Testimony of Jennifer Gardner
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Maryland Assembly Committee on Health and Government Operations
Hearing on House Bill 1208

March 10, 2025

Chairwoman Pena-Melnyk, members of the Assembly Committee on Health and Government Operations, my name is Jennifer Gardner, and I am here on behalf of the National Confectioners Association and its Maryland based members. Thank you for the opportunity to participate in today's hearing. While our association supports a rigorous post-market assessment of food and color additives and a strong food safety system, House Bill 1208 sets a concerning precedent for state food ingredient restrictions through its proposed warning labeling requirement and food ingredient prohibitions.

The National Confectioners Association (NCA) is the leading trade organization for the $48 billion U.S. confectionery industry. The NCA represents manufacturers, wholesalers, and suppliers of chocolate, candy, gum, and mints, supporting more than 7,000 jobs in Maryland through direct and indirect economic activity and providing over $472.2 million in total economic output in the State.

As heavily regulated food manufacturers with national distribution networks, our members must follow a unified federal standard operated by the Food and Drug Administration (FDA). Different laws in all 50 states would severely disrupt the economy without any notable food safety or public health benefits, posing a particular challenge to states like Maryland that rely on a strong interstate commerce system to ensure the uninterrupted follow of goods and services.

States like Maryland have played a valuable role in spurring supplemental federal engagement on food additive and color safety. On January 15, 2025, FDA revoked the authorization for the use of Red Dye 3 in food and ingested drugs. Notably, in its announcement, FDA stipulated that "there is no evidence" to support claims that consuming Red Dye 3 puts people at risk. As available scientific information does not support risk claims, Maryland's proposed warning labeling requirement is unfounded and would generate unwarranted consumer concern for products that are already being phased out to address FDA's product manufacturing reformulation deadline of January 15, 2027. Temporary warning labeling requirements would inflate product manufacturing costs, create challenges for multistate distributors and retailers, and generate consumer confusion over product safety.

In addition to FDA's revocation of Red Dye 3, since Maryland considered similar legislation last session, FDA has now revoked the authorization for the use of brominated vegetable oil, and potassium bromate and propylparaben are currently under the agency's review. The agency also undertook a substantive reorganization late last year to create a new unified Human Foods

Program, enhancing the agency's focus on the post-market review of food additives and colors in the food supply.

Supporters of state food and color additive prohibitions have alleged that FDA is not capable of keeping the nation's food supply safe, so states must act. However, the recent agency actions referenced refute this narrative.

The FDA is the rightful national regulatory decision maker and leader in food safety, and the agency can best leverage its scientific and regulatory experts to thoroughly analyze and assess ingredients to make informed decisions on ingredient safety. State policymakers play an integral role in supporting our national food safety system to maintain uniform access to safe, affordable foods in every state.

Maryland residents currently benefit from food manufacturers' nationwide distribution network that provides a safe and diverse array of products to meet customer needs and preferences. Should the state continue to pursue, and ultimately implement, varying product labeling and food ingredient restrictions, product reformulations to meet diverse state mandates may not be feasible or practical. Product reformulation is complex and time intensive, and any ingredient changes must be carefully evaluated for product safety, taste, and shelf-life repercussions.

As FDA continues its work to review food ingredients on behalf of all states, state proposals to establish varying restrictions on food ingredients and labels lead to uncertainty in the market and propels misinformation, resulting in the consideration of proposals in some states that seek to regulate colors not even in existence in the food supply and additives that only exist in the Marvel Universe. Since the initial adoption of the *California Food Safety Act* in 2023, no new states have finalized food additive bans. It is crucial that states continue to allow FDA scientists, toxicologists, and regulatory experts to drive food safety determinations in the U.S.

While well-intentioned, House Bill 1208 would result in a patchwork approach to food ingredient oversight, creating duplicative regulatory structures, inflating already heightened food costs, and undermining consumer confidence in the safety of our nation's food supply. In lieu of pursuing a state specific approach that may not align with other similar state or federal initiatives, we urge you to work collaboratively with the FDA in their work to evaluate chemical safety and respectfully request your opposition to House Bill 1208.