



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 Mosby

A BILL ENTITLED

AN ORDINANCE concerning

Sugar-Sweetened Beverages - Warning Labels

FOR the purpose of requiring certain health warnings to be given by certain advertisers and purveyors of sugar-sweetened beverages; defining relevant terms; imposing certain civil and criminal and criminal penalties; and providing for a special effective date.

BY adding

Article - Health

Sections 16-101 to 16-302, to be under the new title designation,

◆Title 16. Sugar-Sweetened Beverages◆

Baltimore City Revised Code

(Edition 2000)

BY adding

Article 1 - Mayor, City Council, and Municipal Agencies

Sections 40-14(e)(7)(He Title 19) and 41-14(6)(He Title 19)

Baltimore City Code

(Edition 2000)

Recitals

Increased rates of obesity across the country are an emerging public health crisis. In the United States, rates of obesity have dramatically increased in all age groups over the past 30 years. Over one-third of Americans are overweight or obese, with disproportionately higher rates of obesity occurring among youth minorities. In Baltimore City, over nearly half of all school-aged children are obese or overweight.

Beyond the serious health implications of this disturbing trend, the estimated annual health care costs of obesity-related illness are a staggering \$190 billion. This represents over 20% of all medical spending in the United States annually. Childhood obesity alone is responsible for \$14 billion in direct medical costs.

The rise of obesity rates corresponds to increases in calorie consumption. On average, Americans are consuming 25% more calories per day than they did 30 years ago. Many of these additional calories are coming from sugar-sweetened beverages (SSBs). SSBs are beverages that contain added caloric sweeteners of any kind; they include sweetened fruit juices, fruit drinks, carbonated sodas, sports drinks, and energy drinks. From 1977 to 2001, calorie intake from SSBs for all age groups increased 135%.

Nearly half of all Americans drink at least one SSB every day. Children and adolescents consume an average of 300 calories per day from SSBs, while children from low-income families are more likely to consume 500 or more calories a day from SSBs. In Baltimore City, approximately 25% of school-aged children drink one or more soda per day.

The beverage industry specifically targets youth and communities of color with its marketing efforts, spending \$395 million in marketing directed at youth and \$28.6 million on marketing campaigns specifically targeting African-American and Hispanic youth.

Research studies have shown that SSB consumption leads to excess caloric intake, weight gain, obesity, and an increased risk of chronic diseases such as diabetes, metabolic syndrome, and heart disease. SSB consumption among children is associated with tooth decay, asthma, and inadequate intake of nutrients, including calcium, iron, folate, magnesium, and vitamin A.

The 2010 Dietary Guidelines for Americans recommends limiting consumption of food and beverages with added sugars, and the American Heart Association recommends that Americans should not consume more than 450 calories from SSBs per week, which is the equivalent of less than three 12-ounce cans of carbonated cola. Reducing SSB consumption leads to weight loss and a reduced risk of childhood obesity and other health problems, including type 2 diabetes.

Health warnings have been demonstrated to increase knowledge of health risks associated with a product. Point-of-purchase health warnings about caloric intake have been shown to impact SSB purchases among adolescents. Health warnings have helped reduce consumption of products such as tobacco, alcohol, and other unhealthy foods.

The Mayor and City Council of Baltimore finds that requiring a health warning on sugar-sweetened beverage advertisements and in locations where these products are sold will help Baltimore City residents make an informed choice that may result in reduced caloric intake, a healthier diet, and improved overall health.

Now, Therefore...

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 16. SUGAR-SWEETENED BEVERAGES

SUBTITLE 1. DEFINITIONS

♦ 16-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) CALORIC SWEETENER.

(1) IN GENERAL.

♦CALORIC SWEETENER♦ MEANS ANY SUBSTANCE THAT:

- (I) IS SUITABLE FOR HUMAN CONSUMPTION;
- (II) CONTAINS CALORIES; AND
- (III) IS PERCEIVED BY HUMANS AS SWEET.

(2) ILLUSTRATIONS.

♦CALORIC SWEETENER♦ INCLUDES SUCROSE, FRUCTOSE, HIGH FRUCTOSE CORN SUGAR, GLUCOSE, AND OTHER SUGARS.

(3) EXCLUSIONS.

♦CALORIC SWEETENER♦ DOES NOT INCLUDE:

- (I) NATURAL FRUIT JUICE CONCENTRATE; OR
- (II) NATURAL VEGETABLE JUICE CONCENTRATE.

(C) FOOD SERVICE FACILITY.

♦FOOD SERVICE FACILITY♦ HAS THE MEANING STATED IN ♦ 6-101 OF THIS ARTICLE.

(D) MENU.

(1) IN GENERAL.

◆MENU◆ MEANS A LISTING OR REPRESENTATION THAT IS PRINTED FOR INDIVIDUAL DISTRIBUTION TO PATRONS OF A FOOD SERVICE FACILITY TO IDENTIFY THE FOODS OR BEVERAGES BEING OFFERED BY THE FACILITY.

(2) EXCLUSIONS.

◆MENU◆ DOES NOT INCLUDE:

- (I) A MENU BOARD; OR
 - (II) AN ELECTRONIC MENU OR ORDERING DEVICE.
- (E) MENU BOARD.

◆MENU BOARD◆ MEANS A LISTING OR REPRESENTATION THAT IS POSTED, BUT NOT SEPARATELY PRINTED AND DISTRIBUTED, TO INFORM PATRONS OF A FOOD SERVICE FACILITY OF THE FOODS OR BEVERAGES BEING OFFERED BY THE FACILITY.

(F) MILK.

(1) IN GENERAL.

◆MILK◆ MEANS ANY BEVERAGE WHOSE PRINCIPAL INGREDIENT BY WEIGHT IS NATURAL LIQUID MILK SECRETED BY AN ANIMAL AND SUITABLE FOR HUMAN CONSUMPTION.

(2) INCLUSIONS.

◆MILK◆ INCLUDES NATURAL MILK CONCENTRATE AND DEHYDRATED NATURAL MILK, WHETHER OR NOT RECONSTITUTED.

(G) MILK SUBSTITUTE.

(1) IN GENERAL.

◆MILK SUBSTITUTE◆ MEANS A PLANT-BASED BEVERAGE IN WHICH THE PRINCIPAL INGREDIENTS BY WEIGHT ARE:

- (I) WATER; AND
- (II) GRAINS, NUTS, LEGUMES, OR SEEDS.

(2) ILLUSTRATIONS.

◆MILK SUBSTITUTE◆ INCLUDES SOY MILK, ALMOND MILK, RICE MILK, COCONUT MILK, HEMP MILK, OAT MILK, HAZELNUT MILK, AND FLAX MILK.

(H) NATURAL FRUIT JUICE.

◆NATURAL FRUIT JUICE◆ MEANS:

- (1) THE ORIGINAL LIQUID RESULTING FROM THE PRESSING OF FRUIT; OR
- (2) THE LIQUID RESULTING FROM THE DILUTION OF DEHYDRATED OR CONCENTRATED NATURAL FRUIT JUICE.

(I) NATURAL VEGETABLE JUICE.

◆NATURAL VEGETABLE JUICE◆ MEANS:

- (1) THE ORIGINAL LIQUID RESULTING FROM THE PRESSING OF VEGETABLES; OR
- (2) THE LIQUID RESULTING FROM THE DILUTION OF DEHYDRATED OR CONCENTRATED NATURAL VEGETABLE JUICE.

(J) SUGAR-SWEETENED BEVERAGE.

(1) IN GENERAL.

◆SUGAR-SWEETENED BEVERAGE◆ MEANS A NON-ALCOHOLIC BEVERAGE THAT CONTAINS ANY ADDED CALORIC SWEETENER.

(2) EXCLUSIONS.

◆SUGAR-SWEETENED BEVERAGE◆ DOES NOT INCLUDE:

- (I) MILK OR A MILK SUBSTITUTE;
- (II) A BEVERAGE THAT CONSISTS OF 100% NATURAL FRUIT JUICE OR NATURAL VEGETABLE JUICE WITH NO ADDED CALORIC SWEETENER;
- (III) A PRODUCT SOLD FOR CONSUMPTION BY INFANTS, COMMONLY REFERRED TO AS ◆INFANT FORMULA◆, OR A PRODUCT WHOSE PURPOSE IS INFANT DEHYDRATION;
- (IV) A PRODUCT DESIGNED AS SUPPLEMENTAL, MEAL REPLACEMENT, OR SOLE-SOURCE NUTRITION THAT INCLUDES PROTEINS, CARBOHYDRATES, AND MULTIPLE VITAMINS AND MINERALS;
- (V) A PRODUCT SOLD IN LIQUID FORM AND DESIGNED FOR USE AS AN ORAL NUTRITIONAL THERAPY FOR PERSONS WHO HAVE A LIMITED ABILITY TO ABSORB OR METABOLIZE DIETARY NUTRIENTS FROM FOOD OR BEVERAGES; AND
- (VI) A PRODUCT SOLD IN LIQUID FORM AND DESIGNED FOR USE FOR WEIGHT REDUCTION.

SUBTITLE 2. REQUIRED WARNINGS

◆ 16-201. ADVERTISERS.

(A) DEFINITIONS.

(1) IN GENERAL.

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

(2) ADVERTISER.

◆ADVERTISER◆ MEANS ANY PERSON WHO:

- (I) INSTALLS OR PLACES AN ADVERTISEMENT;
 - (II) PROVIDES SPACE FOR THE DISPLAY OF AN ADVERTISEMENT; OR
 - (III) CAUSES THE INSTALLATION OR PLACEMENT OF AN ADVERTISEMENT.
- (3) SUGAR-SWEETENED BEVERAGE ADVERTISEMENT.

(I) IN GENERAL.

◆SUGAR-SWEETENED BEVERAGE ADVERTISEMENT◆ MEANS ANY ADVERTISEMENT OR LOGO THAT MARKETS, PROMOTES, OR IDENTIFIES A SUGAR-SWEETENED BEVERAGE.

(II) INCLUSIONS.

EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, ◆SUGAR-SWEETENED BEVERAGE ADVERTISEMENT◆ INCLUDES ANY ADVERTISEMENT OR LOGO THAT IS IN OR ON:

- (A) A SIGN, POSTER, BILLBOARD, OR ELECTRONIC BILLBOARD;
- (B) A STADIUM, ARENA, TRANSIT SHELTER, OR ANY OTHER STRUCTURE;
- (C) A BUS, CAR, TRAIN, PEDICAB, OR ANY OTHER VEHICLE; OR
- (D) A WALL OR ANY OTHER SURFACE OR MATERIAL.

(III) EXCLUSIONS.

◆SUGAR-SWEETENED BEVERAGE ADVERTISEMENT◆ DOES NOT INCLUDE:

(A) AN ADVERTISEMENT OR LOGO THAT IS IN ANY NEWSPAPER, MAGAZINE, PERIODICAL, ADVERTISEMENT CIRCULAR, OR OTHER PUBLICATION;

(B) AN ADVERTISEMENT OR LOGO ON TELEVISION, RADIO, THE INTERNET, OR OTHER ELECTRONIC MEDIA;

(C) A CONTAINER OR PACKAGE OF SUGAR-SWEETENED BEVERAGES;

(D) A MENU OR MENU BOARD;

(E) A DISPLAY, LOGO, OR REPRESENTATION OF A SUGAR-SWEETENED BEVERAGE ON A SIGN THAT DIRECTS ATTENTION TO A BUSINESS, COMMODITY, SERVICE, EVENT, OR OTHER ACTIVITY THAT IS SOLD, OFFERED, OR CONDUCTED ON THE PREMISES ON WHICH THE SIGN IS LOCATED OR TO WHICH IT IS AFFIXED;

(F) A DISPLAY, LOGO, OR REPRESENTATION OF A SUGAR-SWEETENED BEVERAGE ON A VEHICLE THAT IS PRIMARILY USED IN THE BUSINESS OF MANUFACTURING, DISTRIBUTING, OR SELLING THAT SUGAR-SWEETENED BEVERAGE;

(G) AN ADVERTISEMENT OR LOGO THAT OCCUPIES AN AREA LESS THAN 36 SQUARE INCHES; OR

(H) A SHELF TAG OR SHELF LABEL THAT STATES THE RETAIL PRICE, ORDER CODE, DESCRIPTION, OR SIZE OF A PRODUCT FOR SALE.

(B) REQUIRED WARNING.

EVERY ADVERTISER MUST ENSURE THAT THE FOLLOWING WARNING APPEARS IN ALL SUGAR-SWEETENED BEVERAGE ADVERTISEMENTS:

◆WARNING: DRINKING BEVERAGES WITH ADDED SUGAR CONTRIBUTES TO TOOTH DECAY, OBESITY, AND DIABETES. THIS MESSAGE IS FROM THE BALTIMORE CITY HEALTH DEPARTMENT.◆

(B) FORMAT.

THE WARNING REQUIRED BY THIS SECTION MUST BE:

(1) IN CONSPICUOUS AND LEGIBLE TYPE THAT CONTRASTS, IN TOPOGRAPHY, COLOR AND LAYOUT, WITH ALL OTHER MATERIAL PRINTED IN THE ADVERTISEMENT;

(2) PRINTED IN ALL CAPITAL LETTERS OR ALL SMALL CAPITAL LETTERS;

(3) PRINTED IN A SIZE AND MANNER SO AS TO BE CLEARLY LEGIBLE TO THE ADVERTISEMENT'S INTENDED AUDIENCE;

(4) ENCLOSED BY A RECTANGULAR BORDER THAT IS THE SAME COLOR AS THE LETTERS OF THE WARNING; AND

(5) INDELIBLY PRINTED ON OR SECURELY AFFIXED TO THE ADVERTISEMENT.

◆ 16-202. FOOD SERVICE FACILITIES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO ANY FOOD SERVICE FACILITY THAT OFFERS SUGAR-SWEETENED BEVERAGES TO CONSUMERS.

(B) REQUIRED WARNING ◆ ON MENU.

(1) IN GENERAL.

EVERY FOOD SERVICE FACILITY MUST PLACE THE FOLLOWING WARNING ON ALL MENUS THAT LIST SUGAR-SWEETENED BEVERAGES:

◆WARNING: DRINKING BEVERAGES WITH ADDED SUGAR CONTRIBUTES TO TOOTH DECAY, OBESITY, AND DIABETES. THIS MESSAGE IS FROM THE BALTIMORE CITY HEALTH DEPARTMENT.◆

(2) FORMAT.

THE WARNING REQUIRED BY THIS SECTION MUST BE:

(I) IN CONSPICUOUS AND LEGIBLE TYPE THAT CONTRASTS, IN TOPOGRAPHY, COLOR, AND LAYOUT, WITH ALL OTHER MATERIAL PRINTED ON THE MENU;

(II) PRINTED IN ALL CAPITAL LETTERS OR ALL SMALL CAPITAL LETTERS;

(III) PRINTED IN AT LEAST 12-POINT FONT AND IN A MANNER SO AS TO BE CLEARLY LEGIBLE TO THE MENU◆S INTENDED READERS;

(IV) ENCLOSED BY A RECTANGULAR BORDER THAT IS THE SAME COLOR AS THE LETTERS OF THE WARNING;

(V) IN CLOSE PROXIMITY TO THE SUGAR-SWEETENED BEVERAGES OFFERED ON THE MENU; AND

(VI) THE WARNING MUST BE INDELIBLY PRINTED ON OR SECURELY AFFIXED TO THE MENU.

(C) REQUIRED WARNING ◆ AT POINT OF SALE.

(1) IN GENERAL.

EVERY FOOD SERVICE FACILITY THAT OFFERS SUGAR-SWEETENED BEVERAGES TO CONSUMERS AND DOES NOT PROVIDE MENUS TO ITS PATRONS MUST POST A WARNING SIGN PROVIDED BY THE DEPARTMENT.

(2) PLACEMENT OF SIGN.

THE SIGN MUST BE CONSPICUOUSLY POSTED AT ALL LOCATIONS WHERE PAYMENTS FOR PURCHASES ARE MADE.

◆ 16-203. RETAILERS.

(A) DEFINITIONS.

(1) IN GENERAL.

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

(2) RETAILER.

(I) IN GENERAL.

◆RETAILER◆ MEANS:

(A) ANY BUSINESS (OTHER THAN A FOOD SERVICE FACILITY) THAT OFFERS SUGAR-SWEETENED BEVERAGES TO CONSUMERS; AND

(B) THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON IN CHARGE OF THAT BUSINESS.

(II) INCLUSIONS.

◆RETAILER◆ INCLUDES A PERSON WHO OWNS, OPERATES, OR MANAGES A VENDING MACHINE THAT SELLS SUGAR-SWEETENED BEVERAGES.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO ANY RETAILER THAT OFFERS SUGAR-SWEETENED BEVERAGES TO CONSUMERS.

(C) REQUIRED WARNING.

EVERY RETAILER THAT OFFERS SUGAR-SWEETENED BEVERAGES TO CONSUMERS MUST POST A WARNING SIGN PROVIDED BY THE DEPARTMENT.

(D) PLACEMENT OF SIGN.

THE SIGN MUST BE CONSPICUOUSLY POSTED AT ALL LOCATIONS WHERE PAYMENTS FOR PURCHASES ARE MADE.

SUBTITLE 3. PENALTIES

◆ 16-301. ENFORCEMENT BY CITATION.

(A) IN GENERAL.

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

(1) AN ENVIRONMENTAL CITATION, AS AUTHORIZED BY CITY CODE ARTICLE 1, SUBTITLE 40 {◆ENVIRONMENTAL CONTROL BOARD◆}; OR

(2) A CIVIL CITATION, AS AUTHORIZED BY 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.

◆ 16-302. CRIMINAL PENALTIES.

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 FOR EACH 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 19. SUGAR-SWEETENED BEVERAGES

\$500

Subtitle 41. Civil Citations

◆ 41-14. Offenses to which subtitle applies ◆ Listing.

(6) Health Code.

TITLE 19. SUGAR-SWEETENED BEVERAGES

\$500

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 1 year after the date it is enacted.

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