

**CITY OF BALTIMORE  
COUNCIL BILL 18-0311  
(First Reader)**

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Introduced by: Councilmembers Burnett, Scott, Bullock, Henry, Pinkett, Cohen, Clarke, Sneed  
Introduced and read first time: December 6, 2018

Assigned to: Taxation, Finance and Economic Development Committee

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

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Nicotine Replacement Therapy Products – Sale and Distribution**

3 FOR the purpose of requiring certain retailers to sell nicotine replacement therapy products;  
4 mandating certain retail display and packaging requirements; requiring certain employers and  
5 facilities to offer nicotine replacement therapy products at no cost; defining certain terms;  
6 providing for a special effective date; establishing certain penalties; and generally relating to  
7 the sale and distribution of nicotine replacement therapy products.

8 BY adding

9 Article - Health

10 Section(s) 12-901 to 12-907, to be under the new subtitle,

11 “Subtitle 9. Nicotine Replacement Therapy Products”

12 Baltimore City Code

13 (Edition 2000)

14 BY repealing and reordaining, with amendments

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

16 Section(s) 40-14(e)(7) and 41-14(6)

17 Baltimore City Code

18 (Edition 2000)

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

21 **Baltimore City Revised Code**

22 **Article – Health**

23 **Title 12. Tobacco Products and Smoking Devices**

24 **SUBTITLE 9. NICOTINE REPLACEMENT THERAPY PRODUCTS**

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

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1 **§ 12-901. DEFINITIONS.**

2 (A) *IN GENERAL.*

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

4 (B) *NICOTINE REPLACEMENT THERAPY PRODUCT.*

5 “NICOTINE REPLACEMENT THERAPY PRODUCT” MEANS AN OVER-THE-COUNTER NICOTINE  
6 DELIVERY SYSTEM, SUCH AS GUM, PATCHES, SPRAYS, INHALERS, OR LOZENGES, WHICH IS  
7 APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR THE PURPOSES  
8 OF RELIEVING NICOTINE WITHDRAWAL SYMPTOMS.

9 (C) *PERSON.*

10 (1) *IN GENERAL.*

11 “PERSON” MEANS:

12 (I) AN INDIVIDUAL;

13 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY  
14 KIND; AND

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

17 (2) *INCLUSIONS.*

18 “PERSON” INCLUDES, EXCEPT AS USED IN § 12-908 {“CIVIL PENALTIES: \$100”} OF  
19 THIS SUBTITLE, A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A  
20 GOVERNMENTAL ENTITY.

21 **§ 12-902. {RESERVED}**

22 **§ 12-903. NICOTINE REPLACEMENT THERAPY PRODUCTS - RETAILERS.**

23 (A) *“RETAILER” DEFINED.*

24 IN THIS SECTION, A RETAILER MEANS ANY:

25 (1) LICENSED RETAILER, AS DEFINED IN STATE BUSINESS REGULATION ARTICLE § 16-  
26 201(D) {“LICENSED RETAILER”}; OR

27 (2) LICENSED OTHER TOBACCO PRODUCTS RETAILER, AS DEFINED IN STATE BUSINESS  
28 REGULATION ARTICLE § 16.5-101(E) {“LICENSED OTHER TOBACCO PRODUCTS  
29 RETAILER”}.

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1 (B) *RETAILERS REQUIRED TO SELL NICOTINE REPLACEMENT THERAPY PRODUCTS.*

2 A RETAILER MUST OFFER AT LEAST ONE FORM OF NICOTINE REPLACEMENT THERAPY  
3 PRODUCT FOR SALE.

4 (C) *PACKAGING.*

5 ANY NICOTINE REPLACEMENT THERAPY PRODUCT OFFERED FOR SALE MUST BE PACKAGED  
6 IN THE SMALLEST QUANTITY AVAILABLE TO THE RETAILER.

7 (D) *DISPLAY.*

8 ANY NICOTINE REPLACEMENT THERAPY PRODUCT OFFERED FOR SALE MUST BE  
9 PROMINENTLY DISPLAYED NEAR ANY TOBACCO PRODUCTS OFFERED FOR SALE.

10 **§ 12-904. NICOTINE REPLACEMENT THERAPY PRODUCTS - CERTAIN FACILITIES AND**  
11 **EMPLOYERS.**

12 (A) *DEFINITIONS.*

13 (1) *IN GENERAL.*

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

15 (2) *LARGE EMPLOYER.*

16 “LARGE EMPLOYER” MEANS ANY PERSON WHO:

17 (I) EMPLOYS 50 OR MORE FULL-TIME EMPLOYEES IN THE CITY OF BALTIMORE; AND

18 (II) HAS A DESIGNATED AREA FOR SMOKING WITHIN ITS PLACE OF BUSINESS.

19 (3) *MEDICATION-ASSISTED TREATMENT.*

20 “MEDICATION-ASSISTED TREATMENT” HAS THE MEANING STATED IN THE CODE OF  
21 FEDERAL REGULATIONS, TITLE 42, CHAPTER I, SUBCHAPTER A, § 8.2 {“MEDICATION-  
22 ASSISTED TREATMENT”}.

23 (B) *DISTRIBUTION REQUIRED.*

24 UPON REQUEST, A SINGLE DOSE OF A NICOTINE REPLACEMENT THERAPY PRODUCT MUST  
25 BE MADE AVAILABLE AT NO COST TO:

26 (1) THE CLIENTS AND EMPLOYEES OF A FACILITY OFFERING MEDICATION-ASSISTED  
27 TREATMENT; AND

28 (2) THE EMPLOYEES OF ANY LARGE EMPLOYER.

29 **§§ 12-905 TO 12-906 {RESERVED}**

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**§ 12-907. ENFORCEMENT BY CITATION.**

*(A) IN GENERAL.*

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

(1) AN ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40  
{"ENVIRONMENTAL CONTROL BOARD"}; OR

(2) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {"CIVIL  
CITATIONS"}.

*(B) PROCESS NOT EXCLUSIVE.*

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

*(C) EACH DAY A SEPARATE OFFENSE.*

EACH DAY A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

**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 12: Tobacco Products and Smoking Devices

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SUBTITLE 9: NICOTINE REPLACEMENT THERAPY PRODUCTS

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**Subtitle 41. Civil Citations**

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

*(6) Health Code*

Title 12: Tobacco Products and Smoking Devices

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SUBTITLE 9: NICOTINE REPLACEMENT THERAPY PRODUCTS

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1       **SECTION 2. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect one year after  
2 the date it is enacted.