

Chapter 695

(Senate Bill 753)

AN ACT concerning

Health – Sale of Food Products Containing Alcohol – Requirements and Restrictions

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

BY repealing and reenacting, with amendments,

Article – Health – General
 Section 21–209
 Annotated Code of Maryland
 (2015 Replacement Volume)

BY adding to

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

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

Article – Health – General

21–209.

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

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

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

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

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

(3) It contains any alcohol:

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

(ii) Derived from anything but flavoring extracts].

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

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

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

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

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

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

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

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

21-214.

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

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

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

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

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

(II) THAT THE PRODUCT CONTAINS ALCOHOL; AND

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

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

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 28, 2016.