

Liberia Drug Enforcement Agency Act 2014

Liberian Legislative Acts (Handbills)

AN ACT TO AMEND CERTAIN PROVISIONS OF AN ACT ESTABLISHING THE DRUG ENFORCEMENT AGENCY

"LIBERIA DRUG ENFORCEMENT AGENCY ACT"

It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

SECTION 1: Chapter 22 Ministry of Justice of the Executive Law, Subchapter F Drug Enforcement Agency, Title 10, Liberian Code of Laws Revised is hereby amended to read as follows:

Chapter 22 MINISTRY OF JUSTICE

Sub-chapter F. Liberia Drug Enforcement Agency

PART I

Establishment, Functions, Powers and Immunities of the Liberia Drug Enforcement Agency

§22.101. Definitions

§22.102. Establishment of Liberia Drug Enforcement Agency

§22.103. Functions of Liberia Drug Enforcement Agency

§22.104. Powers and Duties of the Liberia Drug Enforcement Agency

§22.105. Immunities of Liberia Drug Enforcement Agency

§22.101. Definition

In this subchapter, unless the context otherwise requires,

"The Board" means the Controlled Drugs and Substances Board;

"The Committee" means the Fund Management Committee of the Board;

"Controlled Drug or Substance" means any of the drugs or substances in Schedules I, II, III, IV contained in the Annex to Subchapter E Controlled Drugs and Substances of the Penal Law.

"controlled precursors and essential chemicals" any of the precursors and essential chemicals listed in Tables I and II annexed to Subchapter E. Controlled Drugs and Substances of the Penal Law;

"Director General" means the Director General of the Drug Enforcement Agency;

"the Fund" means the Drug Abuse Prevention and Control Fund";

"LDEA" means Liberia Drug Enforcement Agency: and

"Minister" means the Minister of Justice.

§22.102. Establishment of Liberia Drug Enforcement Agency

The Liberia Drug Enforcement Agency (LDEA) is hereby established as a semi-autonomous agency under the supervisory authority of the Ministry of Justice. To carry out the provisions of this subchapter, the LDEA which serves as the implementing arm of the Board, shall be responsible for the efficient and effective law enforcement of all the provisions on any controlled drugs or substances and/or controlled precursors and essential chemicals as provided for under this Act, the Penal Law and any other relevant laws of the Republic of Liberia. In addition to regular and appropriate funding from the Government of Liberia, LDEA is hereby authorized to independently identify possible sources of International assistance and pursue the mobilization of available financial and technical assistance.

§22.103. Functions of Liberia Drug Enforcement Agency

The LDEA shall:

(a) formulate, monitor and coordinate national programs for combating illicit drug product trafficking and drug money laundering;

(b) formulate anti-drug policies;

(c) adopt measures to identify, trace, freeze, confiscate or seize proceeds derived from drug related offenses or property whose value correspond with such proceeds in keeping with law;

(d) prevent and suppress illicit trafficking and unauthorized use of narcotic drugs and psychotropic substances or controlled drugs;

(e) lend assistance in any investigation or prosecution relating to controlled drugs or substances upon request by a foreign State or receives such assistance from a foreign State pursuant to mutual legal assistance in criminal matters under the Criminal Procedure Law;

(f) establish national drug intelligence system in collaboration with law enforcement

agencies, other relevant government agencies/offices and local government units with clearly defined roles established memorandums of understanding; and

(g) initiate, develop or improve specific training programs for its law enforcement and other personnel with responsibility for the for the suppression of drug offenses pursuant to this sub-chapter.

§22.104. Powers and Duties of the Liberia Drug Enforcement Agency
The LDEA shall:

(a) undertake, coordinate, collaborate and facilitate the efficient and effective enforcement of the provisions of the Controlled Drug and Substances Law and any other anti-drug legislation under the Penal Law relative to unlawful acts involving any controlled drug and substances, precursor and essential chemical, and investigate alleged violators;

(b) investigate alleged drug offenses;

(c) arrest and apprehend as well as search all alleged violators and seize for the purpose of confiscation, the effects or proceeds of the crimes as provided by law and take custody thereof;

(d) take charge and have custody of all controlled drugs or substances and/or controlled precursors and essential chemicals seized, confiscated or surrendered to any national or local law enforcement agency other than portions needed for purposes of evidence in court;

(e) establish forensic laboratories in order to facilitate action on seized or confiscated drug, thereby hastening the destruction without delay in keeping with law or regulation or where a matter is before the court upon a court order;

(f) establish post seizure of drugs procedures in keeping with law.

(g) perform drug testing, and maintain required records which can be used for estimates or statistical purposes;

(h) monitor and in coordination with the Ministry of Postal Affairs and the competent authority responsible for customs, inspect all air cargo packages, parcels and mails in the central or other post office which appear from the package and address itself to be a possible importation of controlled drugs or substances and/or controlled precursors and essential chemicals pursuant to law;

(i) develop and conduct eradication programs to destroy wild or illegal growth of plants from which controlled drugs or substances may be extracted pursuant to regulations;

j) establish and maintain close coordination, cooperation and linkages with international drug control administration agencies and organizations, and implement agreements related to controlled drug or substances to which Liberia is a party;

(k) establish procedures for confiscated, seized controlled drugs and substances precursors and essential chemicals in keeping with law;

(l) provide for deployment of its personnel, agents, officers at borders to monitor in coordination with competent authorities all borders and ports of entry of the Republic of Liberia implement its mandate under this subchapter;

(m) coordinate with other competent authorities in stopping, boarding, diverting or detaining a ship or fishing vessel on Liberian territorial waters, regardless of registered nationality of the ship, suspected of

violation of the Penal Law as relates to drug offenses and make arrests, searches and investigations based on ions to be established by the Ministry of Justice in accordance with maritime law, maritime conventions and international law;

(n) plan, develop and undertake public outreach and awareness programs; in coordination with other state institutions, when applicable and

(o) issue regulations to implement this subchapter.

§22.105. Immunities of Liberia Drug Enforcement Agency

An employee of LDEA shall not, in his/her personal capacity, be liable in civil or criminal proceedings in respect of any act or omission done in good faith in the performance of his/her functions under this subchapter.

PART II

Organization and Structure

§22.106. Appointment of Director General, Deputy Director

§21.107. Duties of the Director General

§22.108. Duties of the Deputy Director for Operations

§22.109. Duties of the Deputy Director for Administration

§21.110. The National Counternarcotics Academy

§22.106. Appointment of Director General, Deputy Director

(a) The LDEA shall be headed by a Director General, who shall be responsible for the general administration and management of LDEA. The Director General shall be appointed by the President of Liberia by and with the advice and consent of the Senate.

(b) The Director General shall possess adequate knowledge, training and experience in the field of controlled drugs or substances, and shall be qualified in any of the following fields: law enforcement; law; medicine; criminology; psychology; or social work. He/she must have

had at least five (5) years of working experience in any of said fields prior to appointment.

(c) The Director General shall be assisted in the performance of his/her duties and responsibilities by a Deputy Director General for Operations and a Deputy Director General for Administration.

(d) The Deputy Director for Operations shall head the Operations Department, and the Deputy Director for Administration shall head the Administration Department. They shall be appointed by the President of Liberia by and with the advice and consent of the Senate.

(e) The Deputy Director for Operations and the Deputy Director for Administration shall possess qualifications as specified for the Director General in Subsection (b) of this Section except that they must have at least three (3) years of working experience in any of said fields prior to their appointment.

(f) The Director General, the Deputy Director General for Operations and the Deputy Director General for Administration shall receive compensation and salaries as prescribed by law.

§21.107. Duties of the Director General

The Director General of the LDEA shall be responsible for the necessary changes in the organizational set-up which shall be submitted to the Minister for approval. It shall be the duty of the Director General to:

(a) Orientate, guide, supervise and provide strategic guidelines for the overall function of LDEA delegating responsibilities accordingly with the concrete needs:

(b) Oversee the enforcement of penal and regulatory provisions relating to illicit drugs and trafficking;

(c) Appoint staff below that of deputy director general as deemed necessary to assist LDEA in the performance of its functions;

(d) Oversee recruitment, retirement, promotions, dismissal of personnel of LDEA in keeping with human resources policies.

(e) Supervise departments, and oversee divisions, sections and units of the LDEA in order to ensure effective and efficient performance of respective functions and duties, and that they are in line with international best practices;

(f) Chair or designate a Chair for regional, senior or general staff meetings; and

(g) Represent LDEA or designate a representative for external conference and seminars.

§22.108. Duties of the Deputy Director for Operations

Under the direction and subject to the control of the Director General, and upon delegation by the Director General, the duties of the Deputy Director for Operations may include supervising and coordinating for LDEA:

(a) intelligent and investigation service;

(b) Compliance service;

(c) Plans and operations service;

(d) International cooperation service;

(e) Special enforcement service; and

(f) Laboratory service;

§22.109. Duties of the Deputy Director for Administration

Under the direction and subject to the control of the Director General, and upon delegation by Director General, the duties of the Deputy Director for Administration may include supervising and coordinating for LDEA:

(a) Human resources management;

(b) Personnel training programs;

(c) Financial management;

(d) Logistical management;

(e) Preventive education and community involvement service; and

f) Legal service.

§21.110. The National Counternarcotics Academy

Upon approval of the Minister, and based upon budgetary appropriation, the National Counternarcotics Academy may be established, and will be responsible for the recruitment for training of all agents and personnel of LDEA with criteria established by regulation regarding qualification and requirements of its recruits such as integrity and honesty. The Academy shall be headed by a Superintendent with the rank of Director who shall be appointed by the Director General and approval by the Minister.

PART III

The Controlled Drugs and Substances Board

§22.111 Establishment of the Board

§22.112. Composition of the Board

§22.113. Meetings of the Board

§22.114. Secretariat of the Board

§22.115. Powers and Duties of the Board

§22.116. Annual Report

A Board is hereby established to be known as the Controlled Drugs and Substances Board.

§22.112. Composition of the Board

The Board shall be composed of the following members:

The Minister of Justice;

The Minister of Internal Affairs;

The National Traditional Council;

The Minister of Education;

The Minister of Health and Social Welfare;

The Minister of Foreign Affairs;

The Minister of Youth and sports,

The Director of Pharmaceutical Services; and

The Director General of the Drug Enforcement Agency;

One representative of civil society appointed by the President; and

One representative of private sector appointed by the President

§22.113. Meetings of the Board

The Board shall meet pursuant to its bylaws. The presence of seven (7) members shall constitute a quorum.

§22.114. Secretariat of the Board

The LDEA shall serve as Secretariat to the Board and shall prepare the Board's deliberations and coordinate the action of the relevant ministries as Board members. LDEA shall ensure proper liaison with relevant international organizations, and facilitate the transmission of information and data to competent international bodies as acquired by treaties ratified by the Republic of Liberia.

§22.115. Powers and Duties of the Board

The Board shall:

(a) formulate, develop and establish a comprehensive, integrated, unified and balanced national

drug use prevention and control strategy;

(b) Commission policy studies, program monitoring and evaluations and other researches on drug prevention, control and enforcement;

(d) Encourage and support scientific, clinical, social, psychological, physical and biological researches on controlled drugs or substances and controlled drugs or substances prevention and control measures;

(e) require the collection and preparation of detailed statistics on the importation, exportation, manufacture, stocks, seizures of and estimates needed for any dangerous drug and/or controlled precursor and essential chemical and such other statistical data on said drug as may be periodically required by international organizations in consonance with Liberia's international commitments;

(f) encourage and foster international networking and coordination with international drug control agencies and organizations; and

(g) monitor the allotment and use of the Fund for Drug Abuse Prevention and Control.

§22.116. Annual Report

In addition to the periodic reports as may be required pursuant to this subchapter, the Chairman of the Board shall require the Director General to submit to the President and the National Legislature an Annual Report which shall include a detailed account of the programs and projects undertaken, statistics on crimes related to controlled drugs or substances, expenses incurred pursuant to the provisions of this subchapter, recommended remedial legislation, if any, and such other relevant facts as it may deem proper.

PART IV

Drug Abuse Prevention and Control Fund

§22.117. Establishment of the Fund

§22.118. Funding Sources

§22.119. Use of the Fund

§22.120. Management of the Fund

§22.121. Members of the Fund Management Committee

§22.122. Functions of the Fund Management Committee

There is hereby established a Fund to be known as Drug Abuse Prevention and Control Fund.

(a) The sources of income for the Drug Abuse Prevention and Control Fund shall consist of monies as may be provided:

(i.) by Government (monies appropriated for the Fund by the Legislature) in an annual budgetary allocation;

(ii.) through transfers of moneys confiscated from drug related offenses vesting in the Government approved by the Ministry of Finance and Development Planning in keeping with the Public Finance Management Law;

(iii.) any grants, or donations made to the Fund by any natural person, body corporate, multilateral institution, organization or agency, or government of any country; and

(iv.) any other monies that may accrue in the course of LDEA's operations approved by the Ministry of Finance and Development Planning in keeping with the Public Finance Management Law.

(b) The monies constituting the Fund shall be placed in a separate account named the Drug Abuse Prevention and Control Fund in keeping with the Public Finance Management Law.

§22.119. Use of the Fund

The Fund shall be made available to be used in accordance with guidelines issued by the Board. The Fund shall be applied towards meeting expenses incurred in:

(a) carrying out and furthering the prevention of drug abuse inclusive of community outreach and awareness programs;

b) providing treatment and rehabilitation facilities and services for drug dependent persons;

(c) detecting, investigating, prosecuting or adjudicating any proceedings which may relate to drug offense under the Penal Law;

(d) giving or receiving international cooperation under the mutual legal assistance criminal matter provisions of the Criminal Procedure Law; and

(e) contributing to the activities of intergovernmental bodies specializing in the fight against illicit traffic in and abuse of narcotic drugs and psychotropic substances.

§22.120. Management of the Fund

(a) Pursuant to Section 22. 115 (g), the Board shall be the governing body for the Fund and shall appoint a Fund Management Committee ("the Committee") that shall be responsible for oversight of the Fund.

(b) LDEA shall make available to the Fund such facilities and services of such officers as necessary for the proper and efficient exercise of the functions of the fund.

(c) Where it considers it desirable to reduce risk or avert threatened loss to the Fund, the Board may take any steps it considers necessary on such terms and conditions as it may prescribe.

(d) The Board shall annually in consultation with LDEA fix the size of the Fund sufficient to achieve the objectives of this subchapter.

(e) The Board shall be responsible for policy formulation in connection with the Fund and for governance of the Fund.

(f) Funds to be paid out of the Fund shall be so paid only with the approval of the Board.

(g) The annual accounts of the Fund shall be audited by a competent and qualified auditor appointed by the Board and subject to external audit by the General Auditing Commission.

(h) Donors of the fund may appoint an auditor of their own choice and at their own expense to audit the account of the Fund if they have a provision to that effect in their agreement to contribute to the Fund.

§22.121. Members of the Fund Management Committee

The Chairperson of the Committee shall be a member of the Board especially appointed for his/her skill in financial management and the following shall be applicable to the Fund Management Committee:

- (a) The Committee shall comprise five (5) members including the Chairperson. Maximum two (2) of the five (5) members may be members of the Board.
- (b) All members of the Committee shall have demonstrated experience and expertise in, financial management, accounting, law, and/or project or business management.
- (c) The members of the Committee shall be appointed for a period not exceeding two years. Maximum three (3) members may be re-appointed.
- (d) No member of the Committee, or family member of a Committee member, shall have any material interest that shall conflict with the goals and interests of the Committee.
- (e) To the extent that any member finds him or herself in a position of benefiting or suffering materially from the decisions of the Committee, the affected member shall identify such potential material benefit/detriment and recuse him/herself from consideration of those decisions.

§22.122. Functions of the Fund Management Committee

The Committee shall:

- (a) monitor financial transactions and oversee the balance sheet of the Fund
- (b) facilitate the periodic reporting and auditing of the activities of the Fund; and
- (c) assure that the Fund account is consistent with generally applicable accounting standards.

SECTION 1: This Act shall take effect immediately upon publication into handbills.

ANY LAWS TO THE CONTRARY NOTWITHSTANDING

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