

AN ACT

Bill 20-143
Act 20-189
effective
October 17,
2013

Codification
District of
Columbia
Official Code
2001 Edition

Personal
Property
Robbery
Prevention
Amendment
Act of 2013

To amend Chapter 28 of Title 47 of the District of Columbia Official Code to enable the Mayor to suspend or revoke the business licenses of any business engaged in the buying or selling of stolen items; to amend section 16-1001.04 of the District of Columbia Municipal Regulations to include, in the account of each transaction by a junk dealer or secondhand dealer, information regarding the title of the good transacted; and to amend Chapter 8 of Title 16 of the District of Columbia Official Code to establish the burden of proof for sealing arrest records in certain cases.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Personal Property Robbery Prevention Amendment Act of 2013”.

Sec. 2. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2837(d) is repealed.

Amend
§ 47-2837

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

Amend
§ 47-2844

(1) Subsection (a) is amended by striking the phrase “The Council of the District

of Columbia is” and inserting the phrase “The Council of the District of Columbia and Mayor are” in its place.

(2) New subsections (a-2) and (a-3) are added to read as follows:

“(a-2)(1) In addition to the provisions of subsection (a-1) of this section, the Mayor, notwithstanding § 2-1801.04(a)(1)), may take the following actions against any licensee, or agent or employee of a licensee, that, with or without the appropriate license required under this chapter, engages in the purchase, sale, exchange, or any other form of commercial transaction involving used goods or merchandise that are knowingly stolen:

“(A) The Mayor, for the first violation of this subsection:

“(i) Shall issue a fine in the amount of \$2,500; and

“(ii) May seal the licensee’s premises for up to 96

hours without a prior hearing.

“(B) The Mayor, for the second violation of this subsection:

“(i) Shall issue a fine in the amount of \$5,000;

“(ii) May seal the licensee’s premises for up to 96 hours without a

prior hearing; and

“(iii)(I) Shall, within 30 days of the issuance of a fine, require the licensee to submit a remediation plan approved by the Mayor, in consultation with the Chief of Police, that contains the licensee’s plan to prevent any future recurrence of purchasing, selling, exchanging, or otherwise transacting stolen goods and acknowledgement that a subsequent occurrence of engaging in prohibited activities may result in the revocation of all licenses issued to the licensee pursuant to this chapter.

(II) If the licensee fails to submit a remediation plan in accordance with this sub-subparagraph, or if the Mayor rejects the licensee’s remediation plan, the Mayor shall provide written notice to the licensee of the Mayor’s intent to suspend all licenses issued to the licensee pursuant to this chapter for an additional 30 days.

“(C) The Mayor, for the third violation of this subsection:

(i) Shall issue a fine in the amount of \$10,000;

(ii) May seal the licensee’s premises for up to 96 hours without a prior hearing; and

(iii) Shall provide written notice to the licensee of the Mayor’s intent to permanently revoke all licenses issued to the licensee pursuant to this chapter.

“(2)(A) A violation of this subsection shall be a civil infraction for purposes of Chapter 18 of Title 2. Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this subsection, or the rules issued under authority of this subsection, pursuant to Chapter 18 of Title 2.

“(B) Adjudication of any infraction of this subsection shall be pursuant to Chapter 18 of Title 2.

“(C) Summary action taken pursuant to this subsection shall be pursuant to subchapter 1 of Chapter 18 of Title 2.

“(3) In addition to other remedies provided by law, the Office of the Attorney General for the District of Columbia may commence an action in the Civil Branch of the Superior Court of the District of Columbia to compel compliance, abate, enjoin, or prevent violations of this subsection. Plaintiff need not prove irreparable injury or harm to obtain a preliminary or temporary injunction.”.

“(a-3)(1) The term “knowingly” includes:

“(A) For the purposes of subsections (a-1) and (a-2) of this section, actual notice of a specific violation set forth in subsection (a-1) or (a-2) of this section to the licensee, or agent or employee of the licensee, issued by a District agency notifying the licensee, or agent or employee of the licensee, of the same or similar violation occurring on the licensee’s premises; or

“(B) For the purposes of subsection (a-2) of this section, constructive notice to the licensee, or agent or employee of the licensee, resulting from the failure of the

licensee, or agent or employee of the licensee, to ascertain the ownership of the used goods or merchandise.

“(2) For the purposes of this subsection, actual or constructive notice to the agent or employee of the licensee constitutes notice to the licensee.”.

(3) Subsection (b) is amended by striking the phrase “the Council” and inserting the phrase “the Mayor” in its place.

Sec. 3. Section 16-1001.04(f) of the District of Columbia Municipal Regulations is amended by striking the phrase “purchase or receipt.” and inserting the phrase “purchase or receipt, including the title of the goods, article, or other thing purchased or received.” in its place.

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Sec. 4. Chapter 8 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-803(i)(1) is amended to read as follows:

**Amend
§ 16-803**

“(i)(1) In a motion filed under subsection (a), (c-1), or (c-2) of this section, the burden shall be on the prosecutor to establish by a preponderance of the evidence that it is not in the interests of justice to grant relief.”.

(b) Section 16-803.01(b)(2) is amended to read as follows:

**Amend
§ 16-803.01**

“(2)(A) In all other cases under this section, the Superior Court may grant a motion to seal if it is in the interest of justice to do so. In making this determination, the court shall consider:

“(i) The interests of the movant in sealing the publicly available records of his or her arrest and related court proceedings;

“(ii) The community’s interest in retaining access to those records;

“(iii) The community’s interest in furthering the movant’s rehabilitation and enhancing the movant’s employability; and

“(iv) Any other information it considers relevant.

“(B) The burden shall be on the movant to establish by a preponderance of the evidence that it is in the interest of justice to grant relief.”.

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

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.