

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 10-0474**

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Introduced by: The Council President  
At the request of: The Administration (Department of Finance)  
Introduced and read first time: April 12, 2010  
Assigned to: Taxation, Finance and Economic Development Committee  
Committee Report: Favorable with amendments  
Council action: Adopted  
Read second time: June 21, 2010

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**AN ORDINANCE CONCERNING**

**Beverage Container Tax**

FOR the purpose of imposing an excise tax on distributors who supply beverages in non-reusable containers; providing for the administration and collection of the tax; defining certain terms; prohibiting certain activities; imposing certain penalties; providing for the automatic termination of this Ordinance; and generally relating to the taxation of non-reusable beverage containers.

BY adding

Article 28 - Taxes  
Section(s) 20-1 to 20-13, to be under the new subtitle,  
“Subtitle 20. Beverage Container Tax”  
Baltimore City Code  
(Edition 2000)

**SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the Laws of Baltimore City read as follows:

**Baltimore City Code**

**Article 28. Taxes**

**SUBTITLE 20. BEVERAGE CONTAINER TAX**

**§ 20-1. DEFINITIONS.**

(A) *IN GENERAL.*

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

**EXPLANATION:** CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.  
Underlining indicates matter added to the bill by amendment.  
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 (B) *BEVERAGE*.

2 (1) *IN GENERAL*.

3 “BEVERAGE” MEANS, EXCEPT AS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION,  
4 ANY OF THE FOLLOWING:

5 (I) ANY BEER, ALE, OR OTHER MALT BEVERAGE;

6 (II) ANY DISTILLED SPIRITS;

7 (III) ANY WINE, WINE COOLER, OR OTHER WINE PRODUCT;

8 (IV) ANY FRUIT JUICE WITH LESS THAN 10% NATURAL FRUIT JUICE CONTENT;

9 (V) ANY READY-TO-DRINK TEA;

10 (VI) ANY SODA WATER, CARBONATED WATER, NATURAL OR ARTIFICIAL MINERAL  
11 WATER, OR NATURAL OR SPRING WATER; AND

12 (VII) ANY SOFT DRINK, INCLUDING:

13 (A) COLA, GINGER ALE, ROOT BEER, OR SARSPARILLA; OR

14 (B) ANY OTHER CARBONATED OR UNCARBONATED BEVERAGE COMMONLY  
15 KNOWN AS A “SOFT DRINK”.

16  
17 (2) *EXCLUSIONS*.

18 “BEVERAGE” DOES NOT INCLUDE:

19 (I) ANY DAIRY PRODUCTS;

20 (II) ANY NONDAIRY, MILK-SUBSTITUTE PRODUCTS, SUCH AS SOY MILK, HAZELNUT  
21 OR OTHER NUT MILK, RICE OR OTHER GRAIN MILK, AND THE LIKE;

22 (III) ANY BEVERAGE CONTAINING AT LEAST 10% NATURAL FRUIT JUICES; OR

23 (IV) ANY BEVERAGE IN A CONTAINER OF 2 LITERS OR LARGER.  
24

25 (C) *DEALER*.

26 (1) *IN GENERAL*.

27 “DEALER” MEANS ANY PERSON WHO ENGAGES IN THE RETAIL SALE OF BEVERAGES  
28 SUBJECT TO THIS SUBTITLE.

29 (2) *INCLUSIONS*.

30 “DEALER” INCLUDES:

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1 (I) ANY BUSINESS THAT PERMITS ON-PREMISES CONSUMPTION OF BEVERAGES;

2 (II) ANY DISTRIBUTOR ENGAGED IN CASUAL RETAIL SALES OF BEVERAGES;

3 (II) ANY OPERATOR OF A VENDING MACHINE FROM WHICH BEVERAGES ARE SOLD;  
4 AND

5 (III) ANY INDIVIDUAL OUTLET IN THE CITY OF A MULTIPLE-OUTLET RETAIL CHAIN  
6 STORE.

7 (D) *DIRECTOR*.

8 “DIRECTOR” MEANS THE DIRECTOR OF FINANCE OR A DESIGNEE OF THE DIRECTOR OF  
9 FINANCE.

10 (E) *DISTRIBUTOR*.

11 “DISTRIBUTOR” MEANS:

12 (1) ANY PERSON WHO SUPPLIES NON-REUSABLE BEVERAGE CONTAINERS TO  
13 A DEALER IN THE CITY;

14 (2) ANY PERSON WHO SUPPLIES AND SERVICES VENDING MACHINES IN THE CITY WITH  
15 NON-REUSABLE BEVERAGE CONTAINERS; AND

16 (3) ANY MULTIPLE-OUTLET RETAIL CHAIN STORE THAT SUPPLIES NON-REUSABLE  
17 BEVERAGE CONTAINERS TO ITS INDIVIDUAL OUTLETS IN THE CITY.

18 (F) *NON-REUSABLE BEVERAGE CONTAINER*.

19 (1) *IN GENERAL*.

20 “NON-REUSABLE BEVERAGE CONTAINER” MEANS ANY INDIVIDUAL, SEPARATE, AND  
21 SEALED GLASS, METAL, OR PLASTIC BOTTLE, CAN, JAR, OR CARTON THAT:

22 (I) CONTAINS A BEVERAGE; AND

23 (II) IS NOT ORDINARILY COLLECTED FROM CONSUMERS FOR REFILLING WITH A  
24 BEVERAGE.

25 (2) *WHEN NOT CONSIDERED REUSABLE*.

26 A BEVERAGE CONTAINER IS NOT CONSIDERED REUSABLE IF:

27 (I) IT IS PHYSICALLY INCAPABLE OF REUSE; OR

28 (II) IT IS THE TYPE FOR WHICH:

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1 (A) NO DEPOSIT IS REQUIRED TO BE PAID BY THE CONSUMER; AND

2 (B) NO REFUND IS PAYABLE TO THE CONSUMER BY THE DEALER.

3 (G) *PERSON*.

4 (1) "PERSON" MEANS:

5 (I) AN INDIVIDUAL;

6 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY  
7 KIND; OR

8 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,  
9 OR REPRESENTATIVE OF ANY KIND.

10 (2) "PERSON" DOES NOT INCLUDE A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR  
11 UNIT OF A GOVERNMENTAL ENTITY.

12 (H) *SUPPLY*.

13 (1) "SUPPLY" MEANS TO PROVIDE, FURNISH, DELIVER, DISTRIBUTE, OR TRANSMIT.

14 (2) FOR PURPOSES OF THIS SUBTITLE, THE ACT OF SUPPLYING NON-REUSABLE BEVERAGE  
15 CONTAINERS TO A DEALER OPERATING IN THE CITY IS COMPLETED, AND TAX LIABILITY  
16 ACCRUES, ON RECEIPT OF THE PRODUCTS BY THE DEALER IN THE CITY.

17 **§ 20-2. TAX IMPOSED.**

18 A TAX IS IMPOSED ON EVERY DISTRIBUTOR WHO SUPPLIES TO A DEALER OPERATING IN THE  
19 CITY ANY NON-REUSABLE BEVERAGE CONTAINERS.

20 **§ 20-3. AMOUNT OF TAX.**

21 THE AMOUNT OF THE TAX IMPOSED IS ~~4¢~~ 2¢ PER NON-REUSABLE BEVERAGE CONTAINER.

22 **§ 20-4. WHEN PAYABLE; MONTHLY REPORTS.**

23 (A) *IN GENERAL*.

24 THE TAX IMPOSED BY THIS SUBTITLE:

25 (1) IS DUE WHEN THE DEALER RECEIVES THE NON-REUSABLE BEVERAGE CONTAINERS;  
26 AND

27 (2) MUST BE PAID ON OR BEFORE THE 25<sup>TH</sup> DAY OF THE MONTH FOLLOWING THE MONTH  
28 IN WHICH THE DEALER RECEIVED THE ~~PRODUCT~~ NON-REUSABLE BEVERAGE  
29 CONTAINER.

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1 (B) *REPORT.*

2 (1) THE DISTRIBUTOR MUST REMIT THE TAX TO THE DIRECTOR OF FINANCE, TOGETHER  
3 WITH A MONTHLY REPORT OF ALL NON-REUSABLE BEVERAGE CONTAINERS THAT THE  
4 DISTRIBUTOR SUPPLIED TO DEALERS OPERATING IN THE CITY.

5 (2) THE REPORT MUST BE IN A FORM THE DIRECTOR APPROVES.

6 **§ 20-5. DEALER SELF-TRANSPORT.**

7 (A) *DEALER LIABLE ABSENT CERTIFICATION.*

8 IF ANY DEALER TRANSPORTS NON-REUSABLE BEVERAGE CONTAINERS INTO THE CITY OR  
9 CAUSES NON-REUSABLE BEVERAGE CONTAINERS TO BE TRANSPORTED INTO THE CITY, THE  
10 DEALER IS LIABLE FOR THE PAYMENT OF THE TAX IMPOSED BY THIS SUBTITLE, TOGETHER  
11 WITH ALL APPLICABLE INTEREST AND PENALTIES, UNLESS THE DEALER OBTAINS FROM THE  
12 SUPPLIER OF THE PRODUCTS A WRITTEN CERTIFICATION THAT THE SUPPLIER IS LIABLE FOR  
13 AND IS PAYING THE TAX.

14 (B) *FORM.*

15 THE CERTIFICATION MUST BE IN A FORM THE DIRECTOR APPROVES.

16 **§ 20-6. RECORDS.**

17 EVERY DISTRIBUTOR AND EVERY DEALER MUST:

18 (1) KEEP COMPLETE AND ACCURATE RECORDS OF ALL TRANSACTIONS INVOLVING NON-  
19 REUSABLE BEVERAGE CONTAINERS, AS NECESSARY OR OTHERWISE REQUIRED BY THE  
20 DIRECTOR TO DETERMINE WHETHER ALL TAXES DUE UNDER THIS SUBTITLE HAVE BEEN  
21 PAID; AND

22 (2) MAKE THESE RECORDS AVAILABLE, AT ALL TIMES DURING BUSINESS HOURS, FOR  
23 INSPECTION AND AUDIT BY THE DIRECTOR.

24 **§ 20-7. INTEREST AND CIVIL PENALTIES.**

25 IF A DISTRIBUTOR FAILS TO PAY THE TAX IMPOSED BY THIS SUBTITLE WHEN DUE, THE  
26 DISTRIBUTOR MUST PAY THE DIRECTOR, IN ADDITION TO THE TAX DUE:

27 (1) INTEREST AT THE RATE OF 1% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE  
28 TAX IS OVERDUE; AND

29 (2) A PENALTY OF 10% OF THE AMOUNT OF THE TAX DUE.

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**§ 20-8. TAX DETERMINATION BY DIRECTOR.**

(A) *DIRECTOR TO OBTAIN INFORMATION.*

IF ANY PERSON FAILS TO MAKE THE REPORT AND REMIT THE TAX WHEN DUE AND FAILS TO KEEP SUITABLE RECORDS AS REQUIRED UNDER THIS SUBTITLE, THE DIRECTOR OF FINANCE MAY ATTEMPT TO OBTAIN OTHER AVAILABLE INFORMATION ON WHICH TO BASE AN ESTIMATE OF THE TAX DUE.

(B) *DIRECTOR TO ESTIMATE TAX.*

AS SOON AS THE DIRECTOR OBTAINS THIS INFORMATION, THE DIRECTOR MAY PROCEED TO DETERMINE THE TAX DUE AND ASSESS THAT TAX, PLUS INTEREST AND PENALTIES, AGAINST THE PERSON LIABLE FOR THE TAX.

(C) *NOTICE AND PAYMENT.*

(1) THE DIRECTOR MAY THEN NOTIFY THE PERSON BY MAIL, SENT TO THAT PERSON'S LAST KNOWN ADDRESS, OF THE TOTAL AMOUNT OF THE TAX, INTEREST, AND PENALTIES.

(2) THE TOTAL AMOUNT IS PAYABLE WITHIN 10 DAYS FROM THE DATE OF THIS NOTICE.

**§ 20-9. CLOSING OR SALE OF BUSINESS.**

IF A PERSON REQUIRED TO PAY A TAX UNDER THIS SUBTITLE SELLS HIS, HER, OR ITS BUSINESS OR OTHERWISE CEASES TO DO BUSINESS:

(1) ANY TAX PAYABLE UNDER THIS SUBTITLE BECOMES IMMEDIATELY DUE AND PAYABLE;  
AND

(2) WITHIN 3 DAYS OF THE SALE OR OTHER CESSATION OF BUSINESS, THAT PERSON MUST SUBMIT THE REQUIRED REPORT AND REMIT THE TOTAL AMOUNT OF THE TAX DUE.

**§ 20-10. LIEN ON PROPERTY.**

THE TAX, INTEREST, AND PENALTIES IMPOSED BY THIS SUBTITLE ARE A LIEN ON THE PROPERTY OF ANY PERSON LIABLE FOR THEIR PAYMENT.

**§ 20-11. RULES AND REGULATIONS.**

(A) *DIRECTOR MAY ADOPT.*

THE DIRECTOR MAY ADOPT RULES AND REGULATIONS AS NECESSARY OR APPROPRIATE TO:

(1) GOVERN THE PAYMENT, COLLECTION, AND ACCOUNTING OF THE TAX IMPOSED BY THIS SUBTITLE;

(2) DEFINE ANY TERMS USED IN CONNECTION WITH THE IMPOSITION AND COLLECTION OF THE TAX IMPOSED UNDER THIS SUBTITLE;

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- 1 (3) PROVIDE FOR THE CREDIT OF ANY TAX PAID ON RETURNED PRODUCTS;
- 2 (4) PROVIDE FOR THE REFUND OF ANY TAX, INTEREST, OR PENALTY ERRONEOUSLY OR
- 3 ILLEGALLY PAID; AND
- 4 (5) OTHERWISE ADMINISTER, ENFORCE, AND CARRY OUT THIS SUBTITLE.

5 (B) *COPIES TO BE FILED WITH LEGISLATIVE REFERENCE.*

6 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED  
7 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

8 **§ 22-12. {RESERVED}**

9 **§ 20-13. PENALTIES.**

10 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE OR  
11 REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON  
12 CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR TO IMPRISONMENT FOR NOT  
13 MORE THAN 12 MONTHS OR TO BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

14 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
15 are not law and may not be considered to have been enacted as a part of this or any prior  
16 Ordinance.

17 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day  
18 after the date it is enacted. This Ordinance will remain in effect for 3 years; at the end of that  
19 period, with no further action by the Mayor and City Council, this Ordinance will be abrogated  
and of no further effect.

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Certified as duly passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Chief Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Mayor, Baltimore City