

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Codification
District of
Columbia
Official Code

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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

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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).”.

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§ 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:

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§ 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

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

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3108 - 42-
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§ 42-3111

“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:

Amend
§ 42-3131.02

(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

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

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(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

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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