

**CITY OF BALTIMORE
COUNCIL BILL 05-0295
(First Reader)**

Introduced by: Councilmember Clarke

Introduced and read first time: December 5, 2005

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Police Department, Baltimore
Development Corporation, Downtown Partnership, Department of Finance

A BILL ENTITLED

AN ORDINANCE concerning

Drug-Related Activities – Curfew on Retail Establishments

FOR the purpose of authorizing the imposition of a police curfew on certain retail business establishments under certain circumstances; providing for notice and the opportunity for a hearing; authorizing aggrieved persons to seek judicial and appellate review; imposing certain penalties; and generally relating to the imposition of curfews on retail establishments that are a focal point for persons engaged in drug-related activities.

By adding

Article 19 - Police Ordinances

Section(s) 18-1 through 18-10, to be under the new subtitle,

“Subtitle 18. Drugs: Curfew on Retail Establishments”

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 19. Police Ordinances

SUBTITLE 18. DRUGS: CURFEW ON RETAIL ESTABLISHMENTS

§ 18-1. PETITION FOR CURFEW.

A NEIGHBORHOOD COMMUNITY ASSOCIATION OR THE LOCAL POLICE DISTRICT COMMANDER MAY PETITION THE POLICE COMMISSIONER TO IMPOSE A CURFEW ON RETAIL BUSINESS ESTABLISHMENTS THAT:

- (1) ARE LOCATED WITHIN A RESIDENTIALLY ZONED AREA OR WITHIN 1 BLOCK OF AN ELEMENTARY OR SECONDARY SCHOOL OR A RELIGIOUS ESTABLISHMENT; AND

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

(2) ARE A FOCAL POINT FOR THE LOITERING OR GATHERING OF PERSONS WHO HAVE THE INTENT TO ENGAGE IN UNLAWFUL DRUG-RELATED ACTIVITY.

§ 18-2. IMPOSITION OF CURFEW.

(A) *IN GENERAL.*

ON VERIFICATION THAT THE CONDITIONS DESCRIBED IN § 18-1 OF THIS SUBTITLE EXIST, THE POLICE COMMISSIONER MAY IMPOSE A CURFEW ON THESE RETAIL BUSINESS ESTABLISHMENTS.

(B) *DURATION.*

THE CURFEW MAY BE FOR UP TO 6 HOURS A DAY FOR A PERIOD OF NOT MORE THAN 120 CONTINUOUS DAYS DURING A 6-MONTH PERIOD.

(C) *HOURS.*

THE HOURS OF THE CURFEW MAY BE DAYTIME OR NIGHTTIME, BASED ON THE HOURS DURING WHICH DRUG-RELATED ACTIVITY IS MOST PREVALENT.

§ 18-3. NOTICE TO AFFECTED BUSINESSES.

AT LEAST 30 DAYS BEFORE A CURFEW IS SCHEDULED TO BEGIN, THE POLICE COMMISSIONER SHALL NOTIFY ALL AFFECTED RETAIL BUSINESS ESTABLISHMENTS OF THE INTENTION TO IMPOSE THE CURFEW.

§ 18-4. PETITION FOR EXEMPTION; HEARING.

(A) *IN GENERAL.*

AT LEAST 15 DAYS BEFORE THE CURFEW PERIOD BEGINS, THE OWNER OR OPERATOR OF A RETAIL BUSINESS ESTABLISHMENT MAY:

(1) PETITION THE POLICE COMMISSIONER FOR AN EXEMPTION FROM THE CURFEW; AND

(2) REQUEST A HEARING ON THE PETITION BEFORE THE POLICE COMMISSIONER OR THE POLICE COMMISSIONER'S DESIGNEE.

(B) *INVESTIGATION.*

TO HELP EVALUATE AN ESTABLISHMENT'S PETITION FOR EXEMPTION, THE COMMISSIONER MAY CONDUCT AN INVESTIGATION INTO THE POLICIES, PRACTICES, AND SECURITY ARRANGEMENTS USED BY THE PETITIONER TO DISCOURAGE THE USE OF THE ESTABLISHMENT AS A FOCAL POINT FOR THE LOITERING OR GATHERING OF PERSONS WHO HAVE THE INTENT TO ENGAGE IN UNLAWFUL DRUG-RELATED ACTIVITY.

1 (C) *GRANT OF EXEMPTION.*

2 THE POLICE COMMISSIONER MAY GRANT THE EXEMPTION IF THE COMMISSIONER
3 DETERMINES THAT:

4 (1) THE PETITIONER IS PROVIDING ADEQUATE SECURITY TO DETER UNLAWFUL
5 DRUG-RELATED ACTIVITY; OR

6 (2) THE ESTABLISHMENT IN FACT IS NOT A FOCAL POINT FOR THE LOITERING OR
7 GATHERING OF PERSONS WHO HAVE THE INTENT TO ENGAGE IN UNLAWFUL
8 DRUG-RELATED ACTIVITY.

9 **§ 18-5. {RESERVED}**

10 **§ 18-6. RULES AND REGULATIONS.**

11 (A) *COMMISSIONER MAY ADOPT.*

12 THE POLICE COMMISSIONER MAY ADOPT RULES AND REGULATIONS TO CARRY OUT THIS
13 SUBTITLE.

14 (B) *FILING WITH LEGISLATIVE REFERENCE.*

15 A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF
16 LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

17 **§ 18-7. {RESERVED}**

18 **§ 18-8. JUDICIAL AND APPELLATE REVIEW.**

19 (A) *JUDICIAL REVIEW.*

20 A PARTY AGGRIEVED BY A FINAL DECISION OF THE POLICE COMMISSIONER UNDER THIS
21 SUBTITLE MAY SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT
22 COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF
23 PROCEDURE.

24 (B) *APPELLATE REVIEW.*

25 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE
26 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
27 PROCEDURE.

28 **§ 18-9. {RESERVED}**

29 **§ 18-10. PENALTIES.**

30 ANY OWNER OR OPERATOR OF A RETAIL BUSINESS ESTABLISHMENT WHO KNOWINGLY
31 VIOLATES A CURFEW IMPOSED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON
32 CONVICTION, IS SUBJECT TO A FINE OF NOT MORE \$1,000 OR IMPRISONMENT FOR NOT MORE
33 THAN 30 DAYS OR BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

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

4 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
5 after the date it is enacted.