



Legislation Details (With Text)

File #: 20-0631 Version: 0 Name: Excise Tax - Electronic Smoking Devices
Type: Ordinance Status: Failed
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On agenda: Final action: 12/7/2020
Enactment date: Enactment #:

Title: Excise Tax - Electronic Smoking Devices
For the purpose of repealing current Subtitle 27 {"Tobacco Tax"} as abrogated by function of law;
establishing an excise tax on the distribution of electronic smoking devices; setting the rate of the tax;
defining certain terms, authorizing the Director of Finance to issue certain regulations; providing for
collection of the tax and payment of interest and penalties; providing for a special effective date.

Sponsors: Mayor Brandon M. Scott, Mary Pat Clarke, Sharon Green Middleton, John T. Bullock, Edward
Reisinger, Ryan Dorsey, Zeke Cohen, Leon F. Pinkett, III, Kristerfer Burnett

Indexes: Electronic Smoking Devices, Excise Tax

Code sections:

Attachments: 1. 20-0631~1st Reader, 2. Meeting Agenda - 20-0631, 3. Baltimore Vaping Tax Final, 4. Law 20-0631,
5. BDC 20-0631, 6. Finance 20-0631, 7. Letter to Baltimore City Council (November 10 2020), 8.
MRA_20-0631_oppose1, 9. Health 20-0631, 10. Amendment to Baltimore Ordinance, 11. Meeting
Minutes - 20-0631, 12. Council Bill 20-0631, 13. Taxation - Hearing Notes Bill 20-0631, 14. 2nd
Reader Amendments 20-0631(1)~1st (Comm), 15. 20-0631~3rd Reader

Table with 5 columns: Date, Ver., Action By, Action, Result. Rows show legislative history from 10/19/2020 to 12/7/2020, including actions like 'Failed', 'Advanced to 3rd Reader', 'Approved and Sent to the Mayor', 'Recommended Favorably with Amendment', 'Refer to Dept. of Finance', 'Refer to Dept. of Health', 'Refer to Baltimore Development Corporation', 'Refer to City Solicitor', 'Assigned', 'Scheduled for a Public Hearing', and 'Introduced'.

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* Warning: This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

**City of Baltimore
Council Bill**

Introduced by: President Scott

A Bill Entitled

An Ordinance concerning

Excise Tax - Electronic Smoking Devices

For the purpose of repealing current Subtitle 27 {"Tobacco Tax"} as abrogated by function of law; establishing an excise tax on the distribution of electronic smoking devices; setting the rate of the tax; defining certain terms, authorizing the Director of Finance to issue certain regulations; providing for collection of the tax and payment of interest and penalties; providing for a special effective date.

By repealing

Article 28 - Taxes
Subtitle 27 {"Tobacco Tax"}, in its entirety
Baltimore City Code
(Edition 2000)

By adding

Article 28 - Taxes
Section(s) 27-1 to 27-11, *to be under the new subtitle,*
"Subtitle 27. Electronic Smoking Devices"
Baltimore City Code
(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That City Code Article 28, Subtitle 27 {"Tobacco Tax"} is repealed in its entirety.

Section 2. And be it further ordained, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 28. Taxes

Subtitle 27. Electronic Smoking Devices

§ 27-1. Definitions.

(a) *In general.*

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

(b) *Dealer.*

"Dealer" means any person who engages in the retail sale of electronic smoking devices.

(c) *Director.*

"Director" means the Director of Finance or the Director's designee.

(d) *Distributor.*

“Distributor” means:

- (1) a person who supplies an electronic smoking device to a dealer within the City; or
- (2) a person who supplies and services a vending machine with an electronic smoking device.

(e) *Electronic smoking devices.*

(1) *In general.*

“Electronic smoking device” means a device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device.

(2) *Inclusions.*

“Electronic smoking device” includes:

- (i) an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, and vaping liquid; and
- (ii) except as provided in paragraph (3) of this subsection, any component, part, or accessory of an electronic smoking device regardless of whether or not it is sold separately, including any substance intended to be aerosolized or vaporized during use of the device.

(3) *Exclusions.*

“Electronic smoking device” does not include:

- (i) a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act; or
- (ii) any battery or battery charger that is sold separately.

(f) *Person.*

“Person” means:

- (1) an individual;
- (2) a partnership, firm, association, corporation, or other entity of any kind; or
- (3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

(g) *Supplying; supplies.*

- (1) “Supplying” or “supplies” means the act of providing, furnishing, delivering, distributing, or transmitting an electronic smoking device by a distributor to a dealer within the City.
- (2) For purposes of this subtitle, the act of supplying electronic smoking devices to a dealer operating in the City is completed, and tax liability accrues, on receipt of the devices by the dealer in the City.

§ 27-2. Tax imposed.

An excise tax is levied and imposed on every distributor who supplies an electronic smoking device to a dealer within the City.

§ 27-3. Amount of tax.

The amount of the tax is 30% of the wholesale price of the electronic smoking device.

§ 27-4. When payable; Monthly reports.

(a) *In general.*

The tax imposed by this subtitle:

- (1) is due when the dealer receives the electronic smoking device; and
- (2) must be paid on or before the 25th day of the month following the month in which the dealer received the electronic smoking device.

(b) *Remittance and report.*

- (1) The distributor must remit the tax to the Director, together with a monthly report of all electronic smoking devices that the distributor supplied to dealers operating in the City.
- (2) The report must:
 - (i) be in a form the Director approves; and
 - (ii) identify the number of electronic smoking devices supplied.

§ 27-5. Dealer self-transport.

(a) *Dealer liable absent certification.*

If any dealer transports electronic smoking devices into the City or causes electronic smoking devices 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 devices 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.

§ 27-6. Records.

Every distributor and every dealer shall:

- (1) keep complete and accurate records of all transactions involving electronic smoking devices, 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.

§ 27-7. Interest and civil penalties.

(a) *Failure to pay.*

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.

(b) *Failure to file reports; maintain records.*

If a distributor fails to submit the remittance reports or fails to keep suitable records as required by this subtitle, the distributor must pay the Director, in addition to the tax, a penalty of \$1,000 for each month that reports are not submitted or for each month that suitable records are not kept.

§ 27-8. Cessation of business.

If a person required to pay a tax under this subtitle ceases to do business or otherwise disposes or sells the business:

- (1) any tax payable under this subtitle becomes immediately due and payable; and
- (2) within 3 days of the cessation or other disposal of business, that person must submit the required report and remit the total amount of the tax due.

§ 27-9. 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.

§ 27-10. 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 devices;
- (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.

§ 27-11. 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 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 date it is enacted.