

# SENATE BILL 753

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By: **Senator Klausmeier**

Introduced and read first time: February 5, 2016

Assigned to: Finance

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## A BILL ENTITLED

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; and generally relating to the  
15 sale of food products containing alcohol.

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

21 BY adding to  
22 Article – Health – General  
23 Section 21–214  
24 Annotated Code of Maryland  
25 (2015 Replacement Volume)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Health – General**

2 21–209.

3 (a) In addition to any other ground that may be applicable under § 21–207 or §  
4 21–208 of this subtitle, a confectionary food product is adulterated if:5 (1) It contains any nonnutritive object, except as permitted by the rules  
6 and regulations adopted under subsection (b)(1) of this section; **OR**

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

8 (i) That is in or on the confectionery because of some practical  
9 functional purpose in the manufacture, packaging, or storing of the confectionery; and10 (ii) The use of which does not promote deception of the consumer or  
11 otherwise result in any adulteration or misbranding in violation of this subtitle]; or

12 (3) It contains any alcohol:

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

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

15 (b) (1) If, in the judgment of the Secretary, a nonnutritive object is of practical,  
16 functional value to a confectionary food product and its use is not injurious or hazardous to  
17 health, the Secretary may adopt a rule or regulation that permits an exception to subsection  
18 (a)(1) of this section, regarding nonnutritive objects.19 (2) To avoid or resolve uncertainty, the Secretary may by rule or  
20 regulation:21 (i) Interpret subsection (a)(2) of this section as that subsection  
22 applies to use of a particular nonnutritive substance; and23 (ii) Allow or prohibit the use of the particular nonnutritive  
24 substance.25 [(c) A confectionery that is manufactured or sold that contains between one–half  
26 of one percent and 5 percent of alcohol per volume:

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

28 (2) Shall state on the label that the sale of the product to individuals under  
29 21 years of age is prohibited; and

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

3 **21-214.**

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

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

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

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

11                           **(I)   THAT THE SALE OF THE PRODUCT TO INDIVIDUALS UNDER**  
12 **21 YEARS OF AGE IS PROHIBITED;**

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

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

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

20           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
21 1, 2016.