

SENATE BILL 753

J1

EMERGENCY BILL

6lr3149

By: ~~Senator Klausmeier~~ **Senators Klausmeier, Astle, Benson, Feldman, Hershey,
Jennings, Kelley, Mathias, Middleton, Pugh, and Reilly**

Introduced and read first time: February 5, 2016

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2016

CHAPTER _____

1 AN ACT concerning

2 **Health – Sale of Food Products Containing Alcohol – Requirements and**
3 **Restrictions**

4 FOR the purpose of repealing a certain provision of law that provided that a confectionary
5 food product is adulterated if it contains any alcohol in excess of a certain percent by
6 volume or any alcohol derived from anything but flavoring extracts; prohibiting
7 certain provisions of law from being construed to prohibit the addition of alcohol to
8 a food product, including a confectionary and a frozen dessert; prohibiting the sale of
9 a food product that contains more than a certain percent of alcohol per volume to
10 certain individuals; requiring that a food product that contains more than a certain
11 percent of alcohol per volume state certain information on the label of the food
12 product; providing that a certain provision of this Act may not be construed to limit
13 the application of certain laws and regulations to certain food products; repealing
14 certain provisions of law rendered obsolete by this Act; making this Act an
15 emergency measure; and generally relating to the sale of food products containing
16 alcohol.

17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 21–209
20 Annotated Code of Maryland
21 (2015 Replacement Volume)

22 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Health – General
2 Section 21–214
3 Annotated Code of Maryland
4 (2015 Replacement Volume)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
6 That the Laws of Maryland read as follows:

7 **Article – Health – General**

8 21–209.

9 (a) In addition to any other ground that may be applicable under § 21–207 or §
10 21–208 of this subtitle, a confectionary food product is adulterated if:

11 (1) It contains any nonnutritive object, except as permitted by the rules
12 and regulations adopted under subsection (b)(1) of this section; **OR**

13 (2) It contains any nonnutritive substance other than a safe substance:

14 (i) That is in or on the confectionery because of some practical
15 functional purpose in the manufacture, packaging, or storing of the confectionery; and

16 (ii) The use of which does not promote deception of the consumer or
17 otherwise result in any adulteration or misbranding in violation of this subtitle[; or

18 (3) It contains any alcohol:

19 (i) In excess of 5 percent by volume; or

20 (ii) Derived from anything but flavoring extracts].

21 (b) (1) If, in the judgment of the Secretary, a nonnutritive object is of practical,
22 functional value to a confectionary food product and its use is not injurious or hazardous to
23 health, the Secretary may adopt a rule or regulation that permits an exception to subsection
24 (a)(1) of this section, regarding nonnutritive objects.

25 (2) To avoid or resolve uncertainty, the Secretary may by rule or
26 regulation:

27 (i) Interpret subsection (a)(2) of this section as that subsection
28 applies to use of a particular nonnutritive substance; and

29 (ii) Allow or prohibit the use of the particular nonnutritive
30 substance.

1 [(c) A confectionery that is manufactured or sold that contains between one-half
2 of one percent and 5 percent of alcohol per volume:

3 (1) May not be sold to individuals under 21 years of age;

4 (2) Shall state on the label that the sale of the product to individuals under
5 21 years of age is prohibited; and

6 (3) Shall state on the label that the product contains alcohol up to 5 percent
7 per volume.]

8 **21-214.**

9 **(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO PROHIBIT THE ADDITION**
10 **OF ALCOHOL TO A FOOD PRODUCT, INCLUDING A CONFECTIONERY AND A FROZEN**
11 **DESSERT.**

12 **(B) A FOOD PRODUCT THAT IS MANUFACTURED OR SOLD THAT CONTAINS**
13 **MORE THAN ONE-HALF OF ONE PERCENT OF ALCOHOL PER VOLUME:**

14 **(1) MAY NOT BE SOLD TO INDIVIDUALS UNDER 21 YEARS OF AGE; AND**

15 **(2) SHALL STATE ON THE LABEL OF THE FOOD PRODUCT:**

16 **(I) THAT THE SALE OF THE PRODUCT TO INDIVIDUALS UNDER**
17 **21 YEARS OF AGE IS PROHIBITED;**

18 **(II) THAT THE PRODUCT CONTAINS ALCOHOL; AND**

19 **(III) THE PRODUCT'S ALCOHOL PERCENT PER VOLUME.**

20 **(C) SUBSECTION (B) OF THIS SECTION MAY NOT BE CONSTRUED TO LIMIT**
21 **THE APPLICATION OF RELEVANT PROVISIONS OF THE ALCOHOLIC BEVERAGES**
22 **ARTICLE, AND REGULATIONS ADOPTED UNDER THAT ARTICLE, TO A**
23 **MANUFACTURER OR SELLER OF A FOOD PRODUCT REGULATED UNDER SUBSECTION**
24 **(B) OF THIS SECTION.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July~~
26 ~~1, 2016~~ is an emergency measure, is necessary for the immediate preservation of the public
27 health or safety, has been passed by a ye and nay vote supported by three-fifths of all the
28 members elected to each of the two Houses of the General Assembly, and shall take effect
29 from the date it is enacted.