

Introduced by: Councilmembers Scott, Costello, Dorsey, Burnett, Clarke, Henry

Prepared by: Department of Legislative Reference

Date: October 11, 2017

Referred to: JUDICIARY AND LEGISLATIVE INVESTIGATIONS Committee

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL 17-0152

A BILL ENTITLED

AN ORDINANCE concerning

**Food Service Facilities – Healthy Beverages for Children’s Meals**

FOR the purpose of requiring food service facilities that offer beverages as part of a children’s meal to limit the beverage options being offered; defining “children’s meal”; providing for a special effective date; and generally relating to healthy food options for children.

BY adding

Article - Health  
Section 6-508  
Baltimore City Revised Code  
(Edition 2000)

BY repealing and reordaining, without amendments

Article - Health  
Section 6-801  
Baltimore City Revised Code  
(Edition 2000)

BY repealing and reordaining, without amendments

Article 1. Mayor, City Council, and Municipal Agencies  
Section 40-14(e)(7)(Title 6)  
Baltimore City Code  
(Edition 2000)

**\*\*The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

**Agencies**

Baltimore City Public School System

Baltimore Development Corporation

City Solicitor

Comptroller's Office

Department of Audits

Department of Finance

Department of General Services

Department of Housing and Community Development

Department of Human Resources

Department of Planning

Other:

Other:

Other:

Department of Public Works

Department of Real Estate

Department of Recreation and Parks

Department of Transportation

Fire Department

Health Department

Mayor's Office of Employment Development

Mayor's Office of Human Services

Mayor's Office of Information Technology

Office of the Mayor

Police Department

Other:

Other:

**Boards and Commissions**

Board of Estimates

Board of Ethics

Board of Municipal and Zoning Appeals

Comm. for Historical and Architectural Preservation

Commission on Sustainability

Employees' Retirement System

Other:

Other:

Other:

Environmental Control Board

Fire & Police Employees' Retirement System

Labor Commissioner

Parking Authority Board

Planning Commission

Wage Commission

Other:

Other:

Other:

Other: Environmental Control Board



Council Bill 17-0152

1       ~~WHEREAS, Families in Baltimore City often have limited time and options to shop for and~~  
2       ~~prepare healthy food, making dining out an appealing and sometimes necessary option:~~

3       ~~WHEREAS, Sugary drinks are the single leading source of added sugars in the American diet~~  
4       ~~and are associated with an increased risk of type 2 diabetes, heart disease, and other chronic~~  
5       ~~diseases:~~

6       ~~WHEREAS, Consuming sugary drinks — fruit drinks with added sugar, sports drinks, energy~~  
7       ~~drinks, and soda — poses a real health risk to children:~~

8       ~~WHEREAS, The American Heart Association recommends that children over the age of 2~~  
9       ~~have no more than one 8-ounce sugary drink a week. Yet children today are consuming as much~~  
10       ~~as 10 times that amount:~~

11       ~~WHEREAS, Children in low-income families consume 2½ times more sugary drinks than their~~  
12       ~~peers in higher-income families, in part due to aggressive marketing tactics by the beverage~~  
13       ~~industry:~~

14       ~~WHEREAS, People living in the U.S. consume about 34 pounds of added sugar every year just~~  
15       ~~from sugary drinks:~~

16       ~~WHEREAS, Nearly two-thirds of children living in the U.S. consume at least one sugary drink~~  
17       ~~daily:~~

18       ~~WHEREAS, Every year, 40,000 cardiovascular deaths in the U.S. are attributed to over~~  
19       ~~consumption of sugary drinks:~~

20       ~~WHEREAS, Diet related health conditions have serious economic costs, with a 2016 study~~  
21       ~~commissioned by MedChi, the Maryland State Medical Society, showing that Medicaid annual~~  
22       ~~spending per enrollee with diabetes (\$24,387) is more than double the spending per enrollee~~  
23       ~~without diabetes (\$10,880), and that, in 2014, HealthChoice spent more than \$471 million~~  
24       ~~treating people with diabetes for hospitalizations, doctor visits, and prescriptions:~~

25       ~~WHEREAS, More than 31% of HealthChoice patients with diabetes are from Baltimore City:~~

26       ~~WHEREAS, The National Association of Black County Officials passed a resolution in 2017~~  
27       ~~to support the reduction of sugary drinks consumption through decisive public health policy~~  
28       ~~measures in order to reduce the rising rates of chronic diseases and obesity:~~

29       ~~WHEREAS, The Mayor and City Council of Baltimore believes that offering healthier drinks~~  
30       ~~with children's meals will improve the overall health and well-being of children and families~~  
31       ~~living in Baltimore City:~~

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

Council Bill 17-0152

Baltimore City Revised Code

Article – Health

Title 6. Food Service Facilities

Subtitle 5. Miscellaneous Regulations

§ 6-508. CHILDREN'S MEALS.

~~(A) "CHILDREN'S MEAL" DEFINED.~~

~~IN THIS SECTION, "CHILDREN'S MEAL" MEANS A COMBINATION OF FOOD ITEMS THAT IS:~~

~~(1) OFFERED FOR PURCHASE AS A UNIT AT A SINGLE PRICE; AND~~

~~(2) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.~~

(A) "CHILDREN'S MEAL" DEFINED.

(1) IN GENERAL.

IN THIS SECTION, "CHILDREN'S MEAL" MEANS A COMBINATION OF FOOD ITEMS THAT IS:

(I) PREPARED BY AND OFFERED FOR PURCHASE AT A FOOD SERVICE FACILITY AS A UNIT AT A SINGLE PRICE; AND

(II) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

(2) EXCEPTION FOR PREPACKAGED FOOD ITEMS.

"CHILDREN'S MEAL" DOES NOT INCLUDE A COMBINATION OF FOOD ITEMS THAT HAS BEEN PREPACKAGED BY OR AT A FACILITY OTHER THAN THE FOOD SERVICE FACILITY OFFERING THE PREPACKAGED COMBINATION FOR PURCHASE.

(B) BEVERAGE LIMITATION.

NO FOOD SERVICE FACILITY MAY OFFER A CHILDREN'S MEAL THAT INCLUDES A BEVERAGE UNLESS THAT BEVERAGE IS:

(1) WATER, SPARKLING WATER, OR FLAVORED WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS;

(2) MILK OR A NON-DAIRY MILK ALTERNATIVE; OR

(3) 100% FRUIT JUICE OR FRUIT JUICE COMBINED WITH WATER OR SPARKLING WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS, IN A SERVING SIZE OF NO MORE THAN 8 OUNCES.

**Council Bill 17-0152**

1 (C) *QUALIFICATION.*

2 NOTHING IN THIS SECTION PRECLUDES A FOOD SERVICE FACILITY FROM PROVIDING, IF  
3 SPECIFICALLY REQUESTED BY THE PURCHASER OF THE CHILDREN'S MEAL, ANY LAWFUL  
4 BEVERAGE AS A SUBSTITUTE OR ALTERNATIVE FOR THE BEVERAGES BEING OFFERED IN  
5 ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

6 ***Subtitle 8. Penalties***

7 **§ 6-801. Enforcement by citation.**

8 (a) *In general.*

9 In addition to any other civil or criminal remedy or enforcement procedure, this title may  
10 be enforced by issuance of an environmental citation as authorized by City Code Article  
11 1, Subtitle 40 {"Environmental Control Board"}.

12 (b) *Process not exclusive.*

13 The issuance of an environmental citation to enforce this title does not preclude pursuing  
14 any other civil or criminal remedy or enforcement action authorized by law.

15 **Baltimore City Code**

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

17 **Subtitle 40. Environmental Control Board**

18 **§ 40-14. Violations to which subtitle applies.**

19 (e) *Provisions and penalties enumerated.*

20 (7) *Health Code*

21 . . .

22 Title 6: Food Service Facilities

23 Subtitle 2: License Required

24 § 6-201. In general \$300

25 Subtitle 5: Miscellaneous Regulations

26 § 6-506. Litter and rubbish prohibited \$200

27 All other provisions \$100

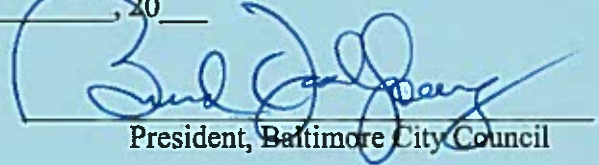
28 . . . .

Council Bill 17-0152

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 90<sup>th</sup> day  
5 after the date it is enacted.

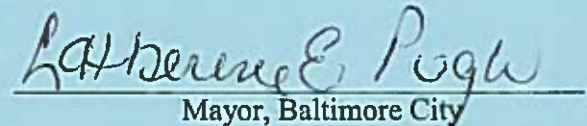
Certified as duly passed this \_\_\_\_\_ day of MAR 12 2018, 2018

  
\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of MAR 12 2018, 2018

  
\_\_\_\_\_  
Chief Clerk

Approved this 19 day of April, 2018

  
\_\_\_\_\_  
Mayor, Baltimore City





APPROVED FOR FORM,  
STYLE, AND TEXTUAL SUFFICIENCY

02/13/18

DEPT LEGISLATIVE REFERENCE

AMENDMENTS TO COUNCIL BILL 17-152  
(1<sup>st</sup> Reader Copy)

By: Judiciary and Legislative Investigations Committee

Amendment No. 1

On page 1, strike lines 21 through 26, in their entireties; and, on page 2, strike lines 1 through 31, in their entireties.

Amendment No. 2

**ADOPTED**

On page 3, strike lines 6 through 10, in their entireties, and substitute:

“(A) “CHILDREN’S MEAL” DEFINED.

(1) IN GENERAL.

IN THIS SECTION, “CHILDREN’S MEAL” MEANS A COMBINATION OF FOOD ITEMS THAT IS:

- (I) PREPARED BY AND OFFERED FOR PURCHASE AT A FOOD SERVICE FACILITY AS A UNIT AT A SINGLE PRICE; AND
- (II) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

(2) EXCEPTION FOR PREPACKAGED FOOD ITEMS.

“CHILDREN’S MEAL” DOES NOT INCLUDE A COMBINATION OF FOOD ITEMS THAT HAS BEEN PREPACKAGED BY OR AT A FACILITY OTHER THAN THE FOOD SERVICE FACILITY OFFERING THE PREPACKAGED COMBINATION FOR PURCHASE.”.



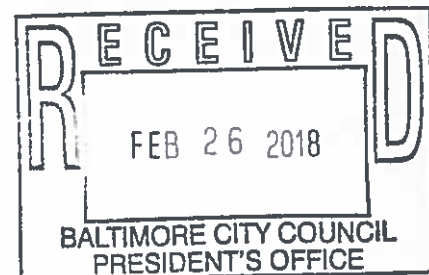


217 East Redwood Street Suite 1100  
Baltimore, Maryland 21202  
February 26, 2018

To: Baltimore City Council President Bernard C. "Jack" Young  
Members of the Baltimore City Council

From: Michaeline R. Fedder, M.A.  
Government Relations Director, Maryland

Re: Enthusiastic Support for City of Baltimore Council Bill 17-0152  
Food Service Facilities-Healthy Beverages for Children's Meals



The American Heart Association enthusiastically supports Council Bill 17-0152, which would require restaurants in Baltimore City that have dedicated children's menus to limit the beverage choices advertised on those menus to water, milk and 100% fruit juice in limited quantities.. The intent of this measure is to prevent sugar-sweetened beverages from automatically accompanying these children's meals. It should not, however, be construed as a ban on sugar-sweetened beverages. In fact, if a parent or the child asks for a different beverage, it will be brought with the meal... but the default beverage will be water, milk or 100% fruit juice in limited quantities.

This is significant legislation because, according to a recent Institute of Medicine report, sugary drinks contribute more calories and added sugars to our diets than any other food or beverage ...and daily consumption is strongly linked to higher childhood obesity and type 2 diabetes rates. Type 2 diabetes used to be known as "adult onset" diabetes but in the last few years this dangerous disease is being diagnosed in kids...mostly overweight and obese kids. And it's not a pretty disease.

So why does the American Heart Association care? Obesity and diabetes are risk factors for heart disease, the number one killer in Baltimore, in Maryland and throughout the United States.

I have attached to this written testimony, for your reading pleasure, a spectacular chart which shows the number of teaspoons of sugar contained in popular everyday drinks. Some of these are currently the default beverages on kids' meals menus. Do our kids really need to put so much sugar into their bodies on a regular basis? Kids eat out a lot and they start at an early age, at an age when habits are developing, both good and bad habits. If, when kids start eating out, healthy beverages are the default beverages on their special restaurant menus, they won't think twice about selecting one of them.

In closing, I urge your support of Baltimore City Council Bill 17-0152 which, when implemented, would bring us a little closer to eliminating the epidemic of childhood obesity. This is not a magic bullet but it's a good first step. Make healthy beverages the easy choice and by doing so you will be protecting our children and helping to reduce the cost of treating obesity-related diseases. The public, including your constituents, is counting on you to help create a culture of health in our city.



**Health Status in Baltimore City**  
**As Reported by the Baltimore City Health Department March-September 2017**

**Items Selected to Support Need for City of Baltimore Council Bill 17-0152,  
“Food Service Facilities-Healthy Beverages for Children’s Meals”**

- 1. Baltimore City ranks last on key health outcomes compared to other jurisdictions in Maryland;**
- 2. Baltimore City has an age-adjusted mortality rate 40% higher than the rest of the state;**
- 3. The leading causes of death in Baltimore City are heart disease, cancer, stroke,**
- 4. One in three Baltimore City high school students is either obese or overweight;**
- 5. 49.7% of Baltimore City residents living in households with yearly incomes below \$15,000.00 are obese; 35.9% of ALL Baltimore City Residents are obese;**
- 6. Obesity is a risk factor for heart disease and certain cancers including breast cancer, colorectal cancer and pancreatic cancer;**
- 7. One in four Baltimore City high school students drinks one or more “regular” sodas every day;**
- 8. There is a link between consumption of “regular” soda and obesity;**
- 9. Health is “foundational” to all aspects of life: Unhealthy children cannot learn and unhealthy adults cannot be productive in the work setting;**
- 10. Providing healthy beverage options with children’s meals will contribute to the overall health and wellbeing of Baltimore City’s children and families.**



# What are you *Actually* Drinking?

See how your favorite 16-20oz drink stacks up below



15.5 Tsp  
240 Cal



8 Tsp  
125 Cal



15 Tsp  
240 Cal



9 Tsp  
150 Cal



15 Tsp  
280 Cal



17 Tsp  
270 Cal



17.6 Tsp  
270 Cal



18 Tsp  
290 Cal



16 Tsp  
260 Cal



12 Tsp  
210 Cal







CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director  
415 City Hall, 100 N. Holliday Street  
Baltimore, Maryland 21202  
410-396-7215 / Fax: 410-545-7596  
email: larry.greene@baltimorecity.gov

## HEARING NOTES

Bill: 17-0152

### Food Service Facilities - Healthy Beverages for Children's Meals

**Committee:** Judiciary and Legislative Investigations

**Chaired By:** Councilmember Eric Costello

**Hearing Date:** January 30, 2018

**Time (Beginning):** 10:30 a.m.

**Time (Ending):** 11:50 a.m.

**Location:** Clarence "Du" Burns Chamber

**Total Attendance:** ~60

**Committee Members in Attendance:**

Eric Costello Mary Pat Clarke Brandon Scott  
Leon Pinkett Robert Stokes John Bullock Edward Reisinger

Bill Synopsis in the file? .....	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> n/a
Attendance sheet in the file? .....	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> n/a
Agency reports read? .....	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no	<input type="checkbox"/> n/a
Hearing televised or audio-digitally recorded? .....	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> n/a
Certification of advertising/posting notices in the file?.....	<input type="checkbox"/> yes	<input type="checkbox"/> no	<input checked="" type="checkbox"/> n/a
Evidence of notification to property owners? .....	<input type="checkbox"/> yes	<input type="checkbox"/> no	<input checked="" type="checkbox"/> n/a
Final vote taken at this hearing? .....	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no	<input type="checkbox"/> n/a
Motioned by: .....	N/A		
Seconded by: .....	N/A		
Final Vote: .....	N/A		

### Major Speakers

*(This is not an attendance record.)*

- Jeffrey Amoros, Health Department



## Major Issues Discussed

1. Chairman Costello introduced the proceedings, and asked each agency whether it stood by its report. Each agency responded in the affirmative.
2. Mr. Jeffrey Amoros provided testimony on behalf of the Health Department in favor of 17-0152. He noted that there are many health implications to consuming sugary beverages, and stated that many national chain restaurants are already moving away from bundling children's meals with sugary beverages.
3. Ms. Ellen Valentino represented the Maryland Beverage Association in its opposition to the Bill. She stated that the beverage industry cares about the health of its consumers and the City of Baltimore. Ms. Valentino added that the industry is investing in Baltimore, and recently added a new bottler in the area.
4. Ms. Michaeline Fedder discussed the American Heart Association's support for 17-0152. She stated that the organization is in favor because heart disease is the number one killer in Baltimore City, with sugar consumption being the prime risk factor for said disease. Ms. Fedder stated that this bill is a step in the right direction. She added that any changes in the Bill to make it such that sugary beverages are still bundled with children's meals would significantly reduce its effectiveness.
5. Ms. Raimee Eck testified in favor of the Bill as a member of the Maryland Public Health Association. She stated that 17-0152 represents a common sense solution to the health crises facing many poor communities in Baltimore. Ms. Eck noted that a default healthy option to children's meals is something affluent communities take for granted.
6. Ms. Hillary Caron represented the Center for Science in the Public Interest in its support for 17-0152. She stated that 47% of the children in Baltimore City are overweight or obese, and that sugary beverages offer no nutritional value. Ms. Caron added that the Bill does not take away a parent's ability to choose sugary beverages, and many top chains still offer the option.
7. Ms. Tracy Newsome expressed her support for the Bill, stating that it represents one small step in the right direction and that it is important to promote a healthy culture in the City.
8. Ms. Robi Rawl discussed her support for 17-0152, stating that it represents better equity throughout the City. She stated that she lives in an area with better health outcomes than much of the City, and that access to healthy options should be available to all. Ms. Rawl noted that poorer areas greater instances of diabetes and other chronic diseases.
9. Mr. Akil Patterson represented Sugar Free Kids and its support for the Bill. He stated that the adoption of 17-0152 has been a long time in the making. Mr. Patterson noted his own transition from sugary beverages as a college football player. He stated that he had to learn to like water, and spends some time getting children to like it, too.
10. Councilman Pinkett stated that he is in support of 17-0152, although he would like to see a greater educational and marketing effort in addressing the sugary beverage issue.
11. Vice Chairwoman Clarke said that this Bill creates healthy choices where there were none before.
12. Councilman Scott noted that in a neighborhood restaurant he frequents, many children are trained to think that soda is the default beverage.
13. Councilman Bullock emphasized that other factors must be taken into account with regards to healthy living including a culture of fitness and educational outreach.
14. Mr. Melvin Thompson represented the Maryland Restaurant Association in its opposition to 17-0152. He stated that there are many children's meals that are prepackaged with their beverages



and this Bill does not exempt them. Mr. Thompson added that the Bill could hamper restaurant operations and increase costs.

15. Councilman Scott stated that he had considered potential amendments to 17-0152 that would address prepackaged meals.

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**Further Study**

Was further study requested?

Yes  No

If yes, describe. N/A

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**Committee Vote:**

- E. Costello: .....
- M. Clarke: .....
- J. Bullock: .....
- L. Pinkett: .....
- E. Reisinger: .....
- B. Scott: .....
- R. Stokes: .....

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*D'Paul Nibber*  
D'Paul Nibber, Committee Staff

Date: January 30, 2018

cc: Bill File  
OCS Chrono File



**BALTIMORE CITY COUNCIL  
JUDICIARY AND LEGISLATIVE INVESTIGATIONS COMMITTEE  
VOTING RECORD**

BILL#: CC-17-0152

DATE: 2-26-18

**BILL TITLE: Food Service Facilities - Healthy Beverages for Children's Meals**

MOTION BY: B SCOTT      SECONDED BY: CLARKE

FAVORABLE

FAVORABLE WITH AMENDMENTS

UNFAVORABLE

WITHOUT RECOMMENDATION

NAME	YEAS	NAYS	ABSENT	ABSTAIN
Costello, E., Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarke, M., Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bullock, J.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pinkett, L.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reisinger, E.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott, B.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stokes, R.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<b>TOTALS</b>	<u>7</u>	<u>0</u>	<u>0</u>	<u>0</u>

CHAIRPERSON: E-V-C

COMMITTEE STAFF: D'Paul S. Nibber, Initials: DN







# CITY OF BALTIMORE CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: Judiciary and Legislative Investigations | Chairperson: Eric Costello

Date: January 30, 2018 | Time: 10:00AM | Place: Clarence "Du" Burns Chambers

Subject: Ordinance - Food Service Facilities - Healthy Beverages for Children's Meals | CC Bill Number: 17-0152

**PLEASE PRINT**

**IF YOU WANT TO TESTIFY PLEASE CHECK HERE** ➔

FIRST NAME	LAST NAME	ST.#	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	LOBBYIST: ARE YOU REGISTERED IN THE CITY
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Jeff	Amoros		BCHS		jeffrey.amoros@baltimorecity.gov	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Karl	Zimmerman		BCFD						<input checked="" type="checkbox"/>
Doreen	LAmount		BCFD	21004	dennat@deeds.com				<input checked="" type="checkbox"/>
<del>Ray</del>	<del>O'Blasche</del>		<del>san tyne rd</del>		<del>rayoblasche@verizon.net</del>				
SARA	Rubakove		CSP1		Sribakove@Cspinet.org		<input checked="" type="checkbox"/>		
Ryan	Woolley		CSP1		rwoolley@csinet.org		<input checked="" type="checkbox"/>		
Tom	Akras		BLLC		Thomas.Akras@baltimorecity.gov				
Debra	Woods		ELG		vesue.woods				
Mona	Aisikheir		FCB		mona@baltimorecity.gov				
Melvin	Thompson		Restaurant Assoc. of MD		mthompson@marylandrestaurants.com			<input checked="" type="checkbox"/>	

(\* NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730; FAX: 410-396-8483.



# CITY OF BALTIMORE CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: Judiciary and Legislative Investigations      Chairperson: Eric Costello  
 Date: January 30, 2018      Time: 10:00AM      Place: Clarence "Du" Burns Chambers  
 Subject: Ordinance - Food Service Facilities - Healthy Beverages for Children's Meals      CC Bill Number: 17-0152

PLEASE PRINT		PRESIDENT		FOR		AGAINST		(*) LOBBYIST: ARE YOU REGISTERED IN THE CITY?	
FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS				
John	Doc	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Robi	Rawl	192	Hollen Road	21212	robrawl@gmail.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tracy	Newson	570	25th St	21218	ALAN.SOME.BUSINESS@MS.N.COM	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<del>Tracy</del>	<del>Thompson</del>		<del>Patton Ave Health Dept</del>	<del>21202</del>	<del>Thompson@healthdept.org</del>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Hillana	Caron		CENTER FOR STROKE IN THE BALTIMORE AREA		ncaron@ospinet.org	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Raimiee	Eck		Maryland Public Health Assoc		President @mdpha.org	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Michaeline	Feeder		AHA	21202	Michaeline.feeder@gmail.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Ellen	Valentiwo		MD BEV ASSN		evalentiwo@getwashington.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Akil	PATTISON		Sugar Free Kids	21217	APattison@medchi.org	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



(\*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730; FAX: 410-396-8483.



# City of Baltimore

City Council  
City Hall, Room 408  
100 North Holliday Street  
Baltimore, Maryland  
21202

## Meeting Agenda - Final

### Judiciary and Legislative Investigations

---

Tuesday, January 30, 2018

10:00 AM

Du Burns Council Chamber, 4th floor, City Hall

---

17-0152

#### CALL TO ORDER

#### INTRODUCTIONS

#### ATTENDANCE

#### ITEMS SCHEDULED FOR PUBLIC HEARING

17-0152

##### **Food Service Facilities - Healthy Beverages for Children's Meals**

For the purpose of requiring food service facilities that offer beverages as part of a children's meal to limit the beverage options being offered; defining "children's meal"; providing for a special effective date; and generally relating to healthy food options for children.

Sponsors:

Brandon M. Scott, Eric T. Costello, Ryan Dorsey, Kristerfer Burnett, Mary Pat Clarke, Bill Henry

#### ADJOURNMENT

**This Meeting is Open to the Public**



# City of Baltimore

City Council  
City Hall, Room 408  
100 North Holliday Street  
Baltimore, Maryland  
21202

## Meeting Minutes - Final

### Judiciary and Legislative Investigations

---

Tuesday, January 30, 2018

10:00 AM

Du Burns Council Chamber, 4th floor, City Hall

---

17-0152

#### **CALL TO ORDER**

#### **INTRODUCTIONS**

#### **ATTENDANCE**

**Present** 7 - Member Eric T. Costello, Member Mary Pat Clarke, Member Leon F. Pinkett III, Member John T. Bullock, Member Edward Reisinger, Member Brandon M. Scott, and Member Robert Stokes Sr.

#### **ITEMS SCHEDULED FOR PUBLIC HEARING**

##### 17-0152

##### **Food Service Facilities - Healthy Beverages for Children's Meals**

For the purpose of requiring food service facilities that offer beverages as part of a children's meal to limit the beverage options being offered; defining "children's meal"; providing for a special effective date; and generally relating to healthy food options for children.

**Sponsors:** Brandon M. Scott, Eric T. Costello, Ryan Dorsey, Kristerfer Burnett, Mary Pat Clarke, Bill Henry

**Council Bill #17-0152 received a Public Hearing.**

#### **ADJOURNMENT**

**This Meeting is Open to the Public**



**COMPLIANCE CHECKLIST**  
**FOR MEETINGS SUBJECT TO THE MARYLAND OPEN MEETINGS ACT \***

Name of public body Judiciary and Legislative Investigations Date of Meeting: January 30, 2018

1.  Did you give "reasonable advance notice" and keep a copy or screenshot?
2.  Did you make an agenda available when notice was posted, or, if not yet determined, as soon as practicable, but at least 24 hours before the meeting?
3.  Did you make arrangements for the public to attend?
4.  Is someone prepared to keep minutes in writing or, otherwise, to run the equipment for minutes in the form of live and archived video or audio streaming?
5.  If part of this meeting might be closed to the public, have you first:
  - Made sure that the public body designated a member to take training in the Act? (eff. 10/1/17)
  - Made sure that the topic to be discussed falls entirely within one or more of the 14 "exceptions" that allow the closed session? (see over for the list)
  - Given notice of the open meeting to be held right before the closed session, so that the presiding officer can hold the required public vote to close?
  - Made sure that the initial open meeting will be attended by a member designated to take training in the Act, and, if a designated member cannot attend, made sure that the public body is ready to complete this compliance checklist at the open meeting and keep it to attach to the minutes? (eff. 10/1/17)
  - Equipped the presiding officer to prepare a written statement with the required disclosures? (for a model form with instructions, go to <http://www.marylandattorneygeneral.gov/Pages/OpenGov/Openmeetings/default.aspx> )
  - Equipped the presiding officer to limit the closed session discussion to the exceptions and topics cited on the written closing statement?
  - Arranged for closed-session minutes to be kept and adopted as sealed?
  - Equipped someone in the closed session to keep a record of each item of information that must be disclosed in the minutes of the next open meeting? (for the list, see the model closing statement).
  - For a meeting recessed to hold a closed administrative session, arranged to disclose, in the minutes of the next open meeting, the date, time, and place, persons present, and subjects discussed?
6.  Have you arranged for the preparation, the adoption as soon as practicable, and posting online if practicable, of minutes of the open meeting, including summaries of any prior closed sessions, and this form (when required), completed on this side?

*\*This checklist is designed for general use as well as for use at open meetings of public bodies that hold closed meetings on or after 10/1/2017, when a member designated for training cannot attend the initial open meeting. See GP § 3-213(d). Like the earlier checklists, this checklist gives general guidance, does not guarantee "compliance" with every provision of the Open Meetings Act, and will be revised occasionally.*



**STATUTORY AUTHORITY TO CLOSE SESSION  
(THE FOURTEEN "EXCEPTIONS")  
General Provisions Article § 3-305(b)**

- (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;
- (2) To protect the privacy or reputation of an individual with respect to a matter not related to public business;
- (3) To consider the acquisition of real property for a public purpose and matters directly related to the acquisition;
- (4) To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- (5) To consider the investment of public funds;
- (6) To consider the marketing of public securities;
- (7) To consult with counsel to obtain legal advice;
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation;
- (9) To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- (10) To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans;
- (11) To prepare, administer, or grade a scholastic, licensing, or qualifying examination;
- (12) To conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- (13) To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
- (14) To discuss, before a contract is awarded or bids are opened, a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director  
415 City Hall, 100 N. Holliday Street  
Baltimore, Maryland 21202  
410-396-7215 / Fax: 410-545-7596  
email: larry.greene@baltimorecity.gov

## BILL SYNOPSIS

**Committee:** Judiciary and Legislative Investigations

**Bill 17-0152**

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### Food Service Facilities - Healthy Beverages For Children's Meals

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**Sponsor:** Councilmember Scott, et al

**Introduced:** October 16, 2017

**Purpose:**

For the purpose of requiring food service facilities that offer beverages as part of a children's meal to limit the beverage options being offered; defining "children's meal"; providing for a special effective date; and generally relating to healthy food options for children.

**Effective:** Upon the 90th day after the date it is enacted.

**Hearing Date/Time/Location:** January 30, 2018/10:00 a.m./Clarence "Du" Burns Chamber

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### Agency Reports

Law Department

Favorable

Department of Health

Favorable

Environmental Control Board

No Objections

Baltimore Development Corporation

No Objections



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## **ANALYSIS**

### **Current Law**

The City regulates food service facilities under the Health Code and Section 40 of Article 1 of the City Code, which establishes the Environmental Control Board and Code Enforcement Officers. In order to regulate said facilities, the City invokes its police powers under City Charter, Article II, §§ 11, 27, and 47.

### **Background**

Council Bill 17-0152 requires that certain food service facilities provide certain beverages with meals marketed to children. The Bill defines "children's meal" as a "combination of food items that is offered for purchase as a unit at a single price" and "intended for consumption by children." It then establishes a "beverage limitation" for said meals, which includes water, "milk or a non-dairy milk alternative," and fruit juice.

A qualification is included stating that alternative beverages may be "specifically requested by the purchaser of the children's meal." 17-0152 grants the Environmental Control Board authority to issue citations for food service facilities found in violation of the beverage limitation, and includes a penalty schedule for offenders.

The Law Department approved 17-0152 for form and legal sufficiency. The Environmental Control Board has no objections to the Bill since it "does not anticipate that the number of citations... issued for a violation... will have a significant impact on [its] operations." Likewise, the Baltimore Development Corporation has no objections to 17-0152, but notes that there may be confusion regarding prepacked meals that already include a beverage. It also mentions that "the bill does not specify enforcement action, such as how long food service facilities would have to comply with the new requirement."

The Health Department issued a favorable report, citing numerous data regarding the detrimental effects of sugar sweetened beverages ("SSB"). It stated that "drinking one SSB per day increases a child's odds of suffering from obesity by 60%" and that "the Centers for Disease Control and Prevention (CDC) estimate more than one-third of all school-aged children [in Baltimore] are either overweight or obese."

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***Additional Information***

**Fiscal Note:** Not Available

**Information Source(s):** Law Department; Department of Health; Environmental Control Board; Baltimore Development Corporation

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Analysis by: *D'Paul & Nibber*  
D'Paul S. Nibber  
Analysis Date: January 26, 2018

Direct Inquiries to: (410) 396-1268



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DEPT LEGISLATIVE REFERENCE

AMENDMENTS TO COUNCIL BILL 17-152  
(1<sup>st</sup> Reader Copy)

By: Councilmember Scott  
{To be offered to the Judiciary Committee}

Amendment No. 1

On page 1, strike lines 21 through 26, in their entireties; and, on page 2, strike lines 1 through 31, in their entireties.

Amendment No. 2

On page 3, strike lines 6 through 10, in their entireties, and substitute:

“(A) “CHILDREN’S MEAL” DEFINED.

(1) IN GENERAL.

IN THIS SECTION, “CHILDREN’S MEAL” MEANS A COMBINATION OF FOOD ITEMS THAT IS:

- (i) PREPARED BY AND OFFERED FOR PURCHASE AT A FOOD SERVICE FACILITY AS A UNIT AT A SINGLE PRICE; AND
- (ii) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

(2) EXCEPTION FOR PREPACKAGED FOOD ITEMS.

“CHILDREN’S MEAL” DOES NOT INCLUDE A COMBINATION OF FOOD ITEMS THAT HAS BEEN PREPACKAGED BY OR AT A FACILITY OTHER THAN THE FOOD SERVICE FACILITY OFFERING THE PREPACKAGED COMBINATION FOR PURCHASE.”

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- (ii) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

(2) EXCEPTION FOR PREPACKAGED FOOD ITEMS.

"CHILDREN'S MEAL" DOES NOT INCLUDE A PREPACKAGED COMBINATION OF FOOD ITEMS THAT IS PACKAGED OUTSIDE OF THE FOOD SERVICE FACILITY."

<b>F R O M</b>	<b>Name &amp; Title</b>	<b>Dr. Leana Wen, Commissioner</b>	<b>Health Department</b>  <b>AGENCY REPORT</b>	
	<b>Agency Name &amp; Address</b>	<b>Health Department 1001 E. Fayette Street Baltimore, Maryland 21201</b>		
	<b>Subject</b>	<b>17-0152 – Food Service Facilities – Healthy Beverages for Children’s Meals</b>		

**To: President and Members  
of the City Council  
c/o 409 City Hall**

**January 25, 2018**

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review 17-0152 – Food Service Facilities – Healthy Beverages for Children’s Meals. The purpose of this legislation is to require food service facilities that offer beverages as part of a children’s meal to make milk, juice, and water the default beverage options for those menu items.

Intake of sugar-sweetened beverages (SSBs) leads to excess caloric intake, weight gain, and obesity, and increases the risk of chronic diseases such as diabetes and heart disease.<sup>1</sup> SSBs are the leading source of added sugar in the American diet. Drinking one SSB per day increases a child’s odds of suffering from obesity by 60%.<sup>2</sup>

In Baltimore City, the Centers for Disease Control and Prevention (CDC) estimate more than one-third of all school-aged children are either overweight or obese.<sup>3</sup> CDC data shows that more than one-quarter of Baltimore City school children will consume at least one soda today, while more than a third will not consume any milk.<sup>4</sup> This creates expensive health issues for Baltimore. In 2018, diseases resulting from poor dietary habits are expected to cost Maryland’s healthcare system more than \$7.6 billion in direct medical costs.

SSBs are often marketed to children, as beverage companies tout drinks with kid-friendly flavor options and packaging designs specifically to children in low-income households.<sup>5</sup> In 2013, beverage companies spent \$866 million<sup>6</sup> to advertise unhealthy drinks to children, almost four

<sup>1</sup> Massey, W. (2016, August 22). Proposed warnings on sugary drinks a matter of health, justice, proponents say. Retrieved November 02, 2017, from <http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-sugary-drinks-bill-20160607-story.html>.

<sup>2</sup> US National Library of Medicine National Institutes of Health. <http://www.ncbi.nlm.nih.gov/pubmed/11229668>.

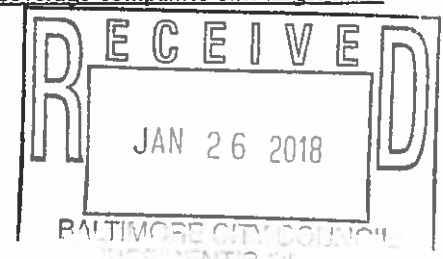
<sup>3</sup> Centers for Disease Control and Prevention <https://nccd.cdc.gov/youthonline/App/Results.aspx?TT=C&SID=HS&OID=H77&LID=BA&LID2=SL&YID=2013&YID2=SY&SYID=&EYID=&HT=OO&LCT=LL&COL=S&ROW1=N&ROW2=N&TST=false&C1=&C2=&SC=DEFAULT&SO=ASC&VA=CI&CS=Y&DP=1&OP=G&FG=G1&FR=R1&FS=S1>

<sup>4</sup> Ibid.

<sup>5</sup> Nutrition. (2017, April 07). Retrieved November 02, 2017, from <https://www.cdc.gov/nutrition/data-statistics/sugar-sweetened-beverages-intake.html>.

<sup>6</sup> Orciari, M. (2014, November 19). Beverage companies still target kids with marketing for unhealthy, sugary drinks. Retrieved November 02, 2017, from <https://news.yale.edu/2014/11/19/beverage-companies-still-target-kids-marketing-unhealthy-sugary-drinks>.

A







times the amount spent to advertise 100% juice and water. Further, this advertising disproportionately targeted youth of color, as spending on ads for unhealthy drinks directed toward black and Latino youth occurred at higher rates than similar advertising aimed at white children.<sup>7</sup> These advertising components target our most vulnerable neighbors.<sup>8</sup>

Creating a healthy beverage default option for children's meals among restaurants promotes healthier lifestyle choices for Baltimore City's children and their families. **BCHD strongly supports this legislation, and urges the committee a favorable report.** We will be present at the hearing to answer any questions the Council may have for this legislation.

---

<sup>7</sup> Ibid.

<sup>8</sup> Weinfeld, J. (n.d.). Sugary drinks: a sickeningly sweet issue. The Baltimore Sun. Retrieved November, 2017, from <http://www.baltimoresun.com/news/opinion/oped/bs-ed-sugary-drinks-20160414-story.html>.



CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, CITY SOLICITOR  
100 N. Holliday Street  
Suite 101, City Hall  
Baltimore, Maryland 21202

January 25, 2018

The Honorable President and Members  
of the Baltimore City Council  
Attn: Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

Re: City Council Bill 17-0152 – Food Service Facilities – Healthy Beverages  
for Children’s Meals

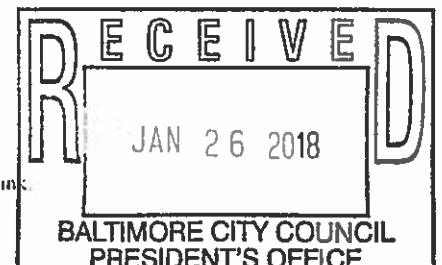
Dear President and City Council Members:

The Law Department has reviewed City Council Bill 17-0152 for form and legal sufficiency. The bill would amend two sections in the Health Code and the corresponding section in Section 40 of Article 1 of the City Code concerning regulations of food service facilities in Baltimore City. The bill would prevent those facilities from offering Children’s Meals (as it defines them) with beverages unless those beverages are one of the types listed in the bill. Although the food service facility could offer any lawful beverage if requested by the customer, it cannot offer a beverage as part of a Children’s Meal unless that beverage was of a certain type.

The City has the general police and welfare powers to legislate in this area and to preserve the health of all people in the City. *See* City Charter, Art. II, §§ 11, 27, 47. This allows the City “to prescribe, within the limits of the federal and state constitutions, reasonable regulations necessary to preserve the public order, health, safety, or morals.” *Tighe v. Osborne*, 149 Md. 349, 356 (1925). *See* City Charter, Art. II, §§(11), (47). Opponents may argue that the Commerce Clause in the federal Constitution limits the City’s power to enact this law. However, such a challenge would likely fail because the City may regulate local aspects of interstate commerce if the law: (1) does not discriminate against outside interests to benefit local economic interests; and (2) is not unduly burdensome. *See Minnesota v. Clover Leaf Creamery Co.*, 449 U.S. 456, 470-71 (1981); *accord BlueHippo Funding, LLC v. McGraw*, 609 F. Supp. 2d 576, 586 (S.D. W. Va. 2009)(recognizing that the Fourth Circuit has consistently used this two part test). This bill would likely withstand a Commerce Clause challenge because it does not discriminate against out of state interests and the City could make a plausible argument that the burdens on interstate commerce are incidental and do not outweigh the significant local environmental benefits produced by the legislation. Certainly it would behoove the Council to elicit testimony at the hearing to describe the benefits that this law would provide and the fact that it would be only an incidental burden to commerce, if at all.

FAV w/ comments

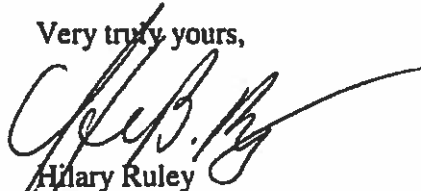
♻️ Printed on recycled paper with environmentally friendly soy based ink.





The Law Department approves the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley  
Chief Solicitor

cc: Andre M. Davis, City Solicitor  
Karen Stokes, Director, Mayor's Office of Government Relations  
Kyron Banks, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Victor Tervalá, Chief Solicitor  
Jennifer Landis, Assistant Solicitor





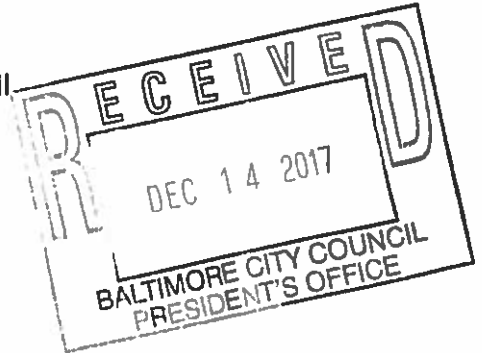
**MEMORANDUM**

**TO:** Honorable President and Members of the City Council  
Attention: Natawna B. Austin, Executive Secretary

**FROM:** William H. Cole, President and CEO *W. Cole*

**DATE:** November 28, 2017

**SUBJECT:** City Council Bill No. 17-0152  
Food Service Facilities – Healthy Beverages for Children’s Meals



The Baltimore Development Corporation (BDC) has been asked to comment on City Council Bill No. 17-0152 for the purpose of requiring food service facilities that offer beverages as part of a children’s meal to limit the beverage options being offered; defining “children’s meal”; providing special effective date; and generally relating to healthy food options for children.

As a partner agency in the Baltimore Food Policy Initiative, BDC actively works to increase healthy food access for all residents through our economic development efforts. According to the most recent food environment assessment conducted by the Johns Hopkins Center for a Livable Future, we know that Baltimore children are disproportionately affected by lack of healthy food access. Thirty percent of children live in healthy food priority areas (formerly referred to as food deserts), compared to 25% of Baltimore adults.

Bill 17-0152 allows businesses to choose among beverage options to offer with a children’s meal, some of which are cost neutral to what may currently be offered with a meal. Additionally, the bill allows for businesses to provide a substitute beverage to what is included in the children’s meal if specifically requested by the consumer. As such, Bill 17-0152 does not appear to present an undue burden on businesses in order to comply, while still providing consumer choice.

As currently written, it is unclear whether pre-packaged meals for kids that include a drink produced by a manufacturer would be included in the requirement. Additionally, the bill does not specify enforcement action, such as how long food service facilities would have to comply with the new requirement, whether there would be a warning before a citation was issued, and how much a penalty to the food service facility would cost.

BDC is concerned that this lack of specificity will create confusion among affected businesses; however, has no objection to Bill No. 17-0152 as currently written.

cc: Kyron Banks *KB*





FROM

NAME & TITLE

Rebecca Woods, Esq., Executive Director *RW*

AGENCY NAME & ADDRESS

Environmental Control Board  
1 N. Charles Street, Suite 1300

SUBJECT

City Council Bill # 17-0152  
Food Service Facilities – Healthy Beverages

CITY OF  
BALTIMORE

MEMO



DATE:

TO

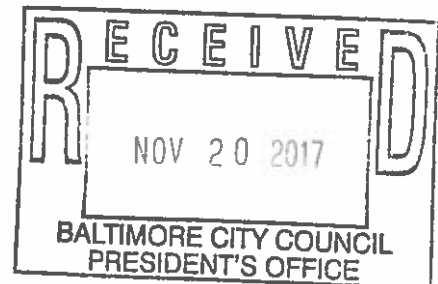
The Honorable President and Members  
of the Baltimore City Council

November 20, 2017

The Baltimore City Environmental Control Board (ECB) is pleased to have the opportunity to review Council Bill #17-0152, Food Service Facilities – Healthy Beverages for Children’s Meals. The purpose of the bill is to prohibit food service facilities from serving certain sugary beverage options with the sale of a children’s meal.

The ECB does not anticipate that the number of citations that will be issued for a violation of the relevant provision will have a significant impact on ECB operations. As a result, ECB has no objections to the passage of this bill.

*No  
obj*





# Anthony J. Ambridge

Honorable Brandon Scott  
Baltimore City Council, Second District  
100 N. Holliday Street Suite 500  
Baltimore MD 21202

October 17, 2017

Re ; Posting Health Dept. Restaurant "Grade"

Dear Councilman,

I have read about your efforts to require by Ordinance, the public posting of Health Department "Grades" as specified by inspection of one employee. Very bad idea.

I have been where you are, having been elected to four terms of the Baltimore City Council myself. During my personal business career though, I have also owned various businesses, and including restaurants. My last restaurant, Nick's Fish House, was sold January 2017, and fyi, I do not intend to ever go into the restaurant business again, however, my experience should provide you a peak into the industry from a non-affected person.

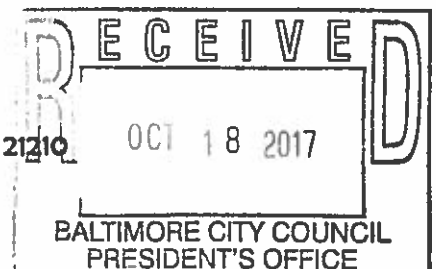
In all my years, the one consistent factor is the inconsistencies of Inspectors. I dare say, one could have three inspections on three consecutive days and have three completely different results. One time, and several years after I left City employment, and just after Nick's Fish House opened, which was a complete re-build from the ground, a Health Department Inspector came in during a busy lunch period which also had three different Company Parties going on. I happened to be there that day, and the Manager, in an excited state came to me because the Inspector was "closing the business down". The City Inspector had cited an improper bar sink. Fortunately I knew the Code and knew the build-out had recently had complete plan review and approval by the same Health Department she worked for. I was able to reach the then Director of Health Department who was able to send a second Inspector who confirmed her mistake. This averted tragedy is just one example of many I could provide.

All this to say, Inspectors are human, they make mistakes, as we all do, but they have the power to cause irreparable harm to a business, particularly if the mistake is "Posted" for all to see. Given there has not been any immediate or past cause for such draconian action, and given it may make it significantly more difficult for many businesses to survive. Although I am sure you are well meaning, I strongly recommend against passage of this bill. Please call me if you would like to discuss.

Sincerely,  
  
Anthony J. Ambridge

625 Stoney Spring Drive – Baltimore MD 21210

443.956.7866 [aja@VixonWolfe.com](mailto:aja@VixonWolfe.com)





**CITY OF BALTIMORE  
COUNCIL BILL 17-0152  
(First Reader)**

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Introduced by: Councilmembers Scott, Costello, Dorsey, Burnett, Clarke, Henry

Introduced and read first time: October 16, 2017

Assigned to: Judiciary and Legislative Investigations Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Baltimore  
Development Corporation, Environmental Control Board

---

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Food Service Facilities – Healthy Beverages for Children’s Meals**

3 FOR the purpose of requiring food service facilities that offer beverages as part of a children’s  
4 meal to limit the beverage options being offered; defining “children’s meal”; providing for a  
5 special effective date; and generally relating to healthy food options for children.

6 BY adding

7 Article - Health  
8 Section 6-508  
9 Baltimore City Revised Code  
10 (Edition 2000)

11 BY repealing and reordaining, without amendments

12 Article - Health  
13 Section 6-801  
14 Baltimore City Revised Code  
15 (Edition 2000)

16 BY repealing and reordaining, without amendments

17 Article 1. Mayor, City Council, and Municipal Agencies  
18 Section 40-14(e)(7)(Title 6)  
19 Baltimore City Code  
20 (Edition 2000)

21 **Preamble**

22 **WHEREAS**, The Mayor and City Council of Baltimore desires to promote healthy options for  
23 children and their families to build a healthier community for all.

24 **WHEREAS**, An important goal of the Mayor and City Council of Baltimore is to promote  
25 healthy lifestyles through innovative approaches that foster healthy environments where families  
26 live, work, and play.

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

**Council Bill 17-0152**

1       **WHEREAS**, Families in Baltimore City often have limited time and options to shop for and  
2       prepare healthy food, making dining out an appealing and sometimes necessary option.

3       **WHEREAS**, Sugary drinks are the single leading source of added sugars in the American diet  
4       and are associated with an increased risk of type 2 diabetes, heart disease, and other chronic  
5       diseases.

6       **WHEREAS**, Consuming sugary drinks – fruit drinks with added sugar, sports drinks, energy  
7       drinks, and soda – poses a real health risk to children.

8       **WHEREAS**, The American Heart Association recommends that children over the age of 2  
9       have no more than one 8-ounce sugary drink a week. Yet children today are consuming as much  
10      as 10 times that amount.

11      **WHEREAS**, Children in low-income families consume 2½ times more sugary drinks than their  
12      peers in higher-income families, in part due to aggressive marketing tactics by the beverage  
13      industry.

14      **WHEREAS**, People living in the U.S. consume about 34 pounds of added sugar every year just  
15      from sugary drinks.

16      **WHEREAS**, Nearly two-thirds of children living in the U.S. consume at least one sugary drink  
17      daily.

18      **WHEREAS**, Every year, 40,000 cardiovascular deaths in the U.S. are attributed to over  
19      consumption of sugary drinks.

20      **WHEREAS**, Diet-related health conditions have serious economic costs, with a 2016 study  
21      commissioned by MedChi, the Maryland State Medical Society, showing that Medicaid annual  
22      spending per enrollee with diabetes (\$24,387) is more than double the spending per enrollee  
23      without diabetes (\$10,880), and that, in 2014, HealthChoice spent more than \$471 million  
24      treating people with diabetes for hospitalizations, doctor visits, and prescriptions.

25      **WHEREAS**, More than 31% of HealthChoice patients with diabetes are from Baltimore City.

26      **WHEREAS**, The National Association of Black County Officials passed a resolution in 2017  
27      to support the reduction of sugary drinks consumption through decisive public health policy  
28      measures in order to reduce the rising rates of chronic diseases and obesity.

29      **WHEREAS**, The Mayor and City Council of Baltimore believes that offering healthier drinks  
30      with children's meals will improve the overall health and well-being of children and families  
31      living in Baltimore City.

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

**Baltimore City Revised Code**

**Article – Health**

**Title 6. Food Service Facilities**

***Subtitle 5. Miscellaneous Regulations***

**§ 6-508. CHILDREN’S MEALS.**

**(A) “CHILDREN’S MEAL” DEFINED.**

IN THIS SECTION, “CHILDREN’S MEAL” MEANS A COMBINATION OF FOOD ITEMS THAT IS:

(1) OFFERED FOR PURCHASE AS A UNIT AT A SINGLE PRICE; AND

(2) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

**(B) BEVERAGE LIMITATION.**

NO FOOD SERVICE FACILITY MAY OFFER A CHILDREN’S MEAL THAT INCLUDES A BEVERAGE UNLESS THAT BEVERAGE IS:

(1) WATER, SPARKLING WATER, OR FLAVORED WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS;

(2) MILK OR A NON-DAIRY MILK ALTERNATIVE; OR

(3) 100% FRUIT JUICE OR FRUIT JUICE COMBINED WITH WATER OR SPARKLING WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS, IN A SERVING SIZE OF NO MORE THAN 8 OUNCES.

**(C) QUALIFICATION.**

NOTHING IN THIS SECTION PRECLUDES A FOOD SERVICE FACILITY FROM PROVIDING, IF SPECIFICALLY REQUESTED BY THE PURCHASER OF THE CHILDREN’S MEAL, ANY LAWFUL BEVERAGE AS A SUBSTITUTE OR ALTERNATIVE FOR THE BEVERAGES BEING OFFERED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

***Subtitle 8. Penalties***

**§ 6-801. Enforcement by citation.**

**(a) In general.**

In addition to any other civil or criminal remedy or enforcement procedure, this title may be enforced by issuance of an environmental citation as authorized by City Code Article 1, Subtitle 40 {“Environmental Control Board”}.



Council Bill 17-0152

(b) *Process not exclusive.*

The issuance of an environmental citation to enforce this title does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

**Baltimore City Code**

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

**Subtitle 40. Environmental Control Board**

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

(c) *Provisions and penalties enumerated.*

(7) *Health Code*

Title 6: Food Service Facilities

Subtitle 2: License Required

§ 6-201. In general \$300

Subtitle 5: Miscellaneous Regulations

§ 6-506. Litter and rubbish prohibited \$200

All other provisions \$100

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.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 90<sup>th</sup> day after the date it is enacted.

INTRODUCTORY\*  
CITY OF BALTIMORE  
COUNCIL BILL 17-0152

APPROVED FOR FORM,  
STYLE, AND TEXTUAL SUFFICIENCY  
10/11/17  
DEPT LEGISLATIVE REFERENCE

Introduced by: Councilmember Scott

A BILL ENTITLED

AN ORDINANCE concerning

Food Service Facilities – Healthy Beverages for Children’s Meals

~~XXXXXXXXXX~~  
JLI  
Health Law  
BDC  
ECB

FOR the purpose of requiring food service facilities that offer beverages as part of a children’s meal to limit the beverage options being offered; defining “children’s meal”; providing for a special effective date; and generally relating to healthy food options for children.

BY adding

Article - Health  
Section 6-508  
Baltimore City Revised Code  
(Edition 2000)

BY repealing and reordaining, without amendments

Article - Health  
Section 6-801  
Baltimore City Revised Code  
(Edition 2000)

BY repealing and reordaining, without amendments

Article 1. Mayor, City Council, and Municipal Agencies  
Section 40-14(e)(7)(Title 6)  
Baltimore City Code  
(Edition 2000)

Preamble

WHEREAS, The Mayor and City Council of Baltimore desires to promote healthy options for children and their families to build a healthier community for all.

WHEREAS, An important goal of the Mayor and City Council of Baltimore is to promote healthy lifestyles through innovative approaches that foster healthy environments where families live, work, and play.

WHEREAS, Families in Baltimore City often have limited time and options to shop for and prepare healthy food, making dining out an appealing and sometimes necessary option.

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

\* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.  
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

**WHEREAS**, Sugary drinks are the single leading source of added sugars in the American diet and are associated with an increased risk of type 2 diabetes, heart disease, and other chronic diseases.

**WHEREAS**, Consuming sugary drinks – fruit drinks with added sugar, sports drinks, energy drinks, and soda – poses a real health risk to children.

**WHEREAS**, The American Heart Association recommends that children over the age of 2 have no more than one 8-ounce sugary drink a week. Yet children today are consuming as much as 10 times that amount.

**WHEREAS**, Children in low-income families consume 2½ times more sugary drinks than their peers in higher-income families, in part due to aggressive marketing tactics by the beverage industry.

**WHEREAS**, People living in the U.S. consume about 34 pounds of added sugar every year just from sugary drinks.

**WHEREAS**, Nearly two-thirds of children living in the U.S. consume at least one sugary drink daily.

**WHEREAS**, Every year, 40,000 cardiovascular deaths in the U.S. are attributed to over consumption of sugary drinks.

**WHEREAS**, Diet-related health conditions have serious economic costs, with a 2016 study commissioned by MedChi, the Maryland State Medical Society, showing that Medicaid annual spending per enrollee with diabetes (\$24,387) is more than double the spending per enrollee without diabetes (\$10,880), and that, in 2014, HealthChoice spent more than \$471 million treating people with diabetes for hospitalizations, doctor visits, and prescriptions.

**WHEREAS**, More than 31% of HealthChoice patients with diabetes are from Baltimore City.

**WHEREAS**, The National Association of Black County Officials passed a resolution in 2017 to support the reduction of sugary drinks consumption through decisive public health policy measures in order to reduce the rising rates of chronic diseases and obesity.

**WHEREAS**, The Mayor and City Council of Baltimore believes that offering healthier drinks with children's meals will improve the overall health and well-being of children and families living in Baltimore City.

**NOW, THEREFORE:**

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

## **Baltimore City Revised Code**

### **Article – Health**

**Title 6. Food Service Facilities**

***Subtitle 5. Miscellaneous Regulations***

**§ 6-508. CHILDREN'S MEALS.**

(A) *"CHILDREN'S MEAL" DEFINED.*

IN THIS SECTION, "CHILDREN'S MEAL" MEANS A COMBINATION OF FOOD ITEMS THAT IS:

- (1) OFFERED FOR PURCHASE AS A UNIT AT A SINGLE PRICE; AND
- (2) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

(B) *BEVERAGE LIMITATION.*

NO FOOD SERVICE FACILITY MAY OFFER A CHILDREN'S MEAL THAT INCLUDES A BEVERAGE UNLESS THAT BEVERAGE IS:

- (1) WATER, SPARKLING WATER, OR FLAVORED WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS;
- (2) MILK OR A NON-DAIRY MILK ALTERNATIVE; OR
- (3) 100% FRUIT JUICE OR FRUIT JUICE COMBINED WITH WATER OR SPARKLING WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS, IN A SERVING SIZE OF NO MORE THAN 8 OUNCES.

(C) *QUALIFICATION.*

NOTHING IN THIS SECTION PRECLUDES A FOOD SERVICE FACILITY FROM PROVIDING, IF SPECIFICALLY REQUESTED BY THE PURCHASER OF THE CHILDREN'S MEAL, ANY LAWFUL BEVERAGE AS A SUBSTITUTE OR ALTERNATIVE FOR THE BEVERAGES BEING OFFERED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

***Subtitle 8. Penalties***

**§ 6-801. Enforcement by citation.**

(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this title may be enforced by issuance of an environmental citation as authorized by City Code Article 1, Subtitle 40 {"Environmental Control Board"}.

(b) *Process not exclusive.*

The issuance of an environmental citation to enforce this title does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

**Baltimore City Code**

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

**Subtitle 40. Environmental Control Board**

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

(e) *Provisions and penalties enumerated.*

(7) *Health Code*

....		
Title 6: Food Service Facilities		
Subtitle 2: License Required		
§ 6-201. In general		\$300
Subtitle 5: Miscellaneous Regulations		
§ 6-506. Litter and rubbish prohibited		\$200
All other provisions		\$100
....		

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.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 90<sup>th</sup> day after the date it is enacted.

02/13/18

AMENDMENTS TO COUNCIL BILL 17-152  
(1<sup>st</sup> Reader Copy)

By: Judiciary and Legislative Investigations Committee

**Amendment No. 1**

On page 1, strike lines 21 through 26, in their entireties; and, on page 2, strike lines 1 through 31, in their entireties.

**Amendment No. 2**

On page 3, strike lines 6 through 10, in their entireties, and substitute:

“(A) “CHILDREN’S MEAL” DEFINED.

(1) IN GENERAL.

IN THIS SECTION, “CHILDREN’S MEAL” MEANS A COMBINATION OF FOOD ITEMS THAT IS:

(I) PREPARED BY AND OFFERED FOR PURCHASE AT A FOOD SERVICE FACILITY AS A UNIT AT A SINGLE PRICE; AND

(II) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

(2) EXCEPTION FOR PREPACKAGED FOOD ITEMS.

“CHILDREN’S MEAL” DOES NOT INCLUDE A COMBINATION OF FOOD ITEMS THAT HAS BEEN PREPACKAGED BY OR AT A FACILITY OTHER THAN THE FOOD SERVICE FACILITY OFFERING THE PREPACKAGED COMBINATION FOR PURCHASE.”.



CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, CITY SOLICITOR  
100 N. Holliday Street  
Suite 101, City Hall  
Baltimore, Maryland 21202

January 25, 2018

The Honorable President and Members  
of the Baltimore City Council  
Attn: Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

Re: City Council Bill 17-0152 – Food Service Facilities – Healthy Beverages  
for Children’s Meals

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 17-0152 for form and legal sufficiency. The bill would amend two sections in the Health Code and the corresponding section in Section 40 of Article I of the City Code concerning regulations of food service facilities in Baltimore City. The bill would prevent those facilities from offering Children’s Meals (as it defines them) with beverages unless those beverages are one of the types listed in the bill. Although the food service facility could offer any lawful beverage if requested by the customer, it cannot offer a beverage as part of a Children’s Meal unless that beverage was of a certain type.

The City has the general police and welfare powers to legislate in this area and to preserve the health of all people in the City. See City Charter, Art. II, §§ 11, 27, 47. This allows the City “to prescribe, within the limits of the federal and state constitutions, reasonable regulations necessary to preserve the public order, health, safety, or morals.” *Tighe v. Osborne*, 149 Md. 349, 356 (1925). See City Charter, Art. II, §§(11), (47). Opponents may argue that the Commerce Clause in the federal Constitution limits the City’s power to enact this law. However, such a challenge would likely fail because the City may regulate local aspects of interstate commerce if the law: (1) does not discriminate against outside interests to benefit local economic interests; and (2) is not unduly burdensome. See *Minnesota v. Clover Leaf Creamery Co.*, 449 U.S. 456, 470-71 (1981); accord *BlueHippo Funding, LLC v. McGraw*, 609 F. Supp. 2d 576, 586 (S.D. W. Va. 2009)(recognizing that the Fourth Circuit has consistently used this two part test). This bill would likely withstand a Commerce Clause challenge because it does not discriminate against out of state interests and the City could make a plausible argument that the burdens on interstate commerce are incidental and do not outweigh the significant local environmental benefits produced by the legislation. Certainly it would behoove the Council to elicit testimony at the hearing to describe the benefits that this law would provide and the fact that it would be only an incidental burden to commerce, if at all.

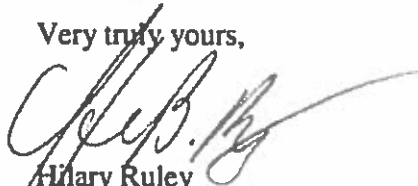




Page 2 of 2

The Law Department approves the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley  
Chief Solicitor


cc: Andre M. Davis, City Solicitor  
Karen Stokes, Director, Mayor's Office of Government Relations  
Kyron Banks, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Victor Tervalá, Chief Solicitor  
Jennifer Landis, Assistant Solicitor





## MEMORANDUM

**TO:** Honorable President and Members of the City Council  
Attention: Natawna B. Austin, Executive Secretary

**FROM:** William H. Cole, President and CEO 

**DATE:** November 28, 2017

**SUBJECT:** City Council Bill No. 17-0152  
Food Service Facilities – Healthy Beverages for Children’s Meals

---

The Baltimore Development Corporation (BDC) has been asked to comment on City Council Bill No. 17-0152 for the purpose of requiring food service facilities that offer beverages as part of a children’s meal to limit the beverage options being offered; defining “children’s meal”; providing special effective date; and generally relating to healthy food options for children.

As a partner agency in the Baltimore Food Policy Initiative, BDC actively works to increase healthy food access for all residents through our economic development efforts. According to the most recent food environment assessment conducted by the Johns Hopkins Center for a Livable Future, we know that Baltimore children are disproportionately affected by lack of healthy food access. Thirty percent of children live in healthy food priority areas (formerly referred to as food deserts), compared to 25% of Baltimore adults.


Bill 17-0152 allows businesses to choose among beverage options to offer with a children’s meal, some of which are cost neutral to what may currently be offered with a meal. Additionally, the bill allows for businesses to provide a substitute beverage to what is included in the children’s meal if specifically requested by the consumer. As such, Bill 17-0152 does not appear to present an undue burden on businesses in order to comply, while still providing consumer choice.

As currently written, it is unclear whether pre-packaged meals for kids that include a drink produced by a manufacturer would be included in the requirement. Additionally, the bill does not specify enforcement action, such as how long food service facilities would have to comply with the new requirement, whether there would be a warning before a citation was issued, and how much a penalty to the food service facility would cost.

BDC is concerned that this lack of specificity will create confusion among affected businesses; however, has no objection to Bill No. 17-0152 as currently written.

cc: Kyron Banks



<b>FROM</b>	NAME & TITLE	Rebecca Woods, Esq., Executive Director <i>RW</i>	<b>CITY OF BALTIMORE</b>  <b>MEMO</b>	
	AGENCY NAME & ADDRESS	Environmental Control Board 1 N. Charles Street, Suite 1300		
	SUBJECT	City Council Bill # 17-0152 Food Service Facilities – Healthy Beverages		

DATE:

**TO**


The Honorable President and Members  
of the Baltimore City Council

November 20, 2017

The Baltimore City Environmental Control Board (ECB) is pleased to have the opportunity to review Council Bill #17-0152, Food Service Facilities – Healthy Beverages for Children’s Meals. The purpose of the bill is to prohibit food service facilities from serving certain sugary beverage options with the sale of a children’s meal.

The ECB does not anticipate that the number of citations that will be issued for a violation of the relevant provision will have a significant impact on ECB operations. As a result, ECB has no objections to the passage of this bill.



<b>F R O M</b>	<b>Name &amp; Title</b>	<b>Dr. Leana Wen, Commissioner</b>	<b>Health Department</b>  <b>AGENCY REPORT</b>	
	<b>Agency Name &amp; Address</b>	<b>Health Department 1001 E. Fayette Street Baltimore, Maryland 21201</b>		
	<b>Subject</b>	<b>17-0152 – Food Service Facilities – Healthy Beverages for Children’s Meals</b>		

**To: President and Members  
of the City Council  
c/o 409 City Hall**

**January 25, 2018**

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review 17-0152 – Food Service Facilities – Healthy Beverages for Children’s Meals. The purpose of this legislation is to require food service facilities that offer beverages as part of a children’s meal to make milk, juice, and water the default beverage options for those menu items.

Intake of sugar-sweetened beverages (SSBs) leads to excess caloric intake, weight gain, and obesity, and increases the risk of chronic diseases such as diabetes and heart disease.<sup>1</sup> SSBs are the leading source of added sugar in the American diet. Drinking one SSB per day increases a child’s odds of suffering from obesity by 60%.<sup>2</sup>

In Baltimore City, the Centers for Disease Control and Prevention (CDC) estimate more than one-third of all school-aged children are either overweight or obese.<sup>3</sup> CDC data shows that more than one-quarter of Baltimore City school children will consume at least one soda today, while more than a third will not consume any milk.<sup>4</sup> This creates expensive health issues for Baltimore. In 2018, diseases resulting from poor dietary habits are expected to cost Maryland’s healthcare system more than \$7.6 billion in direct medical costs.

SSBs are often marketed to children, as beverage companies tout drinks with kid-friendly flavor options and packaging designs specifically to children in low-income households.<sup>5</sup> In 2013, beverage companies spent \$866 million<sup>6</sup> to advertise unhealthy drinks to children, almost four

<sup>1</sup> Massey, W. (2016, August 22). Proposed warnings on sugary drinks a matter of health, justice, proponents say. Retrieved November 02, 2017, from <http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-sugary-drinks-bill-20160607-story.html>.

<sup>2</sup> US National Library of Medicine National Institutes of Health. <http://www.ncbi.nlm.nih.gov/pubmed/11229668>.

<sup>3</sup> Centers for Disease Control and Prevention <https://nccd.cdc.gov/youthonline/App/Results.aspx?TT=C&SID=HS&OID=H77&LID=BA&LID2=SL&YID=2013&YID2=SY&SYID=&EYID=&HT=OO&LCT=LL&COL=S&ROW1=N&ROW2=N&TST=false&C1=&C2=&SC=DEFAULT&SO=ASC&VA=CI&CS=Y&DP=I&OP=G&FG=G1&FR=R1&FS=S1>

<sup>4</sup> Ibid.

<sup>5</sup> Nutrition. (2017, April 07). Retrieved November 02, 2017, from <https://www.cdc.gov/nutrition/data-statistics/sugar-sweetened-beverages-intake.html>.

<sup>6</sup> Orciari, M. (2014, November 19). Beverage companies still target kids with marketing for unhealthy, sugary drinks. Retrieved November 02, 2017, from <https://news.yale.edu/2014/11/19/beverage-companies-still-target-kids-marketing-unhealthy-sugary-drinks>.





times the amount spent to advertise 100% juice and water. Further, this advertising disproportionately targeted youth of color, as spending on ads for unhealthy drinks directed toward black and Latino youth occurred at higher rates than similar advertising aimed at white children.<sup>7</sup> These advertising components target our most vulnerable neighbors.<sup>8</sup>

Creating a healthy beverage default option for children's meals among restaurants promotes healthier lifestyle choices for Baltimore City's children and their families. **BCHD strongly supports this legislation, and urges the committee a favorable report.** We will be present at the hearing to answer any questions the Council may have for this legislation.

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<sup>7</sup> Ibid.

<sup>8</sup> Weinfeld, J. (n.d.). Sugary drinks: a sickeningly sweet issue. The Baltimore Sun. Retrieved November, 2017, from <http://www.baltimoresun.com/news/opinion/oped/bs-ed-sugary-drinks-20160414-story.html>.



**CITY OF BALTIMORE  
COUNCIL BILL 17-0152  
(First Reader)**

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Introduced by: Councilmembers Scott, Costello, Dorsey, Burnett, Clarke, Henry  
Introduced and read first time: October 16, 2017

Assigned to: Judiciary and Legislative Investigations Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Baltimore  
Development Corporation, Environmental Control Board

---

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Food Service Facilities – Healthy Beverages for Children’s Meals**

3 FOR the purpose of requiring food service facilities that offer beverages as part of a children’s  
4 meal to limit the beverage options being offered; defining “children’s meal”; providing for a  
5 special effective date; and generally relating to healthy food options for children.

6 BY adding

7 Article - Health  
8 Section 6-508  
9 Baltimore City Revised Code  
10 (Edition 2000)

11 BY repealing and reordaining, without amendments

12 Article - Health  
13 Section 6-801  
14 Baltimore City Revised Code  
15 (Edition 2000)

16 BY repealing and reordaining, without amendments

17 Article 1. Mayor, City Council, and Municipal Agencies  
18 Section 40-14(e)(7)(Title 6)  
19 Baltimore City Code  
20 (Edition 2000)

21 **Preamble**

22 **WHEREAS**, The Mayor and City Council of Baltimore desires to promote healthy options for  
23 children and their families to build a healthier community for all.

24 **WHEREAS**, An important goal of the Mayor and City Council of Baltimore is to promote  
25 healthy lifestyles through innovative approaches that foster healthy environments where families  
26 live, work, and play.

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

**Council Bill 17-0152**

1       **WHEREAS**, Families in Baltimore City often have limited time and options to shop for and  
2       prepare healthy food, making dining out an appealing and sometimes necessary option.

3       **WHEREAS**, Sugary drinks are the single leading source of added sugars in the American diet  
4       and are associated with an increased risk of type 2 diabetes, heart disease, and other chronic  
5       diseases.

6       **WHEREAS**, Consuming sugary drinks – fruit drinks with added sugar, sports drinks, energy  
7       drinks, and soda – poses a real health risk to children.

8       **WHEREAS**, The American Heart Association recommends that children over the age of 2  
9       have no more than one 8-ounce sugary drink a week. Yet children today are consuming as much  
10      as 10 times that amount.

11      **WHEREAS**, Children in low-income families consume 2½ times more sugary drinks than their  
12      peers in higher-income families, in part due to aggressive marketing tactics by the beverage  
13      industry.

14      **WHEREAS**, People living in the U.S. consume about 34 pounds of added sugar every year just  
15      from sugary drinks.

16      **WHEREAS**, Nearly two-thirds of children living in the U.S. consume at least one sugary drink  
17      daily.

18      **WHEREAS**, Every year, 40,000 cardiovascular deaths in the U.S. are attributed to over  
19      consumption of sugary drinks.

20      **WHEREAS**, Diet-related health conditions have serious economic costs, with a 2016 study  
21      commissioned by MedChi, the Maryland State Medical Society, showing that Medicaid annual  
22      spending per enrollee with diabetes (\$24,387) is more than double the spending per enrollee  
23      without diabetes (\$10,880), and that, in 2014, HealthChoice spent more than \$471 million  
24      treating people with diabetes for hospitalizations, doctor visits, and prescriptions.

25      **WHEREAS**, More than 31% of HealthChoice patients with diabetes are from Baltimore City.

26      **WHEREAS**, The National Association of Black County Officials passed a resolution in 2017  
27      to support the reduction of sugary drinks consumption through decisive public health policy  
28      measures in order to reduce the rising rates of chronic diseases and obesity.

29      **WHEREAS**, The Mayor and City Council of Baltimore believes that offering healthier drinks  
30      with children's meals will improve the overall health and well-being of children and families  
31      living in Baltimore City.

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

**Baltimore City Revised Code**

**Article – Health**

**Title 6. Food Service Facilities**

***Subtitle 5. Miscellaneous Regulations***

**§ 6-508. CHILDREN’S MEALS.**

**(A) “CHILDREN’S MEAL” DEFINED.**

IN THIS SECTION, “CHILDREN’S MEAL” MEANS A COMBINATION OF FOOD ITEMS THAT IS:

- (1) OFFERED FOR PURCHASE AS A UNIT AT A SINGLE PRICE; AND
- (2) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

**(B) BEVERAGE LIMITATION.**

NO FOOD SERVICE FACILITY MAY OFFER A CHILDREN’S MEAL THAT INCLUDES A BEVERAGE UNLESS THAT BEVERAGE IS:

- (1) WATER, SPARKLING WATER, OR FLAVORED WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS;
- (2) MILK OR A NON-DAIRY MILK ALTERNATIVE; OR
- (3) 100% FRUIT JUICE OR FRUIT JUICE COMBINED WITH WATER OR SPARKLING WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS, IN A SERVING SIZE OF NO MORE THAN 8 OUNCES.

**(C) QUALIFICATION.**

NOTHING IN THIS SECTION PRECLUDES A FOOD SERVICE FACILITY FROM PROVIDING, IF SPECIFICALLY REQUESTED BY THE PURCHASER OF THE CHILDREN’S MEAL, ANY LAWFUL BEVERAGE AS A SUBSTITUTE OR ALTERNATIVE FOR THE BEVERAGES BEING OFFERED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

***Subtitle 8. Penalties***

**§ 6-801. Enforcement by citation.**

**(a) In general.**

In addition to any other civil or criminal remedy or enforcement procedure, this title may be enforced by issuance of an environmental citation as authorized by City Code Article 1, Subtitle 40 {“Environmental Control Board”}.

Council Bill 17-0152

1 (b) *Process not exclusive.*

2 The issuance of an environmental citation to enforce this title does not preclude pursuing  
3 any other civil or criminal remedy or enforcement action authorized by law.

4 **Baltimore City Code**

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

6 **Subtitle 40. Environmental Control Board**

7 **§ 40-14. Violations to which subtitle applies.**

8 (c) *Provisions and penalties enumerated.*

9 (7) **Health Code**

10 ...  
11 Title 6: Food Service Facilities

12 Subtitle 2: License Required

13 § 6-201. In general \$300

14 Subtitle 5: Miscellaneous Regulations

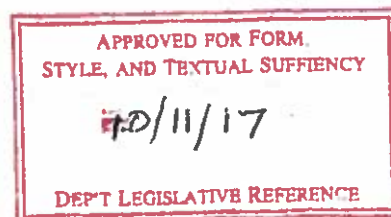
15 § 6-506. Litter and rubbish prohibited \$200

16 All other provisions \$100  
17 ....

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

21 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 90<sup>th</sup> day  
22 after the date it is enacted.

INTRODUCTORY\*  
CITY OF BALTIMORE  
COUNCIL BILL \_\_\_\_\_



Introduced by: Councilmember Scott

A BILL ENTITLED

AN ORDINANCE concerning

**Food Service Facilities – Healthy Beverages for Children’s Meals**

FOR the purpose of requiring food service facilities that offer beverages as part of a children’s meal to limit the beverage options being offered; defining “children’s meal”; providing for a special effective date; and generally relating to healthy food options for children.

BY adding

Article - Health  
Section 6-508  
Baltimore City Revised Code  
(Edition 2000)

BY repealing and reordaining, without amendments

Article - Health  
Section 6-801  
Baltimore City Revised Code  
(Edition 2000)

BY repealing and reordaining, without amendments

Article 1. Mayor, City Council, and Municipal Agencies  
Section 40-14(e)(7)(Title 6)  
Baltimore City Code  
(Edition 2000)

**Preamble**

WHEREAS, The Mayor and City Council of Baltimore desires to promote healthy options for children and their families to build a healthier community for all.

WHEREAS, An important goal of the Mayor and City Council of Baltimore is to promote healthy lifestyles through innovative approaches that foster healthy environments where families live, work, and play.

WHEREAS, Families in Baltimore City often have limited time and options to shop for and prepare healthy food, making dining out an appealing and sometimes necessary option.

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

\* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.  
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.



**WHEREAS**, Sugary drinks are the single leading source of added sugars in the American diet and are associated with an increased risk of type 2 diabetes, heart disease, and other chronic diseases.

**WHEREAS**, Consuming sugary drinks – fruit drinks with added sugar, sports drinks, energy drinks, and soda – poses a real health risk to children.

**WHEREAS**, The American Heart Association recommends that children over the age of 2 have no more than one 8-ounce sugary drink a week. Yet children today are consuming as much as 10 times that amount.

**WHEREAS**, Children in low-income families consume 2½ times more sugary drinks than their peers in higher-income families, in part due to aggressive marketing tactics by the beverage industry.

**WHEREAS**, People living in the U.S. consume about 34 pounds of added sugar every year just from sugary drinks.

**WHEREAS**, Nearly two-thirds of children living in the U.S. consume at least one sugary drink daily.

**WHEREAS**, Every year, 40,000 cardiovascular deaths in the U.S. are attributed to over consumption of sugary drinks.

**WHEREAS**, Diet-related health conditions have serious economic costs, with a 2016 study commissioned by MedChi, the Maryland State Medical Society, showing that Medicaid annual spending per enrollee with diabetes (\$24,387) is more than double the spending per enrollee without diabetes (\$10,880), and that, in 2014, HealthChoice spent more than \$471 million treating people with diabetes for hospitalizations, doctor visits, and prescriptions.

**WHEREAS**, More than 31% of HealthChoice patients with diabetes are from Baltimore City.

**WHEREAS**, The National Association of Black County Officials passed a resolution in 2017 to support the reduction of sugary drinks consumption through decisive public health policy measures in order to reduce the rising rates of chronic diseases and obesity.

**WHEREAS**, The Mayor and City Council of Baltimore believes that offering healthier drinks with children's meals will improve the overall health and well-being of children and families living in Baltimore City.

**NOW, THEREFORE:**

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

### **Baltimore City Revised Code**

#### **Article – Health**

**Title 6. Food Service Facilities**

***Subtitle 5. Miscellaneous Regulations***

**§ 6-508. CHILDREN'S MEALS.**

(A) *"CHILDREN'S MEAL" DEFINED.*

IN THIS SECTION, "CHILDREN'S MEAL" MEANS A COMBINATION OF FOOD ITEMS THAT IS:

- (1) OFFERED FOR PURCHASE AS A UNIT AT A SINGLE PRICE; AND
- (2) REPRESENTED TO BE OR OTHERWISE PRIMARILY INTENDED FOR CONSUMPTION BY CHILDREN.

(B) *BEVERAGE LIMITATION.*

NO FOOD SERVICE FACILITY MAY OFFER A CHILDREN'S MEAL THAT INCLUDES A BEVERAGE UNLESS THAT BEVERAGE IS:

- (1) WATER, SPARKLING WATER, OR FLAVORED WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS;
- (2) MILK OR A NON-DAIRY MILK ALTERNATIVE; OR
- (3) 100% FRUIT JUICE OR FRUIT JUICE COMBINED WITH WATER OR SPARKLING WATER, WITH NO ADDED NATURAL OR ARTIFICIAL SWEETENERS, IN A SERVING SIZE OF NO MORE THAN 8 OUNCES.

(C) *QUALIFICATION.*

NOTHING IN THIS SECTION PRECLUDES A FOOD SERVICE FACILITY FROM PROVIDING, IF SPECIFICALLY REQUESTED BY THE PURCHASER OF THE CHILDREN'S MEAL, ANY LAWFUL BEVERAGE AS A SUBSTITUTE OR ALTERNATIVE FOR THE BEVERAGES BEING OFFERED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

***Subtitle 8. Penalties***

**§ 6-801. Enforcement by citation.**

(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this title may be enforced by issuance of an environmental citation as authorized by City Code Article 1, Subtitle 40 {"Environmental Control Board"}.

(b) *Process not exclusive.*

The issuance of an environmental citation to enforce this title does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

**Baltimore City Code**

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

**Subtitle 40. Environmental Control Board**

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

(e) *Provisions and penalties enumerated.*

(7) *Health Code*

.....  
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Subtitle 5: Miscellaneous Regulations

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All other provisions \$100

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**SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 90<sup>th</sup> day after the date it is enacted.



ACTION BY THE CITY COUNCIL

[OCT 16 2017

FIRST READING (INTRODUCTION) \_\_\_\_\_ 20 \_\_\_\_\_

PUBLIC HEARING HELD ON Jan. 30, 2018, work session Feb. 13, 2018 \_\_\_\_\_ 20 \_\_\_\_\_

COMMITTEE REPORT AS OF Feb. 26, 2018 \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_ FAVORABLE \_\_\_\_\_ UNFAVORABLE X FAVORABLE AS AMENDED \_\_\_\_\_ WITHOUT RECOMMENDATION

[Signature]  
Chair

COMMITTEE MEMBERS:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMITTEE MEMBERS:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

FEB 26 2018] \_\_\_\_\_ 20 \_\_\_\_\_

Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING \_\_\_\_\_ MAR 12 2018 \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (ENROLLED) \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (RE-ENROLLED) \_\_\_\_\_ 20 \_\_\_\_\_

WITHDRAWAL \_\_\_\_\_ 20 \_\_\_\_\_

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.

[Signature]  
President

[Signature]  
Chief Clerk