
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 692 Session of
2017

INTRODUCED BY CRUZ, YOUNGBLOOD, KINSEY, J. HARRIS, BOBACK,
MILLARD, D. COSTA, McNEILL, READSHAW AND NEILSON,
MARCH 3, 2017

REFERRED TO COMMITTEE ON HEALTH, MARCH 3, 2017

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in trade and commerce, providing for
3 the unlawful sale of certain foods, over-the-counter drugs
4 and cosmetics after expiration date.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 7332. Unlawful sale of certain foods, over-the-counter drugs
10 and cosmetics after expiration date.

11 (a) Provisions.--No person, whether acting for himself or
12 for another, shall directly or indirectly sell or offer for
13 sale:

14 (1) An over-the-counter drug, infant formula or baby
15 food or any other food subject to expiration dating
16 requirements issued by the United States Food and Drug
17 Administration after the expiration, "use by" or "best
18 before" date on its label or packaging has passed.

1 (2) A cosmetic or food after the expiration, "use by" or
2 "best before" date on its label or packaging has passed,
3 unless such cosmetic or food is offered for sale with
4 information in clear and plain view of the consumer
5 indicating that the cosmetic or food has passed its
6 expiration, "use by" or "best before" date. Such information
7 must be visible on the packaging or label of the expired
8 cosmetic or food. Any business that sells or offers for sale
9 expired cosmetics or food under this subsection must
10 physically separate all expired cosmetics and food from all
11 unexpired cosmetics and food. The separated, expired products
12 must be offered for sale in close proximity to a clearly
13 visible sign indicating that the cosmetics or food being
14 offered for sale in that location of the business has passed
15 the expiration, "use by" or "best before" date.

16 (b) Penalty.--A person who violates this section commits a
17 summary offense and shall, upon conviction, be sentenced to pay
18 a fine of not more than \$300 for each item sold or offered for
19 sale after the expiration, "use by" or "best before" date. The
20 fine shall be calculated based upon the number of days past the
21 expiration, "use by" or "best before" date that the product is
22 either found being offered for sale or, if the product is sold,
23 the date of sale as established by evidence of proof of
24 purchase, including, but not limited to, a sales receipt.

25 (c) Enforcement.--The department shall enforce and
26 administer the provisions of this section.

27 (d) Administration.--The department shall promulgate rules
28 and regulations to administer this section and may assess
29 administrative penalties on a person who violates this section
30 and when deemed necessary by the secretary, penalties may

1 include the revocation of any license, including a business
2 privilege license or sales license held by a person who operates
3 a business in violation of this section.

4 (e) Definitions.--As used in this section, the following
5 words and phrases shall have the meanings given to them in this
6 subsection unless the context clearly indicates otherwise:

7 "Baby food." The processing of canned fresh fruits and
8 vegetables, meats, eggs, fruit juices, cereal, formulated
9 entrees, desserts and snacks using fresh, preprocessed or any
10 combination of these and other food ingredients necessary for
11 the production of foods for consumption by a child under two
12 years of age.

13 "Department." The Department of Agriculture of the
14 Commonwealth.

15 "Infant formula." A food which purports to be or is
16 represented for special dietary use solely as a food for infants
17 by reason of its simulation of human milk or its suitability as
18 a complete or partial substitute for human milk.

19 "Over-the-counter drug." A nonprescription drug regulated by
20 the United States Food and Drug Administration that is required
21 to have an expiration date on its packaging pursuant to Federal
22 law and Federal regulations.

23 "Secretary." The Secretary of Agriculture of the
24 Commonwealth.

25 Section 2. This act shall take effect in 60 days.