



Legislation Text

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

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilmember Curran

A BILL ENTITLED

AN ORDINANCE concerning
Tobacco Products - Unpackaged Cigarettes or Cigars

FOR the purpose of strengthening the prohibition against the sale or transfer of unpackaged cigarettes and extending that prohibition to include certain unpackaged cigars; defining and redefining certain terms; providing for certain exceptions; authorizing the Health Commissioner to take certain actions against a food service facility that violates these provisions; authorizing confiscation of items offered for sale or distribution in violation of these provisions; imposing certain criminal and civil penalties; providing for a special effective date; and generally relating to the sale or other distribution of unpackaged cigarettes and cigars.

BY repealing and reordaining, with amendments

Article - Health

Title 12, Subtitle 2, to be under the amended subtitle designation,
“Subtitle 2. Unpackaged Cigarettes and Cigars”

Baltimore City Revised Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article 1 - Mayor, City Council, and Municipal Agencies

Section(s) 40-14(e)(7)(Title 12) and 41-14(6)(Title 12)

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

Subtitle 2. [Sale of] Unpackaged Cigarettes AND CIGARS

§ 12201. Definitions.

(a) In general.

In this subtitle, the following terms have the meanings indicated.

(B) CIGAR.

(1) “CIGAR” MEANS ANY ROLL OF TOBACCO THAT IS WRAPPED IN LEAF TOBACCO OR IN ANY OTHER SUBSTANCE THAT CONTAINS TOBACCO.

(2) “CIGAR” DOES NOT INCLUDE A CIGARETTE.

(C) CIGARETTE.

“CIGARETTE” HAS THE MEANING STATED IN § 16-101(B) OF THE BUSINESS REGULATIONS ARTICLE OF THE STATE CODE.

(D) DISTRIBUTE.

“DISTRIBUTE” MEANS TO:

- (1) SELL, DELIVER, DISPENSE, ISSUE, TRANSFER, OR OTHERWISE DISTRIBUTE;
- (2) OFFER TO SELL, DELIVER, DISPENSE, ISSUE, TRANSFER, OR OTHERWISE DISTRIBUTE; OR
- (3) CAUSE OR HIRE ANY PERSON TO:
 - (I) SELL, DELIVER, DISPENSE, ISSUE, TRANSFER, OR OTHERWISE DISTRIBUTE; OR
 - (II) OFFER TO SELL, DELIVER, DISPENSE, ISSUE, TRANSFER OR OTHERWISE DISTRIBUTE.

(E) ORIGINAL PACKAGE.

“ORIGINAL PACKAGE” MEANS THE PACK, BOX, CARTON, OR OTHER CONTAINER OF CIGARETTES OR CIGARS THAT:

- (1) WAS USED BY THEIR MANUFACTURER FOR PACKAGING THE CIGARETTES OR CIGARS; AND
- (2) IS INTENDED FOR ULTIMATE SALE OR OTHER DISTRIBUTION TO CONSUMERS AS A PACKAGED UNIT AND NOT TO BE BROKEN FOR DISTRIBUTION OF INDIVIDUAL CIGARETTES OR CIGARS.

[(b) Unpackaged cigarette.

“Unpackaged cigarette” means any cigarette not contained in a sealed package of 20 or more cigarettes that are designed and intended to be sold or distributed as a unit.]

§ 12-202. {RESERVED}

§ 12203. [§ 12202.] Sale of unpackaged cigarettes prohibited.

(A) “UNPACKAGED CIGARETTE” DEFINED.

“UNPACKAGED CIGARETTE” MEANS ANY CIGARETTE NOT CONTAINED IN A SEALED, ORIGINAL PACKAGE THAT CONTAINS 20 OR MORE CIGARETTES DESIGNED AND INTENDED TO BE SOLD OR OTHERWISE DISTRIBUTED AS A UNIT.

(B) PROHIBITED CONDUCT.

NO person may sell or otherwise [transfer] DISTRIBUTE for consideration AN unpackaged [cigarettes] CIGARETTE to any other person IN THIS CITY.

§ 12-204. SALE OF UNPACKAGED CIGARS PROHIBITED.

(A) “UNPACKAGED CIGAR” DEFINED.

“UNPACKAGED CIGAR” MEANS ANY CIGAR NOT CONTAINED IN A SEALED, ORIGINAL PACKAGE THAT:

(1) CONTAINS 5 OR MORE CIGARS DESIGNED AND INTENDED TO BE SOLD OR OTHERWISE DISTRIBUTED AS A UNIT; AND

(2) BEARS A HEALTH WARNING IN THE SIZE AND MANNER DESCRIBED IN THE AUGUST 18, 2000, FEDERAL TRADE COMMISSION DECISION AND ORDER FROM DOCKET NO. 3964, IN THE MATTER OF SWISHER INTERNATIONAL, INCORPORATED, REGARDLESS OF THE SIZE OF THE PACKAGE AND REGARDLESS OF WHETHER THE MANUFACTURER, WHOLESALER, OR RETAILER IS A PARTY TO OR OTHERWISE BOUND BY THAT CONSENT DECISION AND ORDER.

(B) PROHIBITED CONDUCT.

EXCEPT AS SPECIFIED IN SUBSECTION (C) OF THIS SECTION, NO PERSON MAY SELL OR OTHERWISE DISTRIBUTE FOR CONSIDERATION AN UNPACKAGED CIGAR TO ANY OTHER PERSON IN THIS CITY.

(C) EXCEPTIONS.

(1) COST.

(I) THIS SECTION DOES NOT APPLY TO THE SALE OR OTHER DISTRIBUTION OF ANY CIGAR THAT, SUBJECT TO ADJUSTMENT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, HAS A WHOLESALE PRICE OF MORE THAN \$2 OR A RETAIL PRICE OF MORE THAN \$2.50.

(II) BY RULE OR REGULATION, THE HEALTH COMMISSIONER MAY ADJUST FROM TIME TO TIME THE AMOUNTS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH TO REFLECT CHANGES IN THE APPLICABLE CONSUMER PRICE INDEX.

(2) TOBACCO SHOPS.

THIS SECTION DOES NOT APPLY TO THE SALE OR OTHER DISTRIBUTION OF ANY CIGAR BY AND ON THE PREMISES OF A RETAIL TOBACCO ESTABLISHMENT THAT:

(I) DERIVES AT LEAST 75% OF ITS REVENUES, MEASURED BY AVERAGE DAILY RECEIPTS, FROM THE SALE OF NON-CIGARETTE TOBACCO PRODUCTS; AND

(II) PROHIBITS THE ENTRY OF MINORS AT ALL TIMES.

(3) FOR REDISTRIBUTION OUT OF CITY.

THIS SECTION DOES NOT APPLY TO THE SALE OR OTHER DISTRIBUTION OF CIGARS IF THE SALE OR OTHER DISTRIBUTION IS:

(I) MADE BY ONE PERSON ENGAGED IN THE BUSINESS OF DISTRIBUTING CIGARS TO ANOTHER PERSON ENGAGED IN THE BUSINESS OF DISTRIBUTING CIGARS; AND

(II) FOR THE PURPOSE OF RESELLING OR OTHERWISE REDISTRIBUTING THE CIGARS OUTSIDE OF THE CITY.

§ 12-205. {RESERVED}

§ 12206. SPECIAL PENALTIES.

(A) FOOD SERVICE FACILITIES.

(1) IF A FOOD SERVICE FACILITY IS FOUND TO HAVE VIOLATED ANY PROVISION OF THIS SUBTITLE MORE THAN ONCE IN A 24-MONTH PERIOD, THE HEALTH COMMISSIONER MAY SUSPEND THE FACILITY'S FOOD SERVICE LICENSE FOR UP TO 14 DAYS.

(2) IF A FOOD SERVICE FACILITY IS FOUND TO HAVE VIOLATED ANY PROVISION OF THIS SUBTITLE MORE THAN 3 TIMES IN A 24-MONTH PERIOD, THE HEALTH COMMISSIONER MAY SUSPEND THE FACILITY'S FOOD SERVICE LICENSE FOR UP TO 30 DAYS.

(B) CONFISCATION.

THE HEALTH COMMISSIONER MAY CONFISCATE ANY AND ALL PRODUCTS OFFERED FOR SALE OR OTHER DISTRIBUTION IN VIOLATION OF THIS SUBTITLE.

§ 12207. [§ 12203.] 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.

§ 12208. [§ 12204. Penalties] CRIMINAL PENALTIES.

Any person who violates any [provisions] PROVISION of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 4014. Violations to which subtitle applies.

(e) Provisions and penalties enumerated.

(7) Health Code

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Title 12: Tobacco Products

Subtitle 1: Indoor Smoking

Person smoking		\$250
Employer, other person in charge		\$500
Subtitle 2: [Sale of] Unpackaged Cigarettes AND CIGARS	[\$150]	\$500
Subtitle 4: Placement of Tobacco Products		\$500
Subtitle 5: Distribution to Minors		\$500
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§ 41-14. Offenses to which subtitle applies - Listing.

(6) Health Code

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Title 12: Tobacco Products

Subtitle 1: Indoor Smoking

Person smoking
\$250

Employer, other person in charge \$500

Subtitle 2: [Sale of] Unpackaged Cigarettes AND CIGARS [150] \$500

Subtitle 4: Placement of Tobacco Products \$500

Subtitle 5: Distribution to Minors \$500

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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 October 1, 2009.

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