

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2017 Legislative Session

Bill No. CB-90-2017

Chapter No. _____

Proposed and Presented by Council Members Lehman and Taveras

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 Added Sugar Beverages – Warning Labels

3 For the purpose of requiring that certain health warnings be given by certain advertisers and
4 purveyors of added sugar beverages; defining relevant terms; and imposing certain civil
5 penalties.

6 BY repealing and reenacting with amendments:

7 SUBTITLE 2. ADMINISTRATION.

8 Section 2-117

9 The Prince George's County Code
10 (2015 Edition; 2016 Supplement).

11 BY adding:

12 SUBTITLE 12. HEALTH.

13 Sections 12-1101, 12-1201, 12-1202 and
14 12-1301

15 The Prince George's County Code
16 (2015 Edition; 2016 Supplement).

17 BY adding:

18 SUBTITLE 28. CIVIL MONETARY FINES OR
19 PENALTIES.

20 Section 28-267

21 The Prince George's County Code

1 (2015 Edition; 2016 Supplement).

2 **PREAMBLE**

3 WHEREAS, increased rates of obesity across the country are an emerging public health
4 crisis. In the United States, rates of obesity have dramatically increased in all age groups over the
5 past 30 years. Over one-third of Americans are overweight or obese, with disproportionately
6 higher rates of obesity occurring among youth minorities; and

7 WHEREAS, in Prince George's County, an alarming 71.4% of adults are overweight or
8 obese, including 16.1% of youth ages 12-19; and

9 WHEREAS, diabetes is the leading cause of death in the United States, and afflicts more
10 than 25 million Americans, with a disproportional impact on minority populations and the
11 elderly. In Prince George's County, 12.5% of the adult population suffers from diabetes, which is
12 responsible for 28 deaths per 100,000 people; and

13 WHEREAS, the rise of obesity and diabetes rates correspond to increases in calorie
14 consumption. On average, Americans are consuming 25% more calories per day than they did 30
15 years ago. Many of these additional calories are coming from added sugar beverages ("ASBs").
16 ASBs are beverages that contain added caloric sweeteners of any kind which include sweetened
17 fruit juices, fruit drinks, carbonated sodas, sports drinks, and energy drinks. From 1977 to 2001,
18 calorie intake from ASBs for all age groups increased 135%; and

19 WHEREAS, nearly half of all Americans drink at least one ASB every day. Children and
20 adolescents consume an average of 300 calories per day from ASBs, while children from low-
21 income families are more likely to consume 500 or more calories a day from ASBs; and

22 WHEREAS, the beverage industry specifically targets youth and communities of color
23 with its marketing efforts, spending \$395 million in marketing directed at youth and \$28.6
24 million on marketing campaigns specifically targeting African-American and Hispanic youth;
25 and

26 WHEREAS, research studies have shown that ASB consumption leads to excess caloric
27 intake, weight gain, obesity, and an increased risk of chronic diseases such as diabetes, metabolic
28 syndrome, and heart disease; and

29 WHEREAS, ASB consumption among children is associated with tooth decay, asthma,
30 and inadequate intake of nutrients, including calcium, iron, folate, magnesium, and vitamin
31 A; and

1 WHEREAS, the 2015 Dietary Guidelines for Americans released by the Department of
2 Health and Human Services recommends limiting consumption of food and beverages with
3 added sugars to less than 10 percent of calories per day, and the American Heart Association
4 recommends that Americans should not consume more than 450 calories from ASBs per week,
5 which is the equivalent of less than one can of carbonated cola per day; and

6 WHEREAS, reducing ASB consumption leads to weight loss and a reduced risk of
7 childhood obesity and other health problems, including type 2 diabetes; and

8 WHEREAS, health warnings have been demonstrated to increase knowledge of health
9 risks associated with a product; and

10 WHEREAS, point-of-purchase health warnings about caloric intake have been shown to
11 impact ASB purchases among adolescents; and

12 WHEREAS, health warnings have helped reduce consumption of products such as
13 tobacco, alcohol, and other unhealthy foods; and

14 WHEREAS, the County Council finds that requiring a health warning on added sugar
15 beverage advertisements and in locations where these products are sold will help
16 residents make an informed choice that may result in reduced caloric intake, a healthier diet, and
17 improved overall health; now, therefore,

18 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
19 Maryland, that Section 2-117 of the Prince George's County Code be and the same is hereby
20 repealed and reenacted with the following amendments:

21 **SUBTITLE 2. ADMINISTRATION.**
22 **DIVISION 4. BOARD OF APPEALS.**

23 **Sec. 2-117. Board of Administrative Appeals.**

24 * * * * *
25 (b) County law which specifically grants the Board authority to hear appeals includes (but
26 need not be limited to) the following:

27 * * * * *
28 SUBTITLE 12. HEALTH.
29 Division 10. ADDED SUGAR BEVERAGES.

30 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,
31 Maryland, that Sections 12-1101, 12-1201, 12-1202, 12-1203, 12-1301 and 12-1302 of the
32 Prince George's County Code be and the same are hereby added:

SUBTITLE 12. HEALTH.

DIVISION 10. ADDED SUGAR BEVERAGES.

SUBDIVISION 1. DEFINITIONS.

Sec. 12-1101. Definitions.

(a) Caloric Sweetener.

(1) Caloric Sweetener means any substance that:

(A) is suitable for human consumption;

(B) contains calories; and

(C) is perceived by humans as sweet.

(2) Caloric Sweetener includes sucrose, fructose, high fructose corn syrup, glucose and other sugars.

(3) Caloric Sweetener does not include:

(A) Natural fruit juice concentrate; or

(B) Natural vegetable juice concentrate.

(b) Food Service Facility has the meaning stated in Section 12-104(a)(7) of this Subtitle.

(c) Menu.

(1) 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) Menu does not include:

(A) a menu board; or

(B) an electronic menu or ordering device.

(d) 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.

(e) Milk.

(1) Milk means any beverage whose principal ingredient by weight is natural liquid milk secreted by an animal and suitable for human consumption.

(2) Milk includes natural milk concentrate and dehydrated natural milk, whether or not reconstituted.

(f) Milk Substitute.

(1) Milk Substitute means a plant-based beverage in which the principal ingredients

1 by weight are:

2 (A) water; and

3 (B) grains, nuts, legumes, or seeds.

4 (2) Milk Substitute includes soy milk, almond milk, rice milk, coconut milk, hemp
 5 milk, oat milk, hazelnut milk, and flax milk.

6 (g) Natural Fruit Juice means:

7 (1) the original liquid resulting from the pressing of fruit; or

8 (2) the liquid resulting from the dilution of dehydrated or concentrated natural fruit
 9 juice.

10 (h) Natural Vegetable Juice means:

11 (1) the original liquid resulting from the pressing of vegetables; or

12 (2) the liquid resulting from the dilution of dehydrated or concentrated natural
 13 vegetable juice.

14 (i) Added Sugar Beverage.

15 (1) Added Sugar Beverage means a non-alcoholic beverage the contains any added
 16 caloric sweetener.

17 (2) Added Sugar Beverage does not include:

18 (A) milk or a milk substitute;

19 (B) a beverage that consists of 100% natural fruit juice or natural vegetable juice
 20 with no added caloric sweetener;

21 (C) a product sold for consumption by infants, commonly referred to as “infant
 22 formula”;

23 (D) a product whose purpose is to address infant dehydration;

24 (E) a product designed as supplemental, meal replacement, or sole-source
 25 nutrition that includes proteins, carbohydrates, and multiple vitamins and minerals;

26 (F) a product sold in liquid form and designed for use as an oral nutritional
 27 therapy for persons who have limited ability to absorb or metabolize dietary nutrients from food
 28 or beverages; and

29 (G) a product sold in liquid form and designed for use for weight reduction.

30 **SUBDIVISION 2. REQUIRED WARNINGS**

31 **Sec. 12-1201. Food Service Facilities.**

1 (a) This section applies to any food service facility that offers sugar sweetened beverages
2 to consumers.

3 (b) Required Warning – On Menu.

4 (1) Every food service facility must place the following warning on all menus that list
5 added sugar beverages:

6 **“WARNING: DRINKING BEVERAGES WITH ADDED SUGAR**
7 **CONTRIBUTES TO OBESITY, DIABETES, AND TOOTH DECAY. THIS**
8 **MESSAGE IS FROM THE PRINCE GEORGE’S COUNTY HEALTH**
9 **DEPARTMENT.”**

10 (2) The warning required by this section must be:

11 (A) in conspicuous and legible type that contrasts, in topography, color and
12 layout, with all other material printed on the menu;

13 (B) printed in all capital letters or all small capital letters;

14 (C) printed in at least 12-point font and in a manner so as to be clearly legible to
15 the menu’s intended readers;

16 (D) enclosed by a rectangular border that is the same color as the letters of the
17 warning;

18 (E) in close proximity to the added sugar beverages offered on the menu; and

19 (F) the warning must be indelibly printed on or securely affixed to the menu.

20 (c) Required Warning – At Point of Sale.

21 (1) Every food service facility that offers added sugar beverages to consumers and
22 does not provide menus to its patrons must post a warning sign.

23 (2) The sign must be conspicuously posted at all locations where payments for
24 purchases are made.

25 (3) The sign shall meet the criteria established in Section 12-1202(d).

26 **Sec. 12-1202. Retailers.**

27 (a) Definitions.

28 (1) Retailer means:

29 (A) any business other than a food service facility that offers added sugar
30 beverages to consumers; and

31 (B) the owner, operator, manager, or other person in charge of that business.

1 (2) Retailer includes a person who owns, operates, or manages a vending machine
2 that sells added sugar beverages.

3 (b) This section applies to any retailer that offers added sugar beverages to consumers.

4 (c) Every retailer that offers added sugar beverages to consumers must post a warning sign
5 which states the following:

6 **“WARNING: DRINKING BEVERAGES WITH ADDED SUGAR**
7 **CONTRIBUTES TO OBESITY, DIABETES, AND TOOTH DECAY. THIS**
8 **MESSAGE IS FROM THE PRINCE GEORGE’S COUNTY HEALTH**
9 **DEPARTMENT.”**

10 (d) The warning required by this section must be:

11 (1) in conspicuous and legible type that contrasts, in topography, color and layout,
12 with any other information on the sign;

13 (2) printed in all capital letters or small capital letters; and

14 (3) printed in a size and manner so as to be clearly legible to customers.

15 (e) The sign must be conspicuously posted at all locations where payments for purchases
16 are made.

17 (f) For a vending machine, the warning sign shall be affixed to the front of the machine.

18 **SUBDIVISION 3. PENALTIES.**

19 **Sec. 12-1301. Enforcement by citation.**

20 (a) In addition to any other civil or criminal remedy or enforcement procedure, this title
21 may be enforced by issuance of a civil citation, as authorized by Section 28-267 of the County
22 Code.

23 (b) The issuance of a citation to enforce this subdivision does not preclude pursuing any
24 other civil or criminal remedy or enforcement authorized by law.

25 (c) The Health Department shall enforce this subdivision and shall inspect for compliance
26 with these required warnings at food service facilities and retailers when doing a food safety or
27 other inspection.

28 SECTION 3. BE IT ENACTED by the County Council of Prince George's County,
29 Maryland, that Section 28-267 of the Prince George's County Code be and the same are hereby
30 added:

31 **SUBTITLE 28. CIVIL MONETARY FINES OR PENALTIES.**

DIVISION 3. MISCELLANEOUS CIVIL VIOLATIONS.

SUBDIVISION 2. SPECIFIC CIVIL PENALTIES PRESCRIBED.

Sec. 28-267. Violations of Added Sugar Beverage Warnings.

(a) Any person who violates any of the following provisions of the County Code shall, upon citation issued pursuant to Subdivision 1, be deemed to have committed a civil violation and shall pay to the County a civil monetary fine in the amount prescribed by Subsection (b) of this Section:

- Sections 12-1201(b)
- 12-1201(c)
- 12-1202(c)
- 12-1202(d)
- 12-1202(e)
- 12-1202(f)

(1) Each publication of a statement which constitutes a violation shall be a separate and distinct civil violation subject to an additional citation and fine in the amount prescribed by Subsection (b) of this Section.

(b) The first violation of the provisions enumerated in Subsection (a) shall result in a warning. The second violation shall result in a civil monetary fine in the amount of Two Hundred Fifty Dollars (\$250.00). The third violation and any other subsequent violations shall result in a civil monetary fine in the amount of One Thousand Dollars (\$1,000.00).

* * * * *

SECTION 4. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection, or section.

SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this ____ day of _____, 2017.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Derrick Leon Davis
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.