

**CITY OF BALTIMORE
COUNCIL BILL 15-0541
(First Reader)**

Introduced by: Councilmembers Holton, Henry, Middleton, Costello, Scott, Kraft, Welch,
Clarke, Reisinger, Spector, Mosby, Curran, Branch

Introduced and read first time: June 1, 2015

Assigned to: Health Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Baltimore City
Public School System

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Flavored Tobacco – No Distribution Within 500 Feet of Schools**

3 FOR the purpose of prohibiting the distribution of flavored tobacco products within 500 feet of
4 any elementary, middle, or secondary school; defining and redefining certain terms; setting
5 certain penalties; clarifying and conforming related provisions; and generally relating to
6 flavored tobacco products.

7 BY repealing and reordaining, with amendments

8 Article - Health

9 Section(s) 12-601, 12-602, and 12-607

10 Baltimore City Revised Code

11 (Edition 2000)

12 BY adding

13 Article - Health

14 Section(s) 12-603

15 Baltimore City Revised Code

16 (Edition 2000)

17 BY renumbering, with amendments

18 Article - Health

19 Section(s) 12-603 and 12-604

20 to be

21 Section(s) 12-604 and 12-605

22 Baltimore City Revised Code

23 (Edition 2000)

24 BY repealing and reordaining, without amendments

25 Article - Health

26 Section(s) 12-606

27 Baltimore City Revised Code

28 (Edition 2000)

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

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1 BY recaptioning
2 Article - Health
3 Title 12. Tobacco Products
4 Subtitle 6. Flavored Tobacco Wrappings
5 to be
6 Title 12. Tobacco Products
7 Subtitle 6. Flavored Tobacco
8 Baltimore City Code
9 (Edition 2000)

10 BY repealing and reordaining, with amendments
11 Article 1. Mayor, City Council, and Municipal Agencies
12 Section 40-14(e)(7)(“Subtitle 6. Flavored Tobacco Wrappings”) and 41-14(6)(“Subtitle 6.
13 Flavored Tobacco Wrappings”)
14 Baltimore City Code
15 (Edition 2000)

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

18 **Baltimore City Revised Code**

19 **Article – Health**

20 **Title 12. Tobacco Products**

21 ***Subtitle 6. Flavored Tobacco [Wrappings]***

22 **§ 12-601. Definitions.**

23 (a) *In general*

24 In this subtitle, the following terms have the meanings indicated.

25 (b) *Distribute.*

26 “Distribute” means to:

- 27 (1) sell, deliver, dispense, issue, transfer, or otherwise distribute;
- 28 (2) offer to sell, deliver, dispense, issue, transfer, or otherwise distribute; or
- 29 (3) cause or hire any person to:
- 30 (i) sell, deliver, dispense, issue, transfer, or otherwise distribute; or
- 31 (ii) offer to sell, deliver, dispense, issue, transfer or otherwise distribute.

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1 (C) *FLAVORED TOBACCO PRODUCT.*

2 “FLAVORED TOBACCO PRODUCT” MEANS ANY PRODUCT CONSTITUTED FROM TOBACCO
3 THAT IS, OR IS HELD OUT TO BE, IMPREGNATED OR SCENTED WITH, OR AGED OR DIPPED IN,
4 OR HAS AS A CONSTITUENT PART (INCLUDING A SMOKE CONSTITUENT) OR ADDITIVE, AN
5 ARTIFICIAL OR NATURAL FLAVOR, ALCOHOLIC LIQUOR, OR AN HERB OR SPICE, INCLUDING
6 MENTHOL, STRAWBERRY, GRAPE, ORANGE, CLOVE, CINNAMON, PINEAPPLE, COCONUT,
7 LICORICE, COCOA, CHERRY, COFFEE, CHOCOLATE, VANILLA, HONEY, OR ANY OTHER
8 FLAVORING AGENT THAT IS A CHARACTERIZING FLAVOR OF THE TOBACCO PRODUCT OR
9 THE TOBACCO SMOKE.

10 (D) [(c)] *Flavored tobacco wrapping.*

11 “Flavored tobacco wrapping” means any cigarette rolling paper or tobacco wrapping leaf
12 or paper constituted from tobacco that is, or is held out to be, impregnated or scented
13 with, or aged or dipped in, or has as a constituent part (including a smoke constituent) or
14 additive, an artificial or natural flavor, alcoholic liquor, or an herb or spice, including
15 MENTHOL, strawberry, grape, orange, clove, cinnamon, pineapple, coconut, licorice,
16 cocoa, cherry, coffee, chocolate, vanilla, honey, or any other flavoring agent that is a
17 characterizing flavor of the tobacco product or the tobacco smoke.

18 **§ 12-602. [Distribution] FLAVORED TOBACCO WRAPPING DISTRIBUTION prohibited.**

19 No person may distribute for consideration any flavored tobacco wrapping to any other
20 person.

21 **§ 12-603. FLAVORED TOBACCO DISTRIBUTION PROHIBITED WITHIN 500 FEET OF SCHOOLS.**

22 NO PERSON MAY DISTRIBUTE FOR CONSIDERATION ANY FLAVORED TOBACCO PRODUCT TO
23 ANY OTHER PERSON WITHIN 500 FEET OF ANY PUBLIC OR PRIVATE:

24 (1) ELEMENTARY SCHOOL;

25 (2) MIDDLE SCHOOL; OR

26 (3) SECONDARY SCHOOL.

27 **§ 12-604 [§ 12-603.] Exception for certain tobacco shops.**

28 This subtitle does not apply to the distribution of flavored wrapping paper OR FLAVORED
29 TOBACCO PRODUCTS by or to a retail tobacco establishment that:

30 (1) derives at least 75% of its revenues, measured by average daily receipts, from the sale
31 of non-cigarette tobacco products;

32 (2) maintains for sale an inventory of loose tobacco products; and

33 (3) prohibits the entry of minors at all times.

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1 **§ 12-605 [§ 12-604.] Exception for vending machine sales.**

2 This subtitle does not apply to the sale or distribution of tobacco products by A vending
3 [machines] MACHINE THAT COMPLIES WITH ALL REQUIREMENTS OF STATE BUSINESS
4 REGULATION ARTICLE, TITLE 16, SUBTITLE 3A.

5 **§ 12-606. Enforcement by citation.**

6 (a) *In general.*

7 In addition to any other civil or criminal remedy or enforcement procedure, this subtitle
8 may be enforced by issuance of:

9 (1) an environmental citation as authorized by City Code Article 1, Subtitle 40
10 {"Environmental Control Board"}; or

11 (2) a civil citation as authorized by City Code Article 1, Subtitle 41 {"Civil
12 Citations"}.

13 (b) *Process not exclusive.*

14 The issuance of a citation to enforce this subtitle does not preclude pursuing any other
15 civil or criminal remedy or enforcement action authorized by law.

16 **§ 12-607. Penalties: \$1,000.**

17 (a) *In general.*

18 Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on
19 conviction, is subject to a fine of not more than \$1,000 for each offense.

20 (b) *Each [wrapper] DISTRIBUTION a separate offense.*

21 Each individual wrapping OR FLAVORED TOBACCO PRODUCT distributed in violation of
22 this subtitle is a separate offense.

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

24 **Subtitle 40. Environmental Control Board**

25 **§ 40-14. Violations to which subtitle applies.**

26 (e) *Provisions and penalties enumerated.*

27 (7) **Health Code**
28

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1 Title 12: Tobacco Products and Smoking Devices
2 Subtitle 6: Flavored Tobacco [Wrappings] \$500
3

Subtitle 41. Civil Citations

5 **§ 41-14. Offenses to which subtitle applies – Listing.**

6 (6) *Health Code*
7

8 Title 12: Tobacco Products and Smoking Devices
9 Subtitle 6: Flavored Tobacco [Wrappings] \$500
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.