

No. 24-19-OR

AN ORDINANCE

An Ordinance amending the Allegheny County Code of Ordinances, Division 1, entitled "Administrative Code," Article 808.A, to comply with recent amendments made by the Pennsylvania General Assembly to Article II of the Act of March 4, 1971 (P.L. 6, No.2), known as the Tax Reform Code of 1971.

Whereas, the maintenance and funding of a transit system is vital to the economic prosperity of the Allegheny County region and all of its residents; and

Whereas, Act 44 of 2007, 53 Pa. C. S. A. § 6201 (Act 44) authorized Allegheny County to obtain financial support for transit systems by imposing a tax on the sale at retail of liquor and malt and brewed beverages within the County; and

Whereas, on December 4, 2007, Allegheny County Council, acting pursuant to Act 44, approved a bill enacting an ordinance imposing a tax on the sale at retail of liquor and malt and brewed beverages within the County to be effective on January 1, 2008; and

Whereas, County Ordinance No. 54-07 OR, which is codified in the County's Code of Ordinances as Article 808A of the County's Administrative Code, § § 5-808A.01-.08, ("County Drink Tax") provided for the rate of taxation on the sale at retail of liquor and malt and brewed beverages within the County at the rate of ten percent (10%), the maximum rate allowed under Act 44; and

Whereas, on December 2, 2008, County Council approved a bill amending the County Drink Tax to reduce the rate of taxation from ten percent (10%) to seven percent (7%) effective on January 1, 2009; and

Whereas, the Pennsylvania General Assembly recently enacted House Bill No. 262, now known as Act 13 of 2019 (Act 13), amending Article II of the Act of March 4, 1971 (P.L. 6, No.2), known as the Tax Reform Code of 1971, to enable the Commonwealth to impose and collect a tax on sales of malt or brewed beverages sold by a manufacturer of malt or brewed beverages directly to the ultimate consumer for consumption on or off the manufacturer's premises; and

Whereas, Section 5-808A.01 (Definitions) of the County Drink Tax currently excludes sales at retail that are subject to taxation under the Tax Reform Code of 1971; and

Whereas, Section 2 (h) (3) of Act 13 specifically provides for the continuation and preservation of the County's authority to impose and collect a tax on sales by a manufacturer of

malt or brewed beverages directly to the ultimate consumer for consumption on or off the manufacturer's premises:

Notwithstanding any law to the contrary, a school district or local government authorized to impose a local alcoholic beverage tax under the Act of June 10, 1971 (P.L.153, No.7), known as the First Class School District Liquor Sales Tax Act Of 1971, or 53 Pa.C.S. § 8602 (relating to local financial support), may impose or continue to impose a local alcoholic beverage tax on the sale at retail of malt or brewed beverages made by a manufacturer of malt or brewed beverages to the ultimate consumer for consumption on or off premises at the same rate as authorized under the First Class School District Liquor Sales Tax Act of 1971 or 53 Pa.C.S. § 8602 and notwithstanding anything to the contrary in such laws or in a local law or ordinance in existence on the effective date of this section.

Whereas, it is the desire of Council to preserve the status quo and maintain in all respects the County's authority to obtain vital and necessary financial support for the County's transit systems by amending the County Drink Tax to account for the recent change in State law.

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference as set forth in their entirety herein.

SECTION 2. Amendment of the Definition of "Sale at Retail" in Article 808.A.01.

The Allegheny County Code of Ordinances, Division 1, entitled "Administrative Code," Article 808.A, "Alcoholic Beverage Taxation," §5-808.A.01, is hereby amended in part as follows:

The definition of the term "sale at retail" is amended to read as follows:

D. Sale at retail: Any transfer at retail for a consideration in any manner or by any means whatsoever of liquor and malt and brewed beverages. The term shall not include any transaction which is subject to tax by the Commonwealth under the Tax Act of 1963 for Education or Article II of the Tax Reform Code of 1971; provided however, that, pursuant to Section 2 (h) (3) of Act 13 of 2019, sales by a manufacturer of malt or brewed beverages directly to the ultimate consumer for consumption on or off the manufacturer's premises shall remain a sale at retail upon which the County shall continue to impose and collect an alcoholic beverage tax under Act 44.

SECTION 3. Severability. *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

SECTION 4. Repealer. *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

SECTION 5. Effective Date.


This Ordinance shall enter into effect immediately.

Enacted in Council, this 10th day of September, 2019

Council Agenda No. 11183-19



John DeFazio
President of Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office September 12, 2019

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Sonya Dietz
Executive's Secretary

Summary

The Pennsylvania General Assembly recently enacted, and the Governor signed into law Act 13 of 2019 (Act 13) amending Article II of the Act of March 4, 1971 (P.L. 6, No.2), known as the Tax Reform Code of 1971. Act 13 now enables the Commonwealth to impose and collect a tax on sales of malt or brewed beverages sold by a manufacturer of malt or brewed beverages directly to the ultimate consumer for consumption on or off the manufacturer's premises.

Until the passage of Act 13, sales of malt or brewed beverages sold by a manufacturer of malt or brewed beverages directly to the ultimate consumer were exclusively subject to the local alcoholic beverage taxes in Philadelphia and Allegheny County imposed under statutory authority granted by the Commonwealth. Act 13, however, specifically preserves and continues authority in Philadelphia and Allegheny County to impose and collect a tax on sales of malt or brewed beverages sold by a manufacturer of malt or brewed beverages directly to the ultimate consumer for consumption on or off the manufacturer's premises.

The attached proposed ordinance is intended to maintain the status quo and ensure that the County's Alcoholic Beverage Tax Article in the County's Administrative Code is consistent with Act 13, and that the County's authority to obtain vital and necessary financial support for the County's transit systems is preserved and maintained.

M E M O R A N D U M
OFFICE OF THE COUNTY MANAGER

TO: Jared E. Barker
Allegheny County Council

FROM: William D. McKain CPA
County Manager

DATE: August 22, 2019

RE: Proposed Ordinance

Attached is an Ordinance amending the Allegheny County Code of Ordinances, Division 1, entitled "Administrative Code," Article 808.A, to comply with recent amendments made by the Pennsylvania General Assembly to Article II of the Act of March 4, 1971 (P.L. 6, No.2), known as the Tax Reform Code of 1971.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.

ALLEGHENY COUNTY RECEIVED