by striking the phrase "drug-related" and inserting the phrase "drug or prostitution-related" in its place.

(5) A new paragraph (8A) is added to read as follows:

"(8A) "Prostitution" means prostitution as defined in section 2(1) of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; D.C. Official Code § 22-2701.01(1)), or any act that violates any provision of AN ACT For the suppression of prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Official Code § 22-2701 *et seq.*); section 813 of AN ACT To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22-2704); AN ACT In relation to pandering, to define and prohibit the same and to provide for the punishment thereof, approved June 2, 1910 (36 Stat. 833; D.C. Official Code § 22-2705 *et seq.*); and section 1 of AN ACT To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat. 192; D.C. Official Code § 22-2722)."

(b) Sections 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, and 14 (D.C. Official Code §§ 42-3102 through 42-3106 and 42-3108 through 42-3113) are amended by striking the phrase "drug-related" wherever it appears and inserting the phrase "drug or prostitution-related" in its place.

(c) A new section 3a is added to read as follows:

"Sec. 3a. Authority to obtain law enforcement records.

"Upon request by the Attorney General for the District of Columbia, the United States Attorney for the District of Columbia may provide information related to a drug or prostitution-related property that has been obtained from a law enforcement agency."

(d) Section 12(a) (D.C. Official Code § 42-3111(a)) is amended by striking the phrase

Amend
§§ 42-3102 -
42-3106, 42-
3108 - 42-
3113

Amend
§ 42-3111

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“to the General Fund of the District of Columbia” and inserting the phrase “to the Drug or Prostitution-Related Nuisance Abatement Fund established by section 12a” in its place.

(e) A new section 12a is added to read as follows:

“Sec. 12a. Drug or Prostitution-Related Nuisance Abatement Fund.

“(a) There is hereby established a Drug or Prostitution-Related Nuisance Abatement Fund (“Fund”), which shall be separate from the General Fund of the District of Columbia. The assets of the Fund shall not exceed \$2 million at any time. The Fund shall consist of damages collected in cases brought pursuant to this act and any additional funds Congress may make available to the Fund. Such funds shall be deposited in the Fund upon receipt. The funds in the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year, but shall remain available for the purposes set forth in this section, subject to authorization and appropriation by Congress. Any balance in excess of \$2 million shall be deposited in the General Fund of the District of Columbia.

“(b) The funds in the Fund shall be available for use by the Attorney General to carry out the enforcement of this act, including all costs reasonably related to prosecuting cases and conducting investigations pursuant to this act.

“(c) Disbursements made from the Fund to the Office of Attorney General or other appropriate agency shall be used to supplement and not supplant the Office of the Attorney General’s appropriated operating budget.”.

Sec. 4. AN ACT TO provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 42-3131.02) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) A new subsection (b) is added to read as follows:

“(b)(1) The Mayor may apply to a judge of the District of Columbia for an administrative search warrant to enter any premises to conduct any inspection required or authorized by law to determine compliance with the provisions of this act.

“(2) The application for an administrative search warrant shall be in writing and sworn to by the applicant and shall particularly describe the place, structure, or premises to be inspected and the nature, scope, and purpose of the inspection to be performed by the applicant.

“(3) Before filing an application for an administrative search warrant with a court, the Mayor shall obtain approval by the Office of the Attorney General as to its legality in both form and substance under the standards and criteria of this section and a statement to this effect shall be included as part of the application.

“(4) A judge of a court referred to in this section may issue the warrant on finding that:

“(A)(i) The applicant has sought access to the property for the purpose of making an inspection; and

“(ii)(I) After requesting, at a reasonable time, the owner, tenant, or other individual in charge of the property to allow access, has been denied access to the property; or

“(II) After making a reasonable effort, the applicant has been unable to locate any of these individuals;

“(B) The requirements of paragraphs (2) and (3) of this subsection are

Amend
§ 42-3131.02

satisfied;

“(C) The Mayor is authorized by law to make an inspection of the property for which the warrant is sought; and

“(D) Probable cause for the issuance of the warrant has been demonstrated by the applicant by specific evidence of an existing violation of any provision of this act or any rule or regulation adopted under this act or by showing that:

“(i) A reasonable administrative inspection program exists regarding the condition of the property; and

“(ii) The proposed inspection comes within the program.

“(5) An administrative search warrant issued under this section shall specify the place, structure, premise, vehicle, or records to be inspected. The inspection conducted shall not exceed the limits specified in the warrant.

“(6) An administrative search warrant issued under this section authorizes the applicant and other officials or employees of the District to enter specified property to perform the inspection, sampling, and other functions authorized by law to determine compliance with the provisions of this act.

“(7) An administrative search warrant issued under this section shall be executed and returned to the judge by whom it was issued within:

“(A) The time specified in the warrant, not to exceed 30 days; or

“(B) If no time period is specified in the warrant, 15 days from the date of its issuance.”.

Sec. 5. Chapter 28 of Title 47 of the District of Columbia Official is amended as follows:

(a) The table of contents is amended as follows:

(1) Add the phrase “47-2844.01. Cease and desist orders.” after the phrase “47-2844. Regulations; suspension or revocation of licenses; bonding of licenses authorized to collect moneys, exemptions.”.

(2) Strike the phrase “47-2853.19 Cease and desist orders.” and insert the phrase “47-2853.19. Repealed.” in its place.

(b) Section 47-2844(a-1)(1) is amended as follows:

(1) Subparagraph (A) is amended by striking the word “or” at the end.

(2) Subparagraph (B) is amended by striking the period and inserting the phrase “; or” in its place.

(3) A new subparagraph (C) is added to read as follows:

“(C) An act of prostitution as defined in section 2(1) of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; D.C. Official Code § 22-2701.01(1)), or any act that violates any provision of AN ACT For the suppression of prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Official Code § 22-2701 *et seq.*); section 813 of AN ACT To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22-2704); AN ACT In relation to pandering, to define and prohibit the same and to provide for the punishment thereof, approved June 2, 1910 (36 Stat. 833; D.C. Official Code § 22-2705 *et seq.*); and section 1 of AN ACT To confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat.192; D.C. Official Code § 22-2722).”.

Amend
§ 47-2844

(c) A new section 47-2844.01 is added to read as follows:

"§ 47-2844.01. Cease and desist orders.

Amend
§ 47-2844.01

"(a)(1) When a board, or the Mayor, after investigation but prior to a hearing, has cause to believe that a person is violating any provision of this chapter and the violation has caused or may cause immediate and irreparable harm to the public, the board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

"(2) A copy of the cease and desist order shall be served on the holder of a certificate of occupancy for the premises and on the property owner of record if each of these persons or entities are separate and distinct from the licensee.

"(b)(1) The alleged violator may, within 15 days of the service of the order, submit a written request to the board to hold a hearing on the alleged violation.

"(2) Upon receipt of a timely request, the board shall conduct a hearing and render a decision pursuant to § 47-2853.22.

"(c)(1) The alleged violator may, within 10 days of the service of an order, submit a written request to the board for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by subsection (b)(1) of this section.

"(2) Upon receipt of a timely request for an expedited hearing, the board shall conduct a hearing within 10 days of the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

"(3) The board shall issue a decision within 30 days after an expedited hearing.

"(d) If a request for a hearing is not made pursuant to subsections (b) and (c) of this section, the order of the board to cease and desist shall be final.

"(e) If, after a hearing, the board determines that the alleged violator is not in violation of this subchapter, the board shall vacate the order to cease and desist.

"(f) If any person fails to comply with a lawful order of a board issued pursuant to this section, the board may petition the court to issue an order compelling compliance or take any other action authorized by this chapter."

(d) Section 47-2853.19 is repealed.

Repeal
§ 47-2853.19

Sec. 6. 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. 7. 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 of the District of Columbia 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

AN ACT
D.C. ACT 16-268

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 26, 2006

Codification
District of
Columbia
Official Code
2001 Edition
2006 Spring
Supp.
West Group
Publisher

To amend the Health Care Benefits Expansion Act of 1992 to bring the percentage of the cost of health insurance paid by a District government employee for the coverage of a domestic partner and a domestic partner's family members into parity with the percentage of health insurance paid by a District government employee for other family coverage.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Care Benefits Expansion Amendment Act of 2006".

Sec. 2. Section 7 of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-706), is amended to read as follows:

Amend
§ 32-706

"Sec. 7. Optional self-financed coverage: District of Columbia Employees Health Benefits Program.

"District government employees enrolled in the District of Columbia Employees Health Benefits Program shall be allowed to purchase family health insurance coverage that would cover the employee's family members as defined in section 2(7) in accordance with sections 2105, 2106, and 2107(a), (c), and (d) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective October 1, 1987 (D.C. Law 7-27; D.C. Official Code §§ 1-621.05, 1-621.06, and 1-621.07(a), (c), and (d)). A domestic partner shall not simultaneously be enrolled for individual and family member coverage. The employee shall pay 25 % of the cost of family health insurance coverage for the domestic partner or family members as defined in section 2(7), and the District government shall pay the remaining 75 %.

Sec. 3. Applicability.

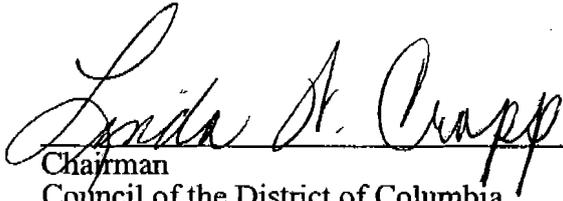
This act shall apply as of the later of January 1, 2007 or its inclusion in an approved budget and financial plan.

Sec. 4. Fiscal impact statement.

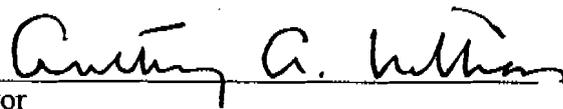
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. 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
APPROVED
January 26, 2006

AN ACT
D.C. ACT 16-269

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2006

Codification
District of
Columbia
Official Code

2001 Edition

2006 Spring
Supp.

West Group
Publisher

To amend the Office of Administrative Hearings Establishment Act of 2001 to delay the transfer to the Office of Administrative Hearings of the adjudicatory functions for all cases under the jurisdiction of the Rent Administrator in the Department of Consumer and Regulatory Affairs until October 1, 2006, and to reduce the terms of reappointed administrative law judges from 10 years to 6 years.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Administrative Hearings Term Amendment Act of 2006".

Sec. 2. The Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*), is amended as follows:

(a) Section 6(b-1)(1) (D.C. Official Code § 2-1831.03 (b-1)(1)) is amended to read as follows:

Amend
§ 2-15831.03

"(1) In addition to those agencies listed in subsections (a) and (b) of this section, as of October 1, 2006, this act shall apply to adjudicated cases under the jurisdiction of the Rent Administrator in the Department of Consumer Regulatory Affairs."

(b) Section 7 (D.C. Official Code § 2-1831.04) is amended as follows:

Amend
§ 2-15831.04

(1) Subsection (d) is amended by striking the phrase "10-year term" and inserting the phrase "6-year term" in its place.

(2) Subsection (e) is amended by striking the phrase "10-year term" and inserting the phrase "6-year term" in its place.

(c) Section 11(c) (D.C. Official Code § 2-1831.08(c)) is amended as follows:

Amend
§ 2-15831.08

(1) Designate the existing text as paragraph (1).

(2) The newly designated paragraph (1) is amended to read as follows:

"(1) The initial term of office of an Administrative Law Judge appointed prior to December 6, 2005 shall be 2 years, at the end of which the Administrative Law Judge shall be eligible for reappointment by the Commission to a term of 10 years. After serving an initial

reappointment term of 10 years, the Administrative Law Judge shall be eligible for reappointment by the Commission to a new term of 6 years.”.

(3) New paragraphs (2), (3), and (4) are added to read as follows:

“(2) The initial term of office of an Administrative Law Judge hired after December 5, 2005, shall be 2 years, at the end of which the Administrative Law Judge shall be eligible for reappointment by the Commission to a term of 6 years.

“(3) At the expiration of any 6-year term of office, an Administrative Law Judge shall be eligible for reappointment by the Commission to a new term of 6 years.

“(4) Non-reappointment of an Administrative Law Judge shall not be deemed to be discipline or removal of the Administrative Law Judge.”.

(d) Section 13(a) (D.C. Official Code § 2-1831.10(a)) is amended by striking the phrase “any 2-year or 10-year term” and inserting the phrase “any 2-year, 6-year, or 10-year term” in its place.

Amend
§ 2-15831.10

(e) Section 19(b) (D.C. Official Code § 2-1831.16(b)) is amended by striking the second sentence and inserting the following in its place: “The Rental Housing Commission shall have jurisdiction to review orders of the Office in all adjudicated cases brought pursuant to the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*)”.

Amend
§ 2-15831.16

Sec. 3. 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)).

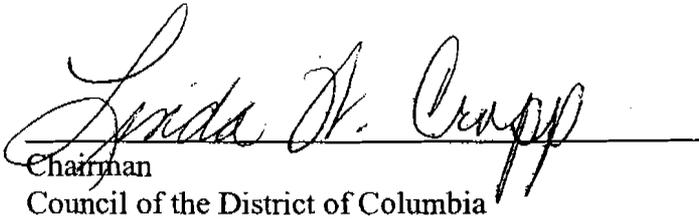
Sec. 4. Effective date.

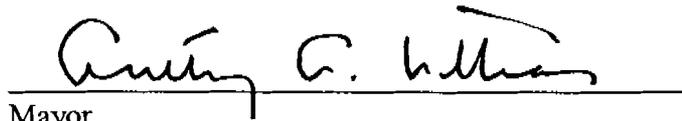
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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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
APPROVED
January 26, 2006

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-270

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2006

*Codification
District of
Columbia
Official Code*

2001 Edition

2006 Spring
Supp.

West Group
Publisher

To amend Chapter 46 of Title 47 of the District of Columbia Official Code to provide for tax exemptions for the Parkside Terrace development project located in Square 5926, Lot 3.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Parkside Terrace Economic Development Act of 2006".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the section designation "47-4607. Parkside Terrace development project-tax exemptions." at the end.

(b) A new section 47-4607 is added to read as follows:

"§ 47-4607. Parkside Terrace development project-tax exemptions.

New
§ 47-4607

"(a) For the purposes of this section, the term:

"(1) "Affordable rental housing project" means a housing development in which units are rented to occupying households with not more than 80% of area median income (adjusted for household size) for a rent not exceeding 30% of household income as such amounts are determined by the United States Department of Housing and Urban Development.

"(2) "Developer Sponsor" means Parkside Terrace Development LLC, its successors and affiliates.

"(3) "Parkside Terrace project" means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred therefor, of the mixed-use apartment house and townhouse project located on the Parkside Terrace property, consisting of:

"(A) A 12-story building expected to contain approximately 325 rental apartment and condominium units on the Parkside Terrace property;

"(B) Approximately 30 townhouse units expected to be built on currently vacant land on the Parkside Terrace property; and

"(C) Other ancillary improvements.

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“(4) “Parkside Terrace property” means the real property, including any improvements thereon, located in Square 5926, Lot 3 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future).

“(b) The following conveyances with respect to the Parkside Terrace project shall be exempt from the tax imposed by §§ 42-1103 and 47-903:

“(1) Any conveyances to the developer sponsor; and

“(2) Any conveyances from the developer sponsor to an entity for any portion of the Parkside Terrace project which is to be operated as an affordable rental housing project.

“(c) The sales and rental of tangible personal property to be incorporated in or consumed in the Parkside Terrace project, whether or not the sale, rental, or nature of the material or tangible personal property is incorporated as a permanent part of the Parkside Terrace project or the Parkside Terrace property, shall be exempt from the tax imposed by § 47-2002.

“(d)(1) The Parkside Terrace property shall be exempt from the tax imposed by Chapter 8.

“(2) The real property tax exemption granted by paragraph (1) of this subsection shall apply:

“(A) To the portion of the Parkside Terrace property expected to be developed into an affordable rental housing project only so long as such portion of the property is operated as an affordable rental housing project; and

“(B) To those portions of the Parkside Terrace property which are expected to be developed into for-sale condominium and townhouse units only until such portions of the property are transferred by the Developer Sponsor.

“(e) The Parkside Terrace project shall be exempt from any public space permit fees imposed by § 47-2718.

“(f) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Parkside Terrace project or the Parkside Terrace property and shall not exceed, in the aggregate, \$6 million.

“(g) This section shall not prevent or restrict the Developer Sponsor from utilizing any other tax, development, or other economic incentives available to the Parkside Terrace project or the Parkside Terrace property.”

Sec. 3. Applicability.

(a) Section 2(b) and (e) shall apply as of October 1, 2005. Any amounts paid with respect to conveyances or public space permits fees on or after October 1, 2005 shall be refunded.

(b) Section 2(d) shall apply as of October 1, 2004. Any amounts paid on or after October 1, 2004 shall be refunded.

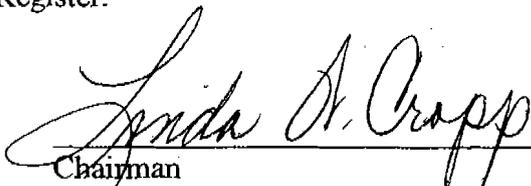
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Sec. 4. Fiscal impact statement.

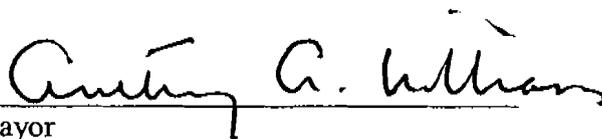
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. 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
APPROVED
January 26, 2006

AN ACT
D.C. ACT 16-271

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2006

*Codification
 District of
 Columbia
 Official Code*

2001 Edition

2006 Spring
 Supp.

West Group
 Publisher

To amend, on a temporary basis, the Compulsory/No Fault Motor Vehicle Insurance Act of 1982, An Act To provide for the regulation of finance charges for the retail installment sales of motor vehicles in the District of Columbia and for other purposes, An Act To provide for the annual inspection of all motor vehicles in the District of Columbia, An Act To provide for the recording and releasing of liens by entries on certificates of title for motor vehicles and trailers and for other purposes, the Motor Vehicle Safety Responsibility Act of the District of Columbia, the District of Columbia Revenue Act of 1937, the Rental Vehicle Tax Reform Act of 1978, the District of Columbia Implied Consent Act, the District of Columbia Traffic Adjudication Act of 1925, the District of Columbia Traffic Adjudication Act of 1978, the District of Columbia Motor Vehicle Parking Facility Act of 1942, and Title 18 of the District of Columbia Municipal Regulations, to define "electric personal assistive mobility device", to exempt electric personal assistive mobility devices from the definitions of "motor vehicle", and to authorize the Mayor to promulgate regulations to exempt electric personal assistive mobility devices from the requirements pertaining to motor vehicles.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Motor Vehicle Definition Electric Personal Assistive Mobility Device Exemption Temporary Amendment Act of 2006".

Sec. 2. Section 3(17) of the Compulsory/No Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2402(17)), is amended to read as follows:

Note,
 § 31-2402

"(17) The term "motor vehicle" means any device propelled by an internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired. The term "motor vehicle" does not include traction engines used exclusively for drawing vehicles in fields, road rollers, vehicles propelled only upon rails and tracks, electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at

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speeds not exceeding 10 miles per hour."

Sec. 3. Section 1(6) of An Act To provide for the regulation of finance charges for retail installment sales of motor vehicles in the District of Columbia, and for other purposes, approved April 22, 1960 (74 Stat. 69; D.C. Official Code § 50-601(6)), is amended to read as follows:

Note,
§ 50-601

"(6) "Motor vehicle" means any automobile, mobile home, motorcycle, truck, truck tractor, trailer, semi-trailer, or bus. The term "motor vehicle" shall not include any boat trailer, any vehicle propelled or drawn exclusively by muscular power, any vehicle designed to run only on rails or tracks, electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Sec. 4. Section 8 of an Act to provide for the annual inspection of all motor vehicles in the District of Columbia, approved February 18, 1938 (52 Stat. 78; D.C. Official Code § 50-1108), is amended to read as follows:

Note,
§ 50-1108

"Sec. 8. As used in this act the term "motor vehicle" means all vehicles propelled by internal-combustion engines, electricity, or steam. The term 'motor vehicle' shall not include traction engines, road rollers, vehicles propelled only upon rails or tracks, electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Sec. 5. Section 1 of An Act To provide for the recording and releasing of liens by entries on certificates of title for motor vehicles and trailers, and for other purposes, approved July 2, 1940 (54 Stat. 736; D.C. Official Code § 50-1201), is amended as follows:

Note,
§ 50-1201

(a) The undesignated subsections are designated as subsections (a) through (i).

(b) The newly designated subsection (i) is amended to read as follows:

"(i) "Motor vehicle" shall mean all vehicles propelled by internal-combustion engines, electricity, or steam. The term "motor vehicle" shall not include traction engines, road rollers, vehicles propelled only upon rails or tracks, electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Sec. 6. Section 2(4) of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 120; D.C. Official Code § 50-1301.02(4)), is amended to read as follows:

Note,
§ 50-1301.02

"(4) Motor vehicle" means every vehicle which is self-propelled and every

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vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. The term 'motor vehicle' shall not include electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Sec. 7. Section 1(a) of Title IV of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 679; D.C. Official Code § 50-1501.01(1)), is amended to read as follows:

Note,
§ 50-1501.01

"(a) The term "motor vehicle" means any vehicle propelled by internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired. The term "motor vehicle" shall not include road rollers, farm tractors, vehicles propelled only upon stationary rails or tracks, electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Sec. 8. Section 2(b) of the Rental Vehicle Tax Reform Act of 1978, effective March 6, 1979 (D.C. Law 2-157; D.C. Official Code § 50-1505.01(2)), is amended to read as follows:

Note,
§ 50-1505.01

"(b) The term "motor vehicle" means any device propelled by an internal-combustion engine, and designed to carry passengers. The term "motor vehicle" shall not include road rollers, farm tractors, trucks, motorcycles, motorized bicycles, vehicles with a seating capacity of ten or more persons, vehicles propelled only upon rails and tracks, electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Sec. 9. Section 1(8) of the District of Columbia Implied Consent Act, approved October 21, 1972 (86 Stat. 1016; D.C. Official Code § 50-1901(8)), is amended to read as follows:

Note,
§ 50-1901

"(8) The term "motor vehicle" means all vehicles propelled by internal combustion engines, electricity, or steam. The term "motor vehicle" shall not include electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

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Sec. 10. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 *passim*), is amended as follows:

(a) Section 2 (D.C. Official Code § 50-2201.02) is amended as follows:

Note,
§ 50-2201.02

(1) Subsection (a) is amended to read as follows:

"(a) The term "motor vehicle" means all vehicles propelled by internal-combustion engines, electricity, or steam. The term "motor vehicle" shall not include traction engines, road rollers, vehicles propelled only upon rails or tracks, electric personal assistive mobility devices, as defined by subsection (1) of this section, and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

(2) A new subsection (1) is added to read as follows:

"(1) The term "Electric Personal Assistive Mobility Device" or "EPAMD" means a device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 10 miles per hour or less."

(b) A new section 6a is added to read as follows:

"Sec. 6a. Regulations for electric personal assistive mobility devices.

"(a) The Mayor shall promulgate regulations to exempt electric personal assistive mobility devices from the regulations governing motor vehicles.

"(b) Regulations promulgated pursuant to this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the proposed rules are not approved within the 45-day period of review, the rules shall be deemed disapproved."

(c) A new section 9a is added to read as follows:

"Sec. 9a. Age requirement for operation of an electric personal assistive mobility device.

"No person under 16 years of age may operate an electric personal assistive mobility device in the District of Columbia."

(d) Section 7(f) (D.C. Official Code § 50-1401.01(f)) is amended to read as follows:

"(f) For purposes of this section and sections 8 and 13 the term "motor vehicle" means all vehicles propelled by internal-combustion engines, electricity, or steam. The term "motor vehicle" shall not include traction engines, road rollers, vehicles propelled only upon rails or tracks, electric personal assistive mobility devices, as defined by section 2(1), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Note,
§ 50-1401.01

Sec. 11. Section 102(e-1) of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.02(5A)), is amended to read as follows:

Note,
§ 50-2301.0

"(e-1) The term "motor vehicle" means all vehicles propelled by an internal-combustion engine, electricity, or steam. The term "motor vehicle" shall not include traction engines, road rollers, vehicles propelled only upon stationary rails or tracks, electric personal assistive

ENROLLED ORIGINAL

mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Sec. 12. Section 2 of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942 (56 Stat. 91; D.C. Official Code § 50-2602), is amended to read as follows:

Note,
§ 50-2602

(a) The undesignated paragraphs are designated as paragraphs (1) through (5).

(b) The newly designated paragraph (5) is amended to read as follows:

"(5) The term "motor vehicle" means any device propelled by an internal-combustion engine, electricity, or steam. The term "motor vehicle" shall not include traction engines, road rollers, vehicles propelled only upon rails or tracks, electric personal assistive mobility devices, as defined by section 2(1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(12)), and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour."

Sec. 13. Title 18 of the District of Columbia Municipal Regulations (Vehicles and Traffic) is amended as follows:

DCMR

(a) Chapter 12 is amended as follows:

(1) Subsection 1200.4 is amended to read as follows:

"1200.4 No operator's permit shall be required for the operation of a bicycle or an electric personal assistive mobility device."

(2) Subsection 1200.6 is amended to read as follows:

"1200.6 No points shall accrue toward the loss or suspension of a motor vehicle operator's permit by reason of a violation committed while operating a bicycle, sidewalk bicycle, or an electric personal assistive mobility device."

(3) Subsection 1200.8 is amended to read as follows:

"1200.8 No person, except for impoundment by the Mayor, shall tamper with any bicycle or electric personal assistive mobility device which has been locked, placed in a rack, or otherwise secured. Any person found tampering with any bicycle or electric personal assistive mobility device may be required to pay a fine of \$100."

(4) Subsections 1201.2, 1201.9, 1201.10, 1201.11, and 1201.12 are amended to read as follows:

"1201.2 A person shall operate a bicycle, sidewalk bicycle or electric personal assistive mobility device in a safe and non-hazardous manner so as not to endanger himself or herself or any other person."

"1201.9 There shall be no prohibition against any person riding a bicycle or electric personal assistive mobility device upon a sidewalk within the District, so long as the rider does

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not create a hazard; provided, that no person shall ride a bicycle or operate an electric personal assistance mobility device upon a sidewalk within the Central Business District except on those sidewalks expressly designated by Order of the Mayor, nor shall any person ride a bicycle upon a sidewalk in any area outside of the Central Business District if it is expressly prohibited by Order of the Mayor and appropriate signs to such effect are posted.

"1201.10 Any person riding a bicycle or electric personal assistive mobility device upon a sidewalk shall yield the right-of-way to pedestrians, and shall travel at a speed no greater than the posted speed limit of the adjacent roadway; provided, that such speed is safe for the conditions then existing on the sidewalk.

"1201.11 A person propelling a bicycle or operating an electric personal assistive mobility device upon and along a sidewalk or while crossing a roadway in a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances, except that the bicyclist or electric personal assistive mobility device operator must yield to pedestrians on the sidewalk or crosswalk.

"1201.12 The operator of a bicycle or electric personal assistive mobility device emerging from, or entering an alley, driveway, or building, shall upon approaching a sidewalk, or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway, to the extent necessary to safely enter the flow of traffic."

(b) Subsection 2217.5 of Chapter 22 is amended to read as follows:

"2217.5 No vehicle except buses proceeding on a designated bus route, bicycles, electric personal assistive mobility devices, and authorized emergency vehicles shall travel on those streets or portions of streets designated as bus streets or bus lanes except as provided in §§ 2217.6, 2217.7, 4005 and 4006."

(c) Chapter 40 is amended as follows:

(1) Subsection 4005.1 is amended to read as follows:

"4005.1 The traffic lane closest to the right hand curb on the streets listed in this subsection shall be designated a Restricted Lane and reserved for the use of buses, carpools, taxicabs, bicycles, motorized bikes, motorcycles, electric personal assistive mobility devices, or other designated vehicles during the hours and on the days indicated."

(2) Subsection 4006.1 is amended to read as follow:

"4006.1 No vehicles shall travel on bus streets except buses proceeding on designated bus routes, bicycles, electric personal assistive mobility devices, or authorized emergency vehicles, except as otherwise provided in this section."

(d) Chapter 99 is amended by adding the following new definition to section 9901:

"Electric Personal Assistive Mobility Device" or "EPAMD" means a device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 10 miles per hour or less."

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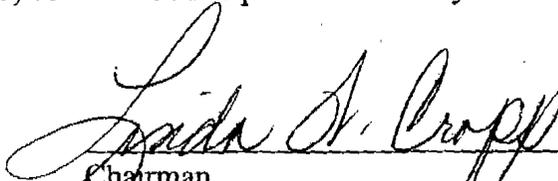
Sec. 14. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director to the Council of the District of Columbia 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)).

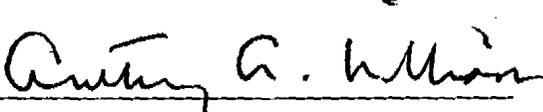
Sec. 15. Effective date.

(a) 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.

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 26, 2006

AN ACT
D.C. ACT 16-272IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 26, 2006*Codification
District of
Columbia
Official Code*

2001 Edition

2006 Spring
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Publisher

To establish, on a temporary basis, the Contracting and Procurement Reform Task Force to improve the District's contracting and procurement laws and regulations, review the District's procurement and ethics provisions, review best practices nationally, and make findings and recommendations to the Mayor and Council.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contracting and Procurement Reform Task Force Establishment Temporary Act of 2006".

Sec. 2. Establishment of the Contracting and Procurement Reform Task Force; duties.

(a) There is established the Contracting and Procurement Reform Task Force ("Task Force").

(b) The Task Force shall perform the following duties:

(1) Review the recommendations of all audit reports regarding contracting and procurement issued by the District of Columbia Office of the Inspector General ("OIG") and the District of Columbia Auditor within the past 5 years;

(2) Review and analyze the District's contracting and procurement laws and regulations;

(3) Review and analyze all reports required by law of the District of Columbia Office Contracting and Procurement ("OCP");

(4) Review recommendations of the Center for Innovation and Reform to improve contracting and procurement procedures in the District;

(5) Make a determination as to whether OCP and District agencies have followed the recommendations of the OIG, the Auditor, and the Committee on Government Operations to improve the contracting and procurement process in the District;

(6) Review the District's ethics and disciplinary provisions concerning contracting and procurement;

(7) Review the District's contracting and procurement laws relating to sole source awards, no-bid contracts, task orders, oral contract agreements, direct voucher authorizations and payments, and emergency awards; and

(8) Review contracting and procurement laws and regulations nationally and recommend improvements to the District's contracting and procurement procedures.

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Sec. 3. Goals.

- (a) The Task Force shall consider the following goals and policy objectives:
- (1) Assess and improve the District's contracting and procurement process;
 - (2) Establish appropriate laws to decrease the over-utilization of sole-source contract awards;
 - (3) Enhance the District's ethics and disciplinary provisions regarding contracting and procurement;
 - (4) Make recommendations concerning the training or required re-training of current District contracting and procurement officials;
 - (5) Assess the District's use of emergency contract awards;
 - (6) Make recommendations to ensure that contracting and procurement processes result in timely competition;
 - (7) Review and make recommendations regarding the District's use of task orders and its impact on fair and open competition;
 - (8) Make recommendations concerning the District's contract ratification procedures and use of oral contracts; and
 - (9) Reforming the District's contracting and procurement process pursuant to best practices nationally.

Sec. 4. Membership.

- (a) The Task Force shall consist of 7 voting members and 2 nonvoting members.
- (1) The voting members shall include 7 contract or procurement law experts. Each voting member shall have a minimum of 7 years of experience as a lawyer specializing in contract or procurement law.
 - (2) The nonvoting members shall include the Chief Procurement Officer of the District of Columbia ("CPO") and a designee of the CPO.
- (b) Members shall serve without compensation. The members shall elect a Chairperson from among the voting members.

Sec. 5. Appointment.

The Council shall appoint 5 voting members of the Task Force. The Committee on Government Operations shall submit the names of 5 nominees to the Council for approval by resolution. The Mayor shall appoint 2 voting members. Task Force members shall be appointed by February 1, 2006.

Sec. 6. Meetings.

The Task Force shall meet as necessary to conduct its official business. A majority of the voting members shall constitute a quorum. The Task Force may act by an affirmative vote of at least 5 of its voting members.

Sec. 7. Powers.

All offices, agencies, and instrumentalities of the District government shall fully cooperate with the Task Force and provide requested information and documents.

Sec. 8. Report.

- (a) No later than August 1, 2006, the Task Force shall issue a report to the Council and the Mayor to improve the contracting and procurement process in the District.

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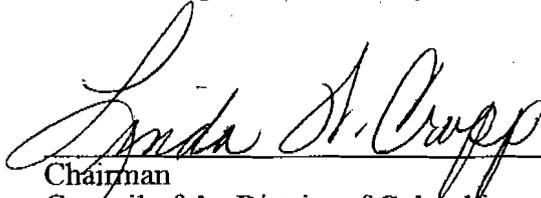
Sec. 9. Fiscal impact statement.

The Council adopts the attached fiscal impact statement of the Budget Director 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)).

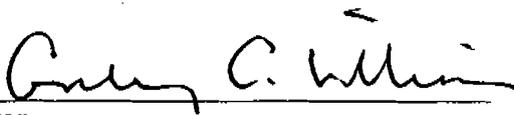
Sec. 10. Effective date.

(a) 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.

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 26, 2006

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-273

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2006

*Codification
District of
Columbia
Official Code*

2001 Edition

2006 Spring
Supp.

West Group
Publisher

To enact the Uniform Mediation Act in the District of Columbia, to provide for confidentiality in mediation proceedings, to establish an evidentiary privilege for mediators and participants in mediation that applies in later legal proceedings, to create an obligation of confidentiality for mediators, and to facilitate international commercial mediation in the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Uniform Mediation Act of 2006".

Sec. 2. Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the phrase "42. Mediation; Uniform Act. . . . 16-4201" after the phrase "41. Sureties. . . . 16-4101".

(b) A new Chapter 42 is added to read as follows:

“CHAPTER 42.
“MEDIATION; UNIFORM ACT.

New
Chapter 42,
Title 16,

New
§§ 16-4201 -
16-4213

“Section

“16-4201. Definitions.

“16-4202. Scope.

“16-4203. Privilege against disclosure; admissibility; discovery.

“16-4204. Waiver and preclusion of privilege.

“16-4205. Exceptions to privilege.

“16-4206. Prohibited mediator reports.

“16-4207. Confidentiality.

“16-4208. Mediator’s disclosure of conflicts of interest; background.

“16-4209. Participation in mediation.

“16-4210. International commercial mediation.

“16-4211. Relation to Electronic Signatures in Global and National Commerce Act.

“16-4212. Uniformity of application and construction.

“16-4213. Application to existing agreements or referrals.

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“§ 16-4201. Definitions.

“For the purposes of this chapter, the term:

“(1) “Mediation” means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

“(2) “Mediation communication” means a statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.

“(3) “Mediation party” means a person that participates in a mediation and whose agreement is necessary to resolve the dispute.

“(4) “Mediator” means an individual who conducts a mediation.

“(5) “Nonparty participant” means a person, other than a party or mediator, that participates in a mediation.

“(6) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

“(7) “Proceeding” means:

“(A) A judicial, administrative, arbitral, or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery; or

“(B) A legislative hearing or similar process.

“(8) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“(9) “Sign” means:

“(A) To execute or adopt a tangible symbol with the present intent to authenticate a record; or

“(B) To attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate a record.

“§ 16-4202. Scope.

“(a) Except as otherwise provided in subsection (b) or (c) of this section, this chapter applies to a mediation in which:

“(1) The mediation parties are required to mediate by statute or court or administrative agency rule or referred to mediation by a court, administrative agency, or arbitrator;

“(2) The mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or

“(3) The mediation parties use as a mediator an individual who holds himself or

ENROLLED ORIGINAL

herself out as a mediator or the mediation is provided by a person that holds itself out as providing mediation.

“(b) The chapter does not apply to a mediation:

“(1) Relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship;

“(2) Relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that the chapter applies to a mediation arising out of a dispute that has been filed with an administrative agency or court;

“(3) Conducted by a judge who might make a ruling on the case; or

“(4) Conducted under the auspices of:

“(A) A primary or secondary school, if all the mediation parties are students;

“(B) A correctional institution for youths, if all the mediation parties are residents of that institution; or

“(C) The Office of the Attorney General for the District of Columbia or the Mayor, if the mediation arises from a consumer complaint under authority of Chapter 39 of Title 28 of the District of Columbia Official Code, and one of the mediation parties is the consumer complainant.

“(c) If the mediation parties agree in advance in a signed record, or a record of proceeding reflects agreement by the parties, that all or part of a mediation is not privileged, the privileges under §§ 16-4203 through 16-4205 shall not apply to the mediation or part agreed upon; provided, that §§ 16-4203 through 16-4205 shall apply to a mediation communication made by a person that has not received actual notice of the agreement before the communication is made.

“§ 16-4203. Privilege against disclosure; admissibility; discovery.

“(a) Except as otherwise provided in § 16-4205, a mediation communication is privileged as provided in subsection (b) of this section and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by § 16-4204.

“(b) In a proceeding, the following privileges apply:

“(1) A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.

“(2) A mediator may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication of the mediator.

“(3) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.

“(c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

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“§ 16-4204. Waiver and preclusion of privilege.

“(a) A privilege under § 16-4203 may be waived in a record or orally during a proceeding if it is expressly waived by all parties to the mediation and:

“(1) In the case of the privilege of a mediator, it is expressly waived by the mediator; and

“(2) In the case of the privilege of a nonparty participant, it is expressly waived by the nonparty participant.

“(b) A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under § 16-4203, but only to the extent necessary for the person prejudiced to respond to the representation or disclosure.

“(c) A person that intentionally uses a mediation to plan, attempt to commit, or commit a crime, or to conceal an ongoing crime or ongoing criminal activity, is precluded from asserting a privilege under § 16-4203.

“§ 16-4205. Exceptions to privilege.

“(a) There is no privilege under § 16-4203 for a mediation communication that is:

“(1) In an agreement evidenced by a record signed by all parties to the agreement;

“(2) Available to the public under § 1-207.42, or made during a session of a mediation which is open, or is required by law to be open, to the public;

“(3) A threat or statement of a plan to inflict bodily injury as defined by § 22-407, or commit a crime of violence as defined by § 22-4501(f) and § 23-1331.

“(4) Intentionally used to plan, attempt to commit, or commit a crime, or to conceal an ongoing crime or ongoing criminal activity;

“(5) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;

“(6) Except as otherwise provided in subsection (c) of this section, sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or

“(7) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the case is referred by a court to mediation and a public agency participates.

“(b) There is no privilege under § 16-4203 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that:

“(1) The evidence is not otherwise available;

“(2) There is a need for the evidence that substantially outweighs the interest in protecting confidentiality; and

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“(3) The mediation communication is sought or offered in:

“(A) A court proceeding involving a felony or misdemeanor; or

“(B) Except as otherwise provided in subsection (c) of this section, a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

“(c) A mediator may not be compelled to provide evidence of a mediation communication referred to in subsection (a)(6) or (b)(3)(B) of this section.

“(d) If a mediation communication is not privileged under subsection (a) or (b) of this section, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection (a) or (b) of this section does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

“§ 16-4206. Prohibited mediator reports:

“(a) Except as permitted in subsection (b) of this section, a mediator may not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, administrative agency, arbitrator, or other authority that may make a ruling on the dispute that is the subject of the mediation.

“(b) A mediator may disclose:

“(1) Whether the mediation occurred or has terminated, whether a settlement was reached, and attendance;

“(2) A mediation communication as permitted under §16-4205; or

“(3) A mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.

“(c) A communication made in violation of subsection (a) of this section may not be considered by a court, administrative agency, arbitrator, or other authority that may make a ruling on the dispute that is the subject of the mediation.

“§ 16-4207. Confidentiality.

“Unless subject to § 1-207.42, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of the District of Columbia.

“§ 16-4208. Mediator’s disclosure of conflicts of interest; background.

“(a) Before accepting a mediation, an individual who is requested to serve as a mediator shall:

“(1) Make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable participant in the mediation; and

“(2) Disclose any such known fact to the mediation parties as soon as is practical

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before accepting a mediation.

“(b) If a mediator learns any fact described in subsection (a)(1) of this section after accepting a mediation, the mediator shall disclose it as soon as is practicable.

“(c) At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator’s qualifications to mediate a dispute.

“(d) A person that violates subsection (a), (b), or (g) of this section is precluded by the violation from asserting a privilege under § 16-4203.

“(e) Subsections (a), (b), (c), and (g) of this section do not apply to an individual acting as a judge or administrative law judge.

“(f) This chapter does not require that a mediator have a special qualification by background or profession.

“(g) A mediator must be impartial, unless after disclosure of the facts required in subsections (a) and (b) of this section to be disclosed, the parties agree otherwise.

“§ 16-4209. Participation in mediation.

“(a) An attorney or other individual designated by a mediation party may accompany the party to and participate in a mediation.

“(b) A waiver of participation given before the mediation may be rescinded.

“§ 16-4210. International commercial mediation.

“(a) For the purposes of this section, the term:

“(1) “International commercial mediation” means an international commercial conciliation as defined in Article 1 of the Model Law.

“(2) “Model Law” means the Model Law on International Commercial Conciliation adopted by the United Nations Commission on International Trade Law on June 28, 2002 and recommended by the United Nations General Assembly in a resolution (A/RES/57/18) dated November 19, 2002.

“(b) Except as otherwise provided in subsections (c) and (d) of this section, if a mediation is an international commercial mediation, the mediation is governed by the Model Law.

“(c) Unless the mediation parties agree in accordance with § 16-4202(c) that all or part of an international commercial mediation is not privileged, §§ 16-4203, 16-4204, and 16-4205 and any applicable definitions in § 16-4201 also apply to the mediation and nothing in Article 10 of the Model Law derogates from §§ 16-4203, 16-4204, and 16-4205.

“(d) If the parties to an international commercial mediation agree under Article 1, subsection (7) of the Model Law that the Model Law does not apply, this chapter applies.

“§ 16-4211. Relation to Electronic Signatures in Global and National Commerce Act.

“This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001 *et seq.*), but this chapter does not modify, limit, or supersede section 101(c) of that act or authorize electronic delivery of any of the notices described in section 103(b) of that act.

“§ 16-4212. Uniformity of application and construction.

“In applying and construing this chapter, consideration should be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

“§ 16-4213. Application to existing agreements or referrals.

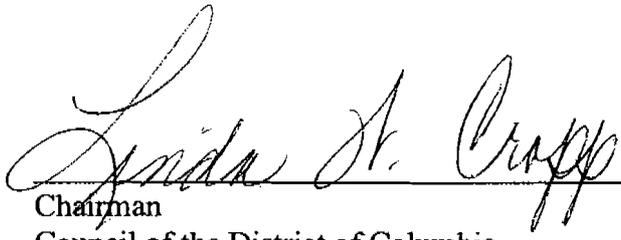
“On or after January 1, 2007, this chapter governs a mediation pursuant to a referral or an agreement to mediate, whenever made.”.

Sec. 3. Fiscal impact statement.

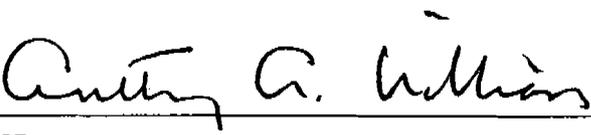
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. 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
APPROVED
January 26, 2006

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-274

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 26, 2006

*Codification
District of
Columbia
Official Code*

2001 Edition

2006 Spring
Supp.

West Group
Publisher

To amend, on a temporary basis, the District of Columbia Traffic Act, 1925 to accommodate a new federal tax exemption associated with the purchase of low-emissions motor vehicles.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Low-Emissions Motor Vehicle Tax Exemption Temporary Amendment Act of 2006".

Sec. 2. Section 6(j)(3)(J) of the District of Columbia Traffic Act, 1925, effective March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.03(j)(3)(J)), is amended to read as follows:

Note,
§ 50-2201.03

"(J) The following low-emissions motor vehicles:

"(i) A new clean fuel or electric vehicle titled in the District of Columbia before January 1, 2006 determined by the United States Internal Revenue Service to be eligible for a federal tax deduction or credit pursuant to 26 U.S.C. §§ 30 and 179A; and

"(ii) A new fuel cell, lean burn technology, hybrid, or alternative fuel motor vehicle titled in the District of Columbia on or after January 1, 2006; provided, that the owner presents proof, to the satisfaction of the Mayor, that the purchase of the vehicle entitles that owner to a federal tax credit pursuant to the Energy Policy Act of 2005 approved August 8, 2005 (Pub. L. No. 109-58; 119 Stat. 594)."

Sec. 3. Section 3(b)(1) of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 680; D.C. Official Code § 50-1501.03(b)(1)), is amended by striking the phrase "Class IV (A clean fuel or electric vehicle determined by the United States Internal Revenue Service to be eligible for a federal tax deduction or credit pursuant to 26 U.S.C. §§ 30 and 179A for the tax year during which it is being registered)" and inserting the phrase "Class IV (A new clean fuel or electric vehicle titled before January 1, 2006, determined by the United States Internal Revenue Service to be eligible for a federal tax deduction or credit pursuant to 26 U.S.C. §§ 30 and 179A; and a new fuel cell, lean burn technology, hybrid, or alternative fuel motor vehicle titled on or after January 1, 2006; provided, that the owner presents proof, to the

Note,
§ 50-1501.03

satisfaction of the Mayor, that the purchase of the vehicle entitles the owner to a federal tax credit pursuant to the Energy Policy Act of 2005. This provision shall only apply to the first 2 years of the vehicle's registration, after which the vehicle shall be treated as a Class I, Class II, or Class III, whichever is applicable.)" in its place.

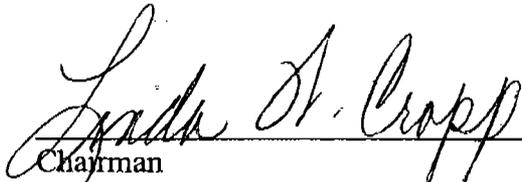
Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director to the Council dated December 5, 2005 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)).

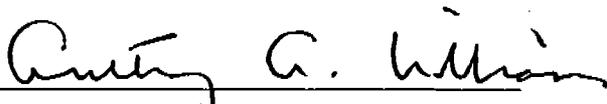
Sec. 5. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of a 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.

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 26, 2006

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-275

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 30, 2006*Codification
District of
Columbia
Official Code*

2001 Edition

2006 Spring
Supp.West Group
Publisher

To establish the Office of Gay, Lesbian, Bisexual, and Transgender Affairs and an Advisory Committee to the Office.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Gay, Lesbian, Bisexual, and Transgender Affairs Act of 2006".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Advisory Committee" means the Advisory Committee to the Office Gay, Lesbian, Bisexual, and Transgender Affairs.
- (2) "Gay, lesbian, bisexual, and transgender" means individuals who identify themselves as gay, lesbian, bisexual, or transgender and who are residents of the District of Columbia.
- (3) "Office" means the Office of Gay, Lesbian, Bisexual and Transgender Affairs established in section 3.

Sec. 3. Establishment of the Office of Gay, Lesbian, Bisexual, and Transgender Affairs; Advisory Committee.

(a) There is established within the Executive Office of the Mayor, the Office of Gay, Lesbian, Bisexual, and Transgender Affairs ("Office). The Office shall administer such programs as shall be delegated to it by the Mayor and the Council to promote the welfare of the gay, lesbian, bisexual and transgender community.

(b) The Mayor shall establish an Advisory Committee, consisting of not more than 25 public members, whose members shall be representative of the diversity of people and ideas within the gay, lesbian, bisexual and transgender community. The Advisory Committee shall include, at a minimum, representation from gay, lesbian, bisexual and transgender community organizations representing health, social service, religious, and human rights issues and its members shall be representative of the diversity in the community with regard to socio-economic status, religion, race, ethnicity, gender identification, age, and families. The Advisory Committee shall advise the Director and the Mayor on issues relating to the gay, lesbian, bisexual and transgender community and on issues relating to the mission of the Office.

Sec. 4. Appointment of Director; compensation; staff.

(a)(1) The Office shall be administered by the Director, who shall be appointed by the Mayor. The Director shall devote his or her full-time to the duties of the Office. His or

ENROLLED ORIGINAL

her annual compensation shall not be lower than a DS-15, step one, or equivalent compensation pursuant to sections 1051 through 1063 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law 12-124; D.C. Official Code § § 1-610.51 through 1-610.63).

(2) The Office shall have 2 full-time employees, plus any temporary staff approved by the Office of Budget and Planning.

(b) The Director shall:

(1) Serve as an advocate for the gay, lesbian, bisexual and transgender community in the District of Columbia;

(2) Assist community organizations in developing and submitting grant applications;

(3) Provide information and technical assistance with respect to programs and services for the Gay, Lesbian, Bisexual and Transgender community to the Mayor, the Council, other District of Columbia agencies and departments, and the community;

(4) File an annual report on the operation of the Office with the Mayor and the Council;

(5) Identify areas of need for service or improvement of services and bring them to the attention of the Mayor, with suggestions for satisfying such needs, including conducting or funding research and demonstration projects to test the suggestions;

(6) Assure necessary control, evaluation, audit, and reporting on programs funded through the Office;

(7) Accept volunteer services and funds from the public and private sectors to supplement the budget in carrying out the planning duties and responsibilities of the Office;

(8) Meet with the Gay, Lesbian, Bisexual and Transgender Program Coordinators within each department and agency of the District government as a group, at least once a month to coordinate activities within the government involving the gay, lesbian, bisexual and transgender community;

(9) Meet with each department and agency director to establish a Gay, Lesbian, Bisexual and Transgender Coordinator;

(10) Work with the Department of Health's Gay, Lesbian, Bisexual and Transgendered program coordinator to ensure that the Department's annual report on the status of gay, lesbian, bisexual and transgender health in the District of Columbia is comprehensive and receives an appropriate response.

Sec. 5. 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)).

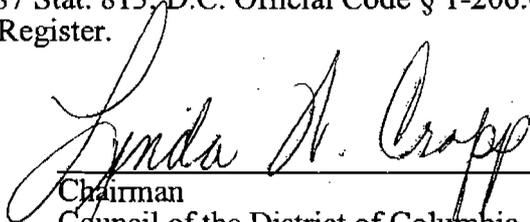
Sec. 6. Effective date.

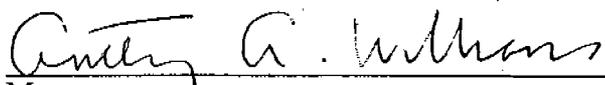
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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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

APPROVED
January 30, 2006.

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-276IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 31, 2006Codification
District of
Columbia
Official Code

2001 Edition

2006 Spring
Supp.West Group
Publisher

To amend the Department of Health Functions Clarification Act of 2001 to authorize the Department of Health to conduct inspections of all places of employment and enclosed public places in the District of Columbia to ensure the absence of smoking, to define the conditions and penalties for a violation of this requirement, and to provide for employee rights and protections.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Health Functions Clarification Amendment Act of 2006".

Sec. 2. The Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731 *et seq.*), is amended as follows:

(a) Designate the existing text as Part A. General powers, fees, and funds.

(b) Add a new Part B to read as follows:

"Part B. Inspections, Penalties, Waiver, and Employee Rights.

"Sec. 4915. Definitions.

"For the purposes of this part, the term:

"(1) "Enclosed area" means all the space between a floor and ceiling that is enclosed on all sides by solid walls or windows or doors, exclusive of doorways, that extend from the floor to the ceiling.

"(2) "Place of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, and vehicles owned by a private employer, if the vehicle is used by more than one person, and excludes a private residence, unless it is used as a child care, adult day care, or health care facility.

"(3) "Public place" means an enclosed area to which the public is invited or in which the public is permitted, including banks, educational facilities, health care facilities, Laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, nightclubs, retail service establishments, retail stores, shopping

ENROLLED ORIGINAL

malls, sports arenas, taverns, theaters, and waiting rooms, and excludes a private residence, unless it is used as a child care, adult day care, or health care facility.

“(4) “Smoking” means the burning of a lighted cigar, cigarette, pipe, or any other matter or substance that contains tobacco.

“(5) “Tobacco bar” means a restaurant, tavern, brew pub, club, or nightclub that generates 10% or more of its total annual revenue from the on-site sale of tobacco products, excluding sales from vending machines, or the rental of on-site humidors.

“Sec. 4916. Smoking prohibitions; inspections.

The Department of Health is authorized to conduct inspections of all places of employment and public places to ensure that the activity of smoking in such places, which is hereby prohibited, is not taking place, except that:

“(1) Between the enactment of the Department of Health Functions Clarification Amendment Act of 2005, passed on 2nd reading on January 4, 2006 (Enrolled version of Bill 16-293), and January 1, 2007, the smoking prohibition set forth in this section shall not apply to a brew pub, club, nightclub, or tavern as those entities are defined in D.C. Official Code § 25-101 or the bar and bar area of a restaurant. This exception shall not apply to an indoor restaurant table of a restaurant, as defined in D.C. Official Code § 25-101.

“(2) After January 1, 2007, the exception described in paragraph (1) of this section shall expire and smoking shall be prohibited in all places of employment and public places at all times.

“(3) The places described in this act shall be required to post signs pursuant to section 5 of the District of Columbia Smoking Restriction Act of 1979, effective July 12, 1979 (D.C. Law 3-22; D.C. Official Code § 7-1704), (“1979 act”), and in accordance with regulations issued pursuant to the 1979 act or any other District law.

“Sec. 4917. Exemptions.

“The following places shall be exempt from the provisions of this part:

“(1) A retail store that is used primarily for the sale of tobacco products and accessories in which the total annual revenue generated by the sale of non-tobacco products or accessories is no greater than 25% of the total revenue of the establishment; provided, that it does not share space with any other establishment;

“(2) A tobacco bar;

“(3) An outdoor area of a restaurant, tavern, club, brew pub, or nightclub;

“(4) A hotel room or motel room rented to one or more guests;

“(5) A medical treatment, research, or nonprofit institution where the activity of smoking is conducted for the purpose of medical research or is an integral part of a smoking cessation program; and

“(6) Theatrical productions.

“Sec. 4918. Penalties.

“An employer or person who willfully violates the requirements of this act by:

“(1) Smoking in a prohibited area shall be subject to a fine of not less than \$100

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or more than \$1,000; subsequent offenses shall be subject to a fine of not less than \$200 or more than \$1,000;

“(2) Obscuring, removing, defacing, mutilating or destroying any sign posted in accordance with the provisions of this act shall be subject to a fine of \$500; or

“(3) Failing to post or maintain warning signs describing the prohibited activity and failing to notify a person observed to be smoking to stop the activity, as required by this subsection, shall be subject to a fine of \$500; each day that a violation continues shall constitute a separate offense.

“Sec. 4919. Economic hardship waiver.

“(a) The Mayor may grant an economic hardship waiver from the requirements of this part; provided, that prior to the granting of a waiver, the applicant establishes, to the satisfaction of the Mayor, that compliance with the requirements of this part has caused or will cause undue financial hardship. An economic hardship waiver shall be based on regulations issued in accordance with section 4921.

“(b) Notwithstanding any other provision of law, places of employment and public places where smoking is permitted pursuant to subsection (a) of this section shall:

“(1) Have been in existence on or before January 1, 2007;

“(2) Not permit smoking in an area that exceeds 25% of the total area, if the place of employment or public place is a restaurant as defined in D.C. Official Code § 25-101; and

“(3) Be subject to conditions or restrictions as may be necessary to minimize the adverse effects of smoking and shall be consistent with the general purpose of part B of this act.

“Sec. 4920. Employee rights and protections.

“(a) Places of employment and enclosed public places that permit smoking pursuant to this act shall not require employees to work in smoking areas provided that an employee requests to work solely in non-smoking areas.

“(1) An employee who is aggrieved by a violation of this subsection shall have a private cause of action against the owner, manager, or person in charge of the place of employment or public place.

“(2) An employee shall pursue and exhaust all remedies available pursuant to any collective bargaining agreement, grievance procedure, or other established means of resolving employer-employee disputes to resolve a violation of this subsection prior to commencing a civil action.

“(b) An owner, manager, or other person responsible for a place of employment or public place that permits smoking under this part shall not:

“(1) Require an employee to work in a smoking area; provided, the employee requests to work in the non-smoking area only;

“(2) Discharge or otherwise discriminate against any employee with respect to compensation or any other term, condition, or privilege of employment on the basis that the employee or applicant requested to work in a non-smoking area; or

“(3) Discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this act or reports a violation of this act.

“(c) An employee who is aggrieved by a violation of this section shall be entitled to recover damages, including lost or back wages or salary. The court, in its discretion, may allow the prevailing party a reasonable attorney’s fee as part of the costs.

“Sec. 4921. Rulemaking.

“The Mayor is authorized to promulgate rules necessary to implement this act. Any proposed regulations issued pursuant to this act shall be submitted to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed regulations, in whole or in part, by resolution within this 60-day review period, the proposed rules shall be deemed approved.”

Sec. 3. 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. 4. 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

UN S I G N E D

Mayor
District of Columbia

January 30, 2006
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