

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 18-0311

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

Committee Report: Favorable with amendments
Council action: Adopted
Read second time: March 9, 2020

AN ORDINANCE CONCERNING

Nicotine Replacement Therapy Products – Sale and Distribution

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

BY adding

Article - Health

Section(s) 12-901 to ~~12-907~~ 12-906, to be under the new subtitle,

“Subtitle 9. Nicotine Replacement Therapy Products”

Baltimore City Code

(Edition 2000)

BY repealing and reordaining, with amendments

Article 1- Mayor, City Council, and Municipal Agencies

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

Baltimore City Code

(Edition 2000)

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 12. Tobacco Products and Smoking Devices

SUBTITLE 9. NICOTINE REPLACEMENT THERAPY PRODUCTS

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 18-0311

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”}.

Council Bill 18-0311

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}~~

Council Bill 18-0311

1 **§§ 12-904 TO 12-905. {RESERVED}**

2 **§ 12-906 §12-907. ENFORCEMENT BY CITATION.**

3 (A) *IN GENERAL.*

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

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

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

10 (B) *PROCESS NOT EXCLUSIVE.*

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

13 (C) *EACH DAY A SEPARATE OFFENSE.*

14 EACH DAY A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

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 Title 12: Tobacco Products and Smoking Devices

22 . . .

23 SUBTITLE 9: NICOTINE REPLACEMENT THERAPY PRODUCTS

\$100

24 **Subtitle 41. Civil Citations**

25 **§ 41-14. Offenses to which subtitle applies – Listing.**

26 (6) *Health Code*

Council Bill 18-0311

1 Title 12: Tobacco Products and Smoking Devices

2 . . .

3 SUBTITLE 9: NICOTINE REPLACEMENT THERAPY PRODUCTS \$100

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

Certified as duly passed this 6 day of April, 2020



President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this 6 day of April, 2020



Chief Clerk

Approved this _____ day of _____, 20__

*Pursuant to Baltimore City Charter, Article IV, Section 5 (c), this bill
became law without the Mayor's signature on May 18, 2020.*

Mayor, Baltimore City

Approved for Form and Legal Sufficiency
this 25th day of April, 2020.



Chief Solicitor