CITY OF BALTIMORE ORDINANCE Council Bill 15-0475

Introduced by: Councilmember Middleton, President Young, Councilmembers Kraft, Branch, Costello, Holton, Stokes, Henry, Reisinger, Clarke, Scott, Welch, Mosby, Curran Introduced and read first time: January 26, 2015 Assigned to: Health Committee

Committee Report: Favorable with amendments Council action: Adopted Read second time: May 11, 2015

AN ORDINANCE CONCERNING

Drug Paraphernalia and Smoking Aids – Commercial Display to Minors

2	FOR the nurnose of	nrohihiting t	he commercial disi	play of certain dru	g paraphernalia and
4	1 OK the purpose of	promoning a		pluy of contain and	s paraphermana ana

- smoking aids to minors; defining a certain term; clarifying and conforming related 3
- provisions; and generally relating to drug paraphernalia and smoking aids. 4
- 5 BY adding

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- Article 19 Police Ordinances 6
- Section(s) 17-1(f) and 17-7 7
- 8 Baltimore City Code
- (Edition 2000) 9
- 10 By renumbering, with amendments
- Article 19 Police Ordinances 11
- Section(s) 17-8 12
- 13 to be
- 14 Section(s) 17-6
- Baltimore City Code 15
- 16 (Edition 2000)
- By repealing and reordaining, without amendments 17
- 18 Article 19 - Police Ordinances
- Section(s) 17-10 19
- 20 Baltimore City Code
- (Edition 2000) 21

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the 22 Laws of Baltimore City read as follows: 23

- **Baltimore City Code** 24 **Article 19. Police Ordinances** 25

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	Subtitle 17. Drugs - Paraphernalia				
2	§ 17-1. Definitions.				
3	(F) SMOKING AID.				
4	"SMOKING AID" MEANS:				
5 6 7	(1) ANY METAL, WOOD, ACRYLIC, GLASS, STONE, PLASTIC, CERAMIC, OR OTHER PIPE, TUBE, OR OTHER DEVICE THAT IS DESIGNED OR CAPABLE OF USE IN SMOKING OR OTHERWISE INHALING A CONTROLLED DANGEROUS SUBSTANCE; OR				
8 9	(2) ANY CIGARETTE ROLLING PAPER THAT IS DESIGNED OR CAPABLE OF USE FOR SMOKING OR OTHERWISE INHALING A CONTROLLED DANGEROUS SUBSTANCE.				
10	§ 17-6 [§ 17-8.] Relevant factors.				
11	(a) In general.				
12 13 14	To determine whether the use, possession, sale, or delivery of an object is prohibited by §§ 17-2 THROUGH 17-5 OF this subtitle, a court should consider, among other logically relevant factors:				
15	(1) any statement by an owner or a person in control of the object concerning its use;				
16 17	(2) any prior conviction of an owner or a person in control of the object under a state or federal law relating to controlled dangerous substances;				
18 19	(3) the proximity of the object, in time and space, to a direct violation of this subtitle or to a controlled dangerous substance;				
20	(4) any residue of a controlled dangerous substance on the object;				
21 22 23 24	(5) direct or circumstantial evidence of the intent of an owner or a person in control of the object to deliver it to another who the owner or person in control knows or should reasonably know, intends to use the object to facilitate a violation of <i>{the}</i> Maryland Controlled Dangerous Substances Act;				
25	(6) any instructions, oral or written, provided with the object concerning its use;				
26	(7) any descriptive materials accompanying the object that explain or depict its use;				
27	(8) national or local advertising concerning the object's use;				
28	(9) the manner in which the object is displayed for sale;				
29 30 31	(10) whether the owner or a person in control of the object is a licensed distributor or dealer of tobacco products or a legitimate supplier of related items to the community;				

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1 2	(11) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
3	(12) the existence and scope of legitimate uses for the object in the community;
4	(13) expert testimony concerning the object's use; and
5 6	(14) any other verifiable information that indicates that the object is intended or designed for use in violation of law.
7	(b) Innocence of owner not dispositive.
8 9 10	The innocence of an owner or person in control of the object as to a direct violation of this subtitle does not prevent a finding that the object is intended or designed for use in violation of this subtitle or the Maryland Controlled Dangerous Substances Act.
11	§17-7. Display of smoking aids <u>Commercial Display</u> to minors prohibited.
12 13	A PERSON MAY NOT DISPLAY A SMOKING AID, WITH THE INTENT TO SELL OR DELIVER IT TO ANOTHER, IN ANY PLACE WHERE IT IS OPEN TO CASUAL VIEW BY A MINOR.
14	(A) PLACEMENT IN WINDOWS PROHIBITED.
15 16	A PERSON MAY NOT PLACE ANY OF THE FOLLOWING IN A WINDOW OF A COMMERCIAL ESTABLISHMENT:
17 18 19	(1) ANY SMALL GLASSINE OR PLASTIC BAG, GLASS OR PLASTIC VIAL, OR OTHER CONTAINER THAT HOLDS LESS THAN ½ OF AN OUNCE AND IS DESIGNED OR INTENDED FOR USE IN PACKAGING CONTROLLED DANGEROUS SUBSTANCES; OR
20 21	(2) ANY METAL, WOOD, ACRYLIC, GLASS, STONE, PLASTIC, CERAMIC, OR OTHER PIPE, TUBE, OR OTHER DEVICE, INCLUDING CIGARETTE ROLLING PAPER, THAT IS:
22	(I) DESIGNED OR INTENDED FOR SMOKING ANY SUBSTANCE; AND
23 24	(II) CAPABLE OF USE IN SMOKING OR OTHERWISE INHALING A CONTROLLED DANGEROUS SUBSTANCE.
25	(B) <u>Required placement in establishments open to minors.</u>
26 27 28	IN ANY COMMERCIAL ESTABLISHMENT OPEN TO MINORS, ANY OF THE FOLLOWING AVAILABLE FOR SALE MUST BE PLACED BEHIND A SALES COUNTER AND BE INACCESSIBLE TO MINORS:
29 30 31	(1) ANY SMALL GLASSINE OR PLASTIC BAG, GLASS OR PLASTIC VIAL, OR OTHER CONTAINER THAT HOLDS LESS THAN 1/8 OF AN OUNCE AND IS DESIGNED OR INTENDED FOR USE IN PACKAGING CONTROLLED DANGEROUS SUBSTANCES; OR
32 33	(2) <u>ANY METAL, WOOD, ACRYLIC, GLASS, STONE, PLASTIC, CERAMIC, OR OTHER PIPE,</u> <u>TUBE, OR OTHER DEVICE, INCLUDING CIGARETTE ROLLING PAPER, THAT IS:</u>

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1	(I) DESIGNED OR INTENDED FOR SMOKING ANY SUBSTANCE; AND						
2 3	(II) <u>CAPABLE OF USE IN SMOKING OR OTHERWISE INHALING A CONTROLLED</u> <u>DANGEROUS SUBSTANCE.</u>						
4	§§17-8. to 17-9. {Reserved}						
5	§ 17-10. Penalties.						
6 7 8	Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of \$1,000 or imprisonment for 1 year or both fine and imprisonment.						
9 10 11	SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.						
12 13	SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30 th day 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