

ENROLLED

**CITY OF BALTIMORE
ORDINANCE _____
Council Bill 12-0050**

Introduced by: Councilmembers Mosby, Kraft, Branch, Middleton, Holton, Scott, Spector,
Clarke, Cole, Reisinger, Stokes, President Young, Councilmembers Curran, Welch, Henry
Introduced and read first time: March 19, 2012
Assigned to: Judiciary and Legislative Investigations Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: June 4, 2012

AN ORDINANCE CONCERNING

Sales to Minors in Proximity of Liquor Store

1
2 FOR the purpose of prohibiting persons in close proximity to a liquor store from selling any food,
3 goods, ~~wares, supplies,~~ or other merchandise to any person under the age of ~~21~~18;
4 prohibiting any person from requesting or inducing a minor to purchase items in close
5 proximity of a liquor store; prohibiting a minor from representing him- or herself to be 18
6 years old or older for purposes purchasing items in close proximity of a liquor store; defining
7 certain terms; imposing certain penalties; correcting, clarifying, and conforming related
8 provisions; and generally relating to preventing minors from accessing alcoholic beverages.

9 BY ~~repealing and reordaining, with amendments~~ adding

10 Article 19 - Police Ordinance

11 Section(s) ~~33-1 through 33-4~~ 32-1 through 32-10, to be under the new subtitle designation

12 “Subtitle 32. Minors – Sales in Proximity to Liquor Store”

13 Baltimore City Code

14 (Edition 2000)

15 BY repealing and reordaining, with amendments

16 Article 1 - Mayor, City Council, and Municipal Agencies

17 Section(s) 40-14(e)(3)(§§ 32-3 to 32-5) and 41-14(2)(§§ 32-3 to 32-5)

18 Baltimore City Code

19 (Edition 2000)

20 BY repealing and reordaining, without amendments

21 Article - Health

22 Section(s) 6-603.1(a)

23 Baltimore City Revised Code

24 (Edition 2000)

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.
Underlined italics indicate matter added to the bill
by amendment after printing for third reading.

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1 BY adding

2 Article - Health

3 Section(s) 6-603.1(b)(1)(Art. 19, Sub. 32)

4 Baltimore City Revised Code

5 (Edition 2000)

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

8 **Baltimore City Code**

9 **Article 19. Police Ordinances**

10 **~~Subtitle 33. Minors - Alcoholic Beverages~~**

11 **~~§ 33-1. "Minor" defined.~~**

12 [~~The word~~] IN THIS SUBTITLE, "minor" [~~shall apply to every~~] MEANS ANY person under 21
13 years of age, except [~~to~~] FOR bona fide employees in the course of their employment and
14 whose employment is not prohibited by STATE CODE Article 2B [~~of the Maryland Code~~]
15 [~~"ALCOHOLIC BEVERAGES"~~].

16 **~~§ 33-2. Purchase or possession by minor.~~**

17 ~~(a) Prohibited conduct.~~

18 [~~It shall be unlawful for any~~] NO minor MAY:

19 (1) [~~to~~] attempt to purchase alcoholic [~~beverages~~] BEVERAGE; or

20 (2) [~~to~~] drink or have in his or her possession any alcoholic [~~beverages~~] BEVERAGE:

21 (i) in any public place; or

22 (ii) on any public highway.

23 ~~(b) Penalties.~~

24 Any [~~person violating the provisions~~] MINOR WHO VIOLATES A PROVISION of this section
25 [~~shall be~~] IS guilty of a misdemeanor and, [~~upon~~] ON conviction [~~thereof~~], IS SUBJECT TO:

26 (1) [~~shall be subject to~~] FOR A 1st CONVICTION, a fine OF not [~~exceeding~~] MORE THAN
27 \$100 [~~for the minor's 1st conviction~~]; and

28 (2) for [~~the~~] A 2nd or [~~any~~] subsequent conviction [~~thereof~~], [~~the minor shall be subject~~
29 to] a fine OF not [~~exceeding~~] MORE THAN \$250 or [~~to~~] imprisonment [~~in jail~~] for [a
30 period] not [~~exceeding~~] MORE THAN 60 days or both [~~such~~] fine and imprisonment
31 [~~in the discretion of the court~~].

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1 ~~§ 33-3. SALES IN PROXIMITY TO LIQUOR STORE.~~

2 ~~(A) DEFINITIONS.~~

3 ~~(1) IN GENERAL.~~

4 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

5 ~~(2) CLOSE PROXIMITY~~

6 ~~“CLOSE PROXIMITY TO LIQUOR STORE” MEANS LOCATED:~~

7 ~~(I) ON THE PREMISES OF A LIQUOR STORE; OR~~

8 ~~(II) ADJACENT TO A LIQUOR STORE WITH DIRECT ACCESS TO THE LIQUOR STORE.~~

9 ~~(3) LIQUOR STORE.~~

10 ~~(1) “LIQUOR STORE” MEANS ANY ESTABLISHMENT THAT SELLS LIQUOR FOR OFF-~~
11 ~~PREMISE CONSUMPTION.~~

12 ~~(2) “LIQUOR STORE” INCLUDES ANY LICENSEE WHO HOLDS ONE OF THE FOLLOWING~~
13 ~~OFF-SALE LICENSES:~~

14 ~~(I) CLASS A BEER, WINE, AND LIQUOR LICENSE (OFF-SALE); AND~~

15 ~~(II) CLASS A-2 BEER, WINE, AND LIQUOR OFF-SALE PACKAGE GOODS LICENSE.~~

16 ~~(3) “LIQUOR STORE” DOES NOT INCLUDES A LICENSEE WHO HOLDS:~~

17 ~~(I) AN ON-SALE LICENSE; OR~~

18 ~~(II) ONE OF THE FOLLOWING OFF-SALE LICENSES:~~

19 ~~(A) CLASS A BEER AND LIGHT WINE LICENSE (OFF-SALE); AND~~

20 ~~(B) CLASS A2 LIGHT WINE LICENSE (ON AND OFF-SALE).~~

21 ~~(B) PROHIBITED CONDUCT.~~

22 ~~NO PERSON IN CLOSE PROXIMITY TO A LIQUOR STORE MAY SELL ANY FOOD, GOODS,~~
23 ~~WARES, OR MERCHANDISE (EVEN IF NON-ALCOHOLIC) TO ANY MINOR.~~

24 ~~(C) PENALTIES.~~

25 ~~ANY PERSON WHO VIOLATES A PROVISION OF THIS SECTION IS GUILTY OF A MISDEMEANOR~~
26 ~~AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$500 FOR EACH OFFENSE.~~

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1 ~~§ 33-4. [§ 33-3.] False representation.~~

2 (a) ~~Prohibited conduct.~~

3 [It shall be unlawful for any] NO minor MAY knowingly and falsely [to] represent HER OR
4 himself to be 21 years of age to any [licensed] person [engaged in the sale of alcoholic
5 beverages,] for the purpose of:

6 (1) ~~[procuring] PURCHASING or [having such] POSSESSING AN alcoholic [beverages]~~
7 ~~BEVERAGE [furnished to him by sale, gift, or otherwise] IN VIOLATION OF § 33-2~~
8 ~~{“PURCHASE OR POSSESSION BY MINOR”} OF THIS SUBTITLE; OR~~

9 (2) ~~PURCHASING ANY GOOD, WARES, OR MERCHANDISE IN VIOLATION OF § 33-3~~
10 ~~{“SALES IN PROXIMITY TO LIQUOR STORE”} OF THIS SUBTITLE.~~

11 (b) ~~Penalties.~~

12 Any [person violating the provisions] MINOR WHO VIOLATES A PROVISION of this section
13 [shall be] IS guilty of a misdemeanor and, [upon] ON conviction [thereof], IS SUBJECT TO:

14 (1) ~~[shall be subject to] FOR A 1ST CONVICTION, a fine OF not [exceeding] MORE THAN~~
15 ~~\$100 [for his 1ST conviction]; and~~

16 (2) ~~for [the] A 2ND or [any] subsequent conviction [thereof], [the minor shall be subject~~
17 ~~to] a fine OF not [exceeding] MORE THAN \$250 or [to] imprisonment [in jail] for [a~~
18 ~~period] not [exceeding] MORE THAN 60 days or both [such] fine and imprisonment~~
19 ~~[in the discretion of the court].~~

20 ~~§ 33-5. [§ 33-4.] Providing to or inducing minor.~~

21 (a) ~~Prohibited conduct.~~

22 [It shall be unlawful for any] NO person MAY:

23 (1) ~~[to] request or induce a minor to purchase or to attempt to purchase any alcoholic~~
24 ~~[beverages] BEVERAGE; [or]~~

25 (2) ~~[to] give to, supply with, or in any way furnish to a minor, on any street or public~~
26 ~~way or in any place of public resort, any alcoholic beverage; OR~~

27 (3) ~~REQUEST OR INDUCE A MINOR TO PURCHASE ANY GOODS, WARES, OR~~
28 ~~MERCHANDISE IN VIOLATION OF § 33-3 {“SALES IN PROXIMITY TO LIQUOR~~
29 ~~STORE”} OF THIS SUBTITLE.~~

30 (b) ~~Penalties.~~

31 Any person [violating the provisions] WHO VIOLATES A PROVISION of this section [shall
32 be] IS guilty of a misdemeanor and, [upon] ON conviction [thereof], [shall be fined] IS
33 SUBJECT TO A FINE OF not more than \$500 for each [and every such violation] OFFENSE.

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SUBTITLE 32. MINORS – SALES IN PROXIMITY TO LIQUOR STORE

§ 32-1. DEFINITIONS.

(A) IN GENERAL.

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

(B) CLOSE PROXIMITY

“CLOSE PROXIMITY TO LIQUOR STORE” MEANS LOCATED:

(I) ON THE PREMISES OF A LIQUOR STORE; OR

(II) IN A STRUCTURE THAT IMMEDIATELY ADJOINS A LIQUOR STORE AND HAS DIRECT ACCESS TO THE INTERIOR OF THAT LIQUOR STORE.

(C) LIQUOR STORE.

(1) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, “LIQUOR STORE” MEANS ANY ESTABLISHMENT THAT SELLS ~~LIQUOR~~ ALCOHOLIC BEVERAGES FOR OFF-PREMISE CONSUMPTION.

(2) INCLUSIONS.

“LIQUOR STORE” INCLUDES A LICENSEE WHO HOLDS ONE OF THE FOLLOWING OFF-SALE LICENSES:

(I) A CLASS A BEER, WINE, AND LIQUOR LICENSE (~~OFF-SALE~~); ~~AND~~

(II) A CLASS A-2 BEER, WINE, AND LIQUOR OFF-SALE PACKAGE GOODS LICENSE; AND

(III) A CLASS B-D-7 BEER, WINE, AND LIQUOR LICENSE IF, ON AN ANNUAL BASIS, THE CLASS B-D-7 LICENSEE’S AVERAGE DAILY RECEIPTS FROM SALES OF ALCOHOLIC BEVERAGES FOR OFF-PREMISE CONSUMPTION EXCEEDS 40% OF THE LICENSEE’S TOTAL AVERAGE DAILY RECEIPTS FROM ALL SALES (ON-SALE AND OFF-SALE) OF ALCOHOLIC BEVERAGES.

(3) EXCLUSIONS.

“LIQUOR STORE” DOES NOT INCLUDE:

(I) AN ESTABLISHMENT THAT SELLS NON-ALCOHOLIC PRODUCTS (E.G., GROCERIES OR OTHER FOOD ITEMS, PAPER GOODS, HOME AND OFFICE SUPPLIES, AND OTHER GOODS OR MERCHANDISE) THE AVERAGE DAILY RECEIPTS FROM WHICH SALES, ON AN ANNUAL BASIS, EXCEED 80% OF THE ESTABLISHMENT’S TOTAL AVERAGE DAILY RECEIPTS; OR

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1 (II) A LICENSEE WHO HOLDS:

2 (A) AN ON-SALE LICENSE (OTHER THAN A CLASS B-D-7 BEER, WINE, AND
3 LIQUOR LICENSE INCLUDED UNDER PARAGRAPH (2)(III) OF THIS
4 SUBSECTION); OR

5 (B) ONE OF THE FOLLOWING OFF-SALE LICENSES:

6 1. CLASS A BEER AND LIGHT WINE LICENSE (OFF-SALE); AND

7 2. CLASS A2 LIGHT WINE LICENSE (ON- AND OFF-SALE).

8 (D) MINOR.

9 “MINOR” MEANS A PERSON UNDER THE AGE OF 18.

10 **§ 32-2. {RESERVED}**

11 **§ 32-3. SALES TO MINORS.**

12 NO PERSON IN CLOSE PROXIMITY TO A LIQUOR STORE MAY SELL ANY FOOD, GOODS, SUPPLIES,
13 OR OTHER MERCHANDISE (EVEN IF NON-ALCOHOLIC) TO ANY MINOR.

14 **§ 32-4. INDUCING MINOR TO PURCHASE.**

15 NO PERSON MAY REQUEST OR INDUCE A MINOR TO PURCHASE ANY FOOD, GOODS, SUPPLIES, OR
16 OTHER MERCHANDISE IN VIOLATION OF § 32-3 {“SALES TO MINORS”} OF THIS SUBTITLE.

17 **§ 32-5. FALSE REPRESENTATION BY MINOR.**

18 NO MINOR MAY KNOWINGLY AND FALSELY REPRESENT HER- OR HIMSELF TO ANY PERSON AS
19 BEING 18 YEARS OLD OR OLDER FOR THE PURPOSE OF PURCHASING ANY FOOD, GOODS,
20 SUPPLIES, OR OTHER MERCHANDISE IN VIOLATION OF § 32-3 {“SALES TO MINORS”} OF THIS
21 SUBTITLE.

22 **§§ 32-6 TO 32-8. {RESERVED}**

23 **§ 32-9. ENFORCEMENT BY CITATION.**

24 (A) IN GENERAL.

25 IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE,
26 THIS SUBTITLE MAY BE ENFORCED BY ISSUANCE OF:

27 (1) AN ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40
28 {“ENVIRONMENTAL CONTROL BOARD”}; OR

29 (2) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {“CIVIL
30 CITATIONS”}.

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1 (B) PROCESS NOT EXCLUSIVE.

2 THE ISSUANCE OF A CITATION TO ENFORCE THIS SUBTITLE DOES NOT PRECLUDE PURSUING
3 ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

4 **§ 32-10. CRIMINAL PENALTIES.**

5 (A) IN GENERAL.

6 ANY PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE IS GUILTY OF A
7 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO THE PENALTIES SPECIFIED IN THIS
8 SECTION.

9 (B) PENALTY AMOUNTS.

10 (1) FOR A VIOLATION OF § 32-3 {"SALES TO MINORS"} OR § 32-4 {"INDUCING MINOR TO
11 PURCHASE"}, THE PENALTY IS A FINE OF NOT MORE THAN \$500 FOR EACH OFFENSE.

12 (2) FOR A VIOLATION OF § 32-5 {"FALSE REPRESENTATION BY MINOR"}, THE PENALTY IS
13 AS FOLLOWS:

14 (1) FOR A 1ST CONVICTION, A FINE OF NOT MORE THAN \$100 FOR EACH OFFENSE;
15 AND

16 (2) FOR A 2ND OR SUBSEQUENT CONVICTION, A FINE OF NOT MORE THAN \$250 FOR
17 EACH OFFENSE.

18 **Article 1. Mayor, City Council, and Municipal Agencies**

19 **Subtitle 40. Environmental Control Board**

20 **§ 40-14. Violations to which subtitle applies.**

21 (e) Provisions and penalties enumerated.

22 (3) Article 19. Police Ordinances

23

24 § 32-3. SALES TO MINORS [IN PROXIMITY TO LIQUOR STORES] \$500

25 § 32-4. INDUCING MINOR TO PURCHASE \$500

26 § 32-5. FALSE REPRESENTATION BY MINOR
27 1ST OFFENSE \$ 50

28 2ND OR SUBSEQUENT OFFENSE \$150

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Subtitle 41. Civil Citations

§ 41-14. Offenses to which subtitle applies – Listing.

(2) Article 19. Police Ordinances

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§ 32-3. SALES TO MINORS [IN PROXIMITY TO LIQUOR STORES] \$500

§ 32-4. INDUCING MINOR TO PURCHASE \$500

§ 32-5. FALSE REPRESENTATION BY MINOR
1ST OFFENSE \$ 50
2ND OR SUBSEQUENT OFFENSE \$150

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Baltimore City Revised Code

Article - Health

Title 6. Food Service Facilities

Subtitle 6. Suspensions and Revocations

§ 6-603.1. Suspension or nonrenewal for multiple or unpaid citations.

(a) In general.

The Commissioner may suspend or refuse to renew the license of a food service facility if:

(1) at any time within the preceding 6 months, the facility has been served with 3 or more citations issued for reasons related to public health or to the prevention of disease, epidemics, or nuisances affecting public health, under either or both of:

(i) City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or

(ii) City Code Article 1, Subtitle 41 {"Civil Citations"}; or

(2) at any time within the preceding 12 months, the facility has been declared to be in default of 1 or more citations issued for reasons related to public health or to the prevention of disease, epidemics, or nuisances affecting public health, under either of:

(i) City Code Article 1, § 40-8 {"Environmental Citations: Default by person cited"}; or

(ii) City Code Article 1, § 41-10 {"Civil Citations: Default"}.

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1 (b) Covered offenses.

2 (1) For purposes of this section, citations issued for violations of the following provisions
3 of the City Code are presumed to be issued for reasons related to public health or to
4 the prevention of disease, epidemics, or nuisances affecting public health:

5

6 Article 19. Police Ordinances

7

8 SUBTITLE 32. MINORS – SALES IN PROXIMITY TO LIQUOR STORE

9

10

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

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

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