

CITY OF BALTIMORE
ORDINANCE **20.364 A**
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

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

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

8 BY adding

9 Article - Health

10 Section(s) 12-901 to ~~12-907~~ 12-906, 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.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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

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

(C) *PACKAGING.*

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

(D) *DISPLAY.*

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

~~§ 12-904. NICOTINE REPLACEMENT THERAPY PRODUCTS—CERTAIN FACILITIES AND EMPLOYERS.~~

~~(A) DEFINITIONS.~~

~~(1) IN GENERAL.~~

~~IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED:~~

~~(2) LARGE EMPLOYER.~~

~~“LARGE EMPLOYER” MEANS ANY PERSON WHO:~~

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

~~(ii) HAS A DESIGNATED AREA FOR SMOKING WITHIN ITS PLACE OF BUSINESS.~~

~~(3) MEDICATION ASSISTED TREATMENT.~~

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

~~(B) DISTRIBUTION REQUIRED.~~

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

~~(1) THE CLIENTS AND EMPLOYEES OF A FACILITY OFFERING MEDICATION ASSISTED TREATMENT; AND~~

~~(2) THE EMPLOYEES OF ANY LARGE EMPLOYER.~~

~~§§ 12-905 TO 12-906 {RESERVED}~~

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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*

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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



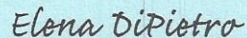
Chief Clerk

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