

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To clarify, on an emergency basis, the functions transferred from the Department of Consumer and Regulatory Affairs to the Department of Health pursuant to Reorganization Plan No. 4 of 1996, to establish an agency fund to support the regulatory functions of the Department of Health, to establish the Health Occupations Regulation Account as a nonlapsing account to provide funding for the boards established pursuant to the District of Columbia Health Occupations Revision Act to discharge their duties as provided in the laws, regulations, and rules of the District of Columbia as they relate to the practice of the health professions, to provide the Mayor with the authority to collect fees for services the Public Health Laboratory provides to the general public and community-based organizations, and to establish the Public Health Laboratory Fund as a nonlapsing agency fund into which fees collected for services provided by the Public Health Laboratory shall be deposited for the purpose of supporting the laboratory, including hiring staff, purchasing supplies, maintaining equipment, and continuing education for laboratory personnel.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Health Functions Clarification Emergency Act of 2001".

Sec. 2. (a) Notwithstanding the licensing powers and responsibilities given to other District agencies and officials in subchapters I-A and I-B of Chapter 28 of Title 47 of the District of Columbia Code, the Department of Health, as established by Reorganization Plan No. 4 of 1996, effective July 17, 1996, shall be the exclusive agency to:

- (1) Regulate health care and social service professionals;
- (2) Regulate occupational and professional conduct and standards for health care and social service professionals, including investigating, licensing, and enforcing applicable laws and regulations;
- (3) Regulate actions that affect the physical environment and ensure compliance with applicable federal and District laws and rules that govern the uses and practices that affect the physical environment, including air resources management, water resources management, stormwater management, soil resources management, hazardous waste, pesticides, lead poison

program implementation, asbestos program management, underground storage tank regulation, aquatic and wildlife resources management, medical waste management, low-level radioactive waste control, and toxic chemical control;

(4) Regulate health care and social service facilities;

(5) Regulate food service establishments, including, but not limited to, retailers and wholesalers of food and food products, grocery stores, restaurants, food vendors, dairies, patent medicine outlets, ice cream manufacturers, candy manufacturers, bottling establishments, wholesale and retail seafood dealers, delicatessens, and bakeries;

(6) Regulate pharmacies and pharmacy personnel;

(7) Determine which drugs and other substances shall be classified as controlled substances, and identify persons and facilities that handle, manage, distribute, dispense, and conduct research with controlled substances;

(8) Regulate radiological and medical devices;

(9) Regulate the manufacture, distribution, and dispensing of controlled substances;

(10) Regulate the operation of barber shops and beauty salons;

(11) Regulate swimming pools;

(12) Regulate massage and health spa establishments;

(13) Regulate animal disease control and rodent control; and

(14) Perform any other functions expressly described in Reorganization Plan No. 4 of 1996, as construed in light of all documents formally made a part of Reorganization Plan No. 4 of 1996 pursuant to section 6 of the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4-42; D.C. Code § 1-299.5).

(b) For the purpose of this section, the term "regulate" shall include all licensing, certification, investigation, inspection, permitting, registration, and enforcement functions, including the issuance of civil infractions, except that the Department of Consumer and Regulatory Affairs shall continue to issue licenses for businesses engaged in functions related to the physical environment as set forth in subsection (a)(3) of this section.

(c) The Mayor shall establish fees to implement this section. All fines and fees collected pursuant to this section shall be deposited as nonlapsing funds in the Department of Health Regulatory Enforcement Fund to the credit of the administration within the Department of Health responsible for collecting the fees to support the activities of those programs, except that fines and fees collected pursuant to the Rodent Control Act of 2000, effective October 19, 2000 (D.C. Law 13-172; 47 DCR 6308) shall be deposited in the Rodent Control Fund. After September 30, 2002, fines and fees generated through rodent control activities shall be deposited in the Department of Health Regulatory Enforcement Fund.

Sec. 3. Regulatory Enforcement Fund.

(a) There is established the Department of Health Regulatory Enforcement Fund ("Fund") as a nonlapsing, revolving fund, to be administered by the Mayor as an agency fund as defined in section 373(2)(I) of Title 47 of the District of Columbia Code, to be used exclusively for the purposes stated in section 2. Revenues deposited into the Fund shall not revert to the General Fund at the end of any fiscal year or at any other time but shall be continually available to the Department of Health for the uses and purposes set forth in section 2, subject to authorization by Congress in an appropriations act.

(b) The Fund shall be financed through fines and fees received from enforcement and regulation of the activities described in section 2.

(c) The Fund shall be accounted for under procedures established pursuant to subchapter V of Chapter 3 of Title 47 of the District of Columbia Code.

(d) Disbursements from the Fund shall be used to support the regulatory functions of the Department of Health described in section 2, including purchasing supplies and equipment, training, and hiring staff.

Sec. 4. Health Occupations Regulation Account.

(a) There is established as a nonlapsing, revolving account in the Department of Health the Health Occupations Regulation Account ("Account"), to be administered by the Mayor as an agency fund as defined in section 373(2)(I) of Title 47 of the District of Columbia Code, to which all licensing fees, civil fines, and interest relating to the practice of health occupations in the District shall be deposited and credited.

(b) Revenues deposited into the Account shall not revert to the General Fund at the end of any fiscal year or at any other time but shall be continually available to the Department of Health for the uses and purposes set forth in subsection (c) of this section, subject to authorization by Congress in an appropriations act.

(c) Subject to the applicable laws relating to the appropriation of District funds, monies received by and deposited in the Health Occupations Regulation Account shall be for the sole use of the boards established pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Code § 2-3301 *et seq.*), and from it shall be paid all salaries and all other expenses necessary in carrying out the duties of the boards. The Mayor shall be responsible for the deposit and expenditure of these monies.

(d) The Mayor shall submit to the Council, as a part of the annual budget, a requested appropriation for expenditures from the Health Occupations Regulation Account. The Mayor's budget request shall be based on an estimated projection of the expenditures necessary to perform the administrative and regulatory functions of the boards established pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Code § 2-3301 *et seq.*).

Sec. 5. Public Health Laboratory fees.

The Mayor is authorized to establish a schedule of fees for performing laboratory analysis of biological and environmental samples obtained from humans, animals, or various environmental media for the purpose of identifying environmental contaminants and performing epidemiological surveillance for cases of lead poisoning, tuberculosis, rabies, and sexually transmitted diseases. The schedule of fees may account for the provision of bulk services and may distinguish between services provided to individuals and organizations. The schedule of fees may be developed on a sliding scale based on a person's or organization's ability to pay for laboratory analysis, or may be waived in cases of extreme need.

Sec. 6. Public Health Laboratory Fund.

(a) There is established the Public Health Laboratory Fund ("Laboratory Fund") as a nonlapsing, revolving fund, to be administered by the Mayor as an agency fund as defined in section 373(2)(I) of Title 47 of the District of Columbia Code, to be used exclusively for the purposes stated in section 7. Revenues deposited into the Laboratory Fund shall not revert to the General Fund at the end of any fiscal year or at any other time but shall be continually available to the Department of Health for the uses and purposes set forth in section 7, subject to authorization by Congress in an appropriations act

(b) The Laboratory Fund shall be financed through fees received for services provided by the District government pursuant to section 5 and rules promulgated by the Mayor.

(c) The Laboratory Fund shall be accounted for under procedures established pursuant to subchapter V of Chapter 3 of Title 47 of the District of Columbia Code.

Sec. 7. Disbursements from the Laboratory Fund.

Disbursements from the Laboratory Fund shall be used to support the functions of the Public Health Laboratory described in section 5, including hiring staff, purchasing supplies, maintaining equipment, and continuing education for laboratory personnel.

Sec. 8. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*), shall issue rules to implement the provisions of this act.

Sec. 9. Fiscal impact statement.

There is no negative fiscal impact associated with this legislation.

ENROLLED ORIGINAL

Sec. 10. 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) and approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3 (a)), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-229(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia