



Legislation Text

File #: 10-0474, Version: 0

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: The Council President
At the request of: The Administration (Finance Department)

A BILL ENTITLED

AN ORDINANCE concerning
Beverage Container Tax

FOR the purpose of imposing an excise tax on distributors who supply beverages in non-reusable containers; providing for the administration and collection of the tax; defining certain terms; prohibiting certain activities; imposing certain penalties; and generally relating to the taxation of non-reusable beverage containers.

BY adding

Article 28 - Taxes
Section(s) 20-1 to 20-13, to be under the new subtitle,
"Subtitle 20. Beverage Container Tax"
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 Code

Article 28. Taxes

SUBTITLE 20. BEVERAGE CONTAINER TAX

§ 201. DEFINITIONS.

(A) IN GENERAL.

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

(B) BEVERAGE.

(1) IN GENERAL.

“BEVERAGE” MEANS, EXCEPT AS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY OF THE FOLLOWING:

- (I) ANY BEER, ALE, OR OTHER MALT BEVERAGE;
- (II) ANY DISTILLED SPIRITS;
- (III) ANY WINE, WINE COOLER, OR OTHER WINE PRODUCT;
- (IV) ANY FRUIT JUICE WITH LESS THAN 10% NATURAL FRUIT JUICE CONTENT;
- (V) ANY READY-TO-DRINK TEA;
- (VI) ANY SODA WATER, CARBONATED WATER, NATURAL OR ARTIFICIAL MINERAL WATER, OR NATURAL OR SPRING WATER; AND
- (VII) ANY SOFT DRINK, INCLUDING:
 - (A) COLA, GINGER ALE, ROOT BEER, OR SARSPARILLA; OR
 - (B) ANY OTHER CARBONATED OR UNCARBONATED BEVERAGE COMMONLY KNOWN AS A “SOFT DRINK”.

(2) EXCLUSIONS.

“BEVERAGE” DOES NOT INCLUDE:

- (I) ANY DAIRY PRODUCTS;
- (II) ANY NONDAIRY, MILK-SUBSTITUTE PRODUCTS, SUCH AS SOY MILK, HAZELNUT OR OTHER NUT MILK, RICE OR OTHER GRAIN MILK, AND THE LIKE;
- (III) ANY BEVERAGE CONTAINING AT LEAST 10% NATURAL FRUIT JUICES; OR
- (IV) ANY BEVERAGE IN A CONTAINER OF 2 LITERS OR LARGER.

(C) DEALER.

(1) IN GENERAL.

“DEALER” MEANS ANY PERSON WHO ENGAGES IN THE RETAIL SALE OF BEVERAGES SUBJECT TO THIS SUBTITLE.

(2) INCLUSIONS.

“DEALER” INCLUDES:

- (I) ANY BUSINESS THAT PERMITS ON-PREMISES CONSUMPTION OF BEVERAGES;
 - (II) ANY DISTRIBUTOR ENGAGED IN CASUAL RETAIL SALES OF BEVERAGES;
 - (II) ANY OPERATOR OF A VENDING MACHINE FROM WHICH BEVERAGES ARE SOLD; AND
 - (III) ANY INDIVIDUAL OUTLET IN THE CITY OF A MULTIPLEOUTLET RETAIL CHAIN STORE.
- (D) DIRECTOR.

“DIRECTOR” MEANS THE DIRECTOR OF FINANCE OR A DESIGNEE OF THE DIRECTOR OF FINANCE.

(E) DISTRIBUTOR.

“DISTRIBUTOR” MEANS:

- (1) ANY PERSON WHO SUPPLIES NON-REUSABLE BEVERAGE CONTAINERS TO A DEALER IN THE CITY;
- (2) ANY PERSON WHO SUPPLIES AND SERVICES VENDING MACHINES IN THE CITY WITH NON-REUSABLE BEVERAGE CONTAINERS; AND
- (3) ANY MULTIPLEOUTLET RETAIL CHAIN STORE THAT SUPPLIES NON-REUSABLE BEVERAGE CONTAINERS TO ITS INDIVIDUAL OUTLETS IN THE CITY.

(F) NON-REUSABLE BEVERAGE CONTAINER.

(1) IN GENERAL.

“NON-REUSABLE BEVERAGE CONTAINER” MEANS ANY INDIVIDUAL, SEPARATE, AND SEALED GLASS, METAL, OR PLASTIC BOTTLE, CAN, JAR, OR CARTON THAT:

- (I) CONTAINS A BEVERAGE; AND
 - (II) IS NOT ORDINARILY COLLECTED FROM CONSUMERS FOR REFILLING WITH A BEVERAGE.
- (2) WHEN NOT CONSIDERED REUSABLE.

A BEVERAGE CONTAINER IS NOT CONSIDERED REUSABLE IF:

- (I) IT IS PHYSICALLY INCAPABLE OF REUSE; OR
- (II) IT IS THE TYPE FOR WHICH:
 - (A) NO DEPOSIT IS REQUIRED TO BE PAID BY THE CONSUMER; AND
 - (B) NO REFUND IS PAYABLE TO THE CONSUMER BY THE DEALER.

(G) PERSON.

(1) "PERSON" MEANS:

(I) AN INDIVIDUAL;

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

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

(2) "PERSON" DOES NOT INCLUDE A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL ENTITY.

(H) SUPPLY.

(1) "SUPPLY" MEANS TO PROVIDE, FURNISH, DELIVER, DISTRIBUTE, OR TRANSMIT.

(2) FOR PURPOSES OF THIS SUBTITLE, THE ACT OF SUPPLYING NON-REUSABLE BEVERAGE CONTAINERS TO A DEALER OPERATING IN THE CITY IS COMPLETED, AND TAX LIABILITY ACCRUES, ON RECEIPT OF THE PRODUCTS BY THE DEALER IN THE CITY.

§ 202. TAX IMPOSED.

A TAX IS IMPOSED ON EVERY DISTRIBUTOR WHO SUPPLIES TO A DEALER OPERATING IN THE CITY ANY NON-REUSABLE BEVERAGE CONTAINERS.

§ 203. AMOUNT OF TAX.

THE AMOUNT OF THE TAX IMPOSED IS 4¢ PER NON-REUSABLE BEVERAGE CONTAINER.

§ 204. WHEN PAYABLE; MONTHLY REPORTS.

(A) IN GENERAL.

THE TAX IMPOSED BY THIS SUBTITLE:

(1) IS DUE WHEN THE DEALER RECEIVES THE BEVERAGE CONTAINERS; AND

(2) MUST BE PAID ON OR BEFORE THE 25TH DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE DEALER RECEIVED THE PRODUCT.

(B) REPORT.

(1) THE DISTRIBUTOR MUST REMIT THE TAX TO THE DIRECTOR OF FINANCE, TOGETHER WITH A MONTHLY REPORT OF ALL NON-REUSABLE BEVERAGE CONTAINERS THAT THE DISTRIBUTOR SUPPLIED TO DEALERS OPERATING IN THE CITY.

(2) THE REPORT MUST BE IN A FORM THE DIRECTOR APPROVES.

§ 205: DEALER SELFTRANSPORT.

(A) DEALER LIABLE ABSENT CERTIFICATION.

IF ANY DEALER TRANSPORTS NON-REUSABLE BEVERAGE CONTAINERS INTO THE CITY OR CAUSES NON-REUSABLE BEVERAGE CONTAINERS TO BE TRANSPORTED INTO THE CITY, THE DEALER IS LIABLE FOR THE PAYMENT OF THE TAX IMPOSED BY THIS SUBTITLE, TOGETHER WITH ALL APPLICABLE INTEREST AND PENALTIES, UNLESS THE DEALER OBTAINS FROM THE SUPPLIER OF THE PRODUCTS A WRITTEN CERTIFICATION THAT THE SUPPLIER IS LIABLE FOR AND IS PAYING THE TAX.

(B) FORM.

THE CERTIFICATION MUST BE IN A FORM THE DIRECTOR APPROVES.

§ 206: RECORDS.

EVERY DISTRIBUTOR AND EVERY DEALER MUST:

(1) KEEP COMPLETE AND ACCURATE RECORDS OF ALL TRANSACTIONS INVOLVING NON-REUSABLE BEVERAGE CONTAINERS , AS NECESSARY OR OTHERWISE REQUIRED BY THE DIRECTOR TO DETERMINE WHETHER ALL TAXES DUE UNDER THIS SUBTITLE HAVE BEEN PAID; AND

(2) MAKE THESE RECORDS AVAILABLE, AT ALL TIMES DURING BUSINESS HOURS, FOR INSPECTION AND AUDIT BY THE DIRECTOR.

§ 207: INTEREST AND CIVIL PENALTIES.

IF A DISTRIBUTOR FAILS TO PAY THE TAX IMPOSED BY THIS SUBTITLE WHEN DUE, THE DISTRIBUTOR MUST PAY THE DIRECTOR, IN ADDITION TO THE TAX DUE:

(1) INTEREST AT THE RATE OF 1% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE TAX IS OVERDUE; AND

(2) A PENALTY OF 10% OF THE AMOUNT OF THE TAX DUE.

§ 208: TAX DETERMINATION BY DIRECTOR.

(A) DIRECTOR TO OBTAIN INFORMATION.

IF ANY PERSON FAILS TO MAKE THE REPORT AND REMIT THE TAX WHEN DUE AND FAILS TO KEEP SUITABLE RECORDS AS REQUIRED UNDER THIS SUBTITLE, THE DIRECTOR OF FINANCE MAY ATTEMPT TO OBTAIN OTHER AVAILABLE INFORMATION ON WHICH TO BASE AN ESTIMATE OF THE TAX DUE.

(B) DIRECTOR TO ESTIMATE TAX.

AS SOON AS THE DIRECTOR OBTAINS THIS INFORMATION, THE DIRECTOR MAY PROCEED TO DETERMINE THE TAX DUE AND ASSESS THAT TAX, PLUS INTEREST AND PENALTIES, AGAINST THE PERSON LIABLE FOR THE TAX.

(C) NOTICE AND PAYMENT.

(1) THE DIRECTOR MAY THEN NOTIFY THE PERSON BY MAIL, SENT TO THAT PERSON'S LAST KNOWN ADDRESS, OF THE TOTAL AMOUNT OF THE TAX, INTEREST, AND PENALTIES.

(2) THE TOTAL AMOUNT IS PAYABLE WITHIN 10 DAYS FROM THE DATE OF THIS NOTICE.

§ 209. CLOSING OR SALE OF BUSINESS.

IF A PERSON REQUIRED TO PAY A TAX UNDER THIS SUBTITLE SELLS HIS, HER, OR ITS BUSINESS OR OTHERWISE CEASES TO DO BUSINESS:

(1) ANY TAX PAYABLE UNDER THIS SUBTITLE BECOMES IMMEDIATELY DUE AND PAYABLE;
AND

(2) WITHIN 3 DAYS OF THE SALE OR OTHER CESSATION OF BUSINESS, THAT PERSON MUST SUBMIT THE REQUIRED REPORT AND REMIT THE TOTAL AMOUNT OF THE TAX DUE.

§ 2010. LIEN ON PROPERTY.

THE TAX, INTEREST, AND PENALTIES IMPOSED BY THIS SUBTITLE ARE A LIEN ON THE PROPERTY OF ANY PERSON LIABLE FOR THEIR PAYMENT.

§ 2011. RULES AND REGULATIONS.

(A) DIRECTOR MAY ADOPT.

THE DIRECTOR MAY ADOPT RULES AND REGULATIONS AS NECESSARY OR APPROPRIATE TO:

(1) GOVERN THE PAYMENT, COLLECTION, AND ACCOUNTING OF THE TAX IMPOSED BY THIS SUBTITLE;

(2) DEFINE ANY TERMS USED IN CONNECTION WITH THE IMPOSITION AND COLLECTION OF THE TAX IMPOSED UNDER THIS SUBTITLE;

(3) PROVIDE FOR THE CREDIT OF ANY TAX PAID ON RETURNED PRODUCTS;

(4) PROVIDE FOR THE REFUND OF ANY TAX, INTEREST, OR PENALTY ERRONEOUSLY OR ILLEGALLY PAID; AND

(5) OTHERWISE ADMINISTER, ENFORCE, AND CARRY OUT THIS SUBTITLE.

(B) COPIES TO BE FILED WITH LEGISLATIVE REFERENCE.

A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

§ 2212. {RESERVED}

§ 2013. PENALTIES.

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR TO IMPRISONMENT FOR NOT MORE THAN 12 MONTHS OR TO BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

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 30th day after the date it is enacted.

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