

**CITY OF BALTIMORE
COUNCIL BILL 10-0474
(First Reader)**

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

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

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Beverage Container Tax**

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

7 BY adding

8 Article 28 - Taxes
9 Section(s) 20-1 to 20-13, to be under the new subtitle,
10 "Subtitle 20. Beverage Container Tax"
11 Baltimore City Code
12 (Edition 2000)

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

15 **Baltimore City Code**

16 **Article 28. Taxes**

17 **SUBTITLE 20. BEVERAGE CONTAINER TAX**

18 **§ 20-1. DEFINITIONS.**

19 (A) *IN GENERAL.*

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

21 (B) *BEVERAGE.*

22 (1) *IN GENERAL.*

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

Council Bill 10-0474

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

- 3 (I) ANY BEER, ALE, OR OTHER MALT BEVERAGE;
- 4 (II) ANY DISTILLED SPIRITS;
- 5 (III) ANY WINE, WINE COOLER, OR OTHER WINE PRODUCT;
- 6 (IV) ANY FRUIT JUICE WITH LESS THAN 10% NATURAL FRUIT JUICE CONTENT;
- 7 (V) ANY READY-TO-DRINK TEA;
- 8 (VI) ANY SODA WATER, CARBONATED WATER, NATURAL OR ARTIFICIAL MINERAL
9 WATER, OR NATURAL OR SPRING WATER; AND
- 10 (VII) ANY SOFT DRINK, INCLUDING:
 - 11 (A) COLA, GINGER ALE, ROOT BEER, OR SARPARRILLA; OR
 - 12 (B) ANY OTHER CARBONATED OR UNCARBONATED BEVERAGE COMMONLY
13 KNOWN AS A “SOFT DRINK”.

14
15 (2) *EXCLUSIONS.*

16 “BEVERAGE” DOES NOT INCLUDE:

- 17 (I) ANY DAIRY PRODUCTS;
- 18 (II) ANY NONDAIRY, MILK-SUBSTITUTE PRODUCTS, SUCH AS SOY MILK, HAZELNUT
19 OR OTHER NUT MILK, RICE OR OTHER GRAIN MILK, AND THE LIKE;
- 20 (III) ANY BEVERAGE CONTAINING AT LEAST 10% NATURAL FRUIT JUICES; OR
- 21 (IV) ANY BEVERAGE IN A CONTAINER OF 2 LITERS OR LARGER.

22
23 (C) *DEALER.*

24 (1) *IN GENERAL.*

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

27 (2) *INCLUSIONS.*

28 “DEALER” INCLUDES:

- 29 (I) ANY BUSINESS THAT PERMITS ON-PREMISES CONSUMPTION OF BEVERAGES;
- 30 (II) ANY DISTRIBUTOR ENGAGED IN CASUAL RETAIL SALES OF BEVERAGES;

Council Bill 10-0474

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

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

5 (D) *DIRECTOR*.

6 “DIRECTOR” MEANS THE DIRECTOR OF FINANCE OR A DESIGNEE OF THE DIRECTOR OF
7 FINANCE.

8 (E) *DISTRIBUTOR*.

9 “DISTRIBUTOR” MEANS:

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

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

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

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

17 (1) *IN GENERAL*.

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

20 (I) CONTAINS A BEVERAGE; AND

21 (II) IS NOT ORDINARILY COLLECTED FROM CONSUMERS FOR REFILLING WITH A
22 BEVERAGE.

23 (2) *WHEN NOT CONSIDERED REUSABLE*.

24 A BEVERAGE CONTAINER IS NOT CONSIDERED REUSABLE IF:

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

26 (II) IT IS THE TYPE FOR WHICH:

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

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

Council Bill 10-0474

1 (G) *PERSON*.

2 (1) "PERSON" MEANS:

3 (I) AN INDIVIDUAL;

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

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

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

10 (H) *SUPPLY*.

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

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

15 **§ 20-2. TAX IMPOSED.**

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

18 **§ 20-3. AMOUNT OF TAX.**

19 THE AMOUNT OF THE TAX IMPOSED IS 4¢ PER NON-REUSABLE BEVERAGE CONTAINER.

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

21 (A) *IN GENERAL*.

22 THE TAX IMPOSED BY THIS SUBTITLE:

23 (1) IS DUE WHEN THE DEALER RECEIVES THE BEVERAGE CONTAINERS; AND

24 (2) MUST BE PAID ON OR BEFORE THE 25TH DAY OF THE MONTH FOLLOWING THE
25 MONTH IN WHICH THE DEALER RECEIVED THE PRODUCT.

26 (B) *REPORT*.

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

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

Council Bill 10-0474

1 **§ 20-5. DEALER SELF-TRANSPORT.**

2 (A) *DEALER LIABLE ABSENT CERTIFICATION.*

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

9 (B) *FORM.*

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

11 **§ 20-6. RECORDS.**

12 EVERY DISTRIBUTOR AND EVERY DEALER MUST:

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

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

19 **§ 20-7. INTEREST AND CIVIL PENALTIES.**

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

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

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

25 **§ 20-8. TAX DETERMINATION BY DIRECTOR.**

26 (A) *DIRECTOR TO OBTAIN INFORMATION.*

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

31 (B) *DIRECTOR TO ESTIMATE TAX.*

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

Council Bill 10-0474

1 (C) *NOTICE AND PAYMENT.*

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

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

5 **§ 20-9. CLOSING OR SALE OF BUSINESS.**

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

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

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

12 **§ 20-10. LIEN ON PROPERTY.**

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

15 **§ 20-11. RULES AND REGULATIONS.**

16 (A) *DIRECTOR MAY ADOPT.*

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

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

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

23 (3) PROVIDE FOR THE CREDIT OF ANY TAX PAID ON RETURNED PRODUCTS;

24 (4) PROVIDE FOR THE REFUND OF ANY TAX, INTEREST, OR PENALTY ERRONEOUSLY OR
25 ILLEGALLY PAID; AND

26 (5) OTHERWISE ADMINISTER, ENFORCE, AND CARRY OUT THIS SUBTITLE.

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

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

30 **§ 22-12. {RESERVED}**

Council Bill 10-0474

1 **§ 20-13. PENALTIES.**

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

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

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