
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 453 Session of
2019

INTRODUCED BY CRUZ, YOUNGBLOOD, HILL-EVANS, MURT AND NEILSON,
FEBRUARY 11, 2019

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
FEBRUARY 11, 2019

AN ACT

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

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

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

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

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

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

1 (2) A cosmetic or food, after the expiration, "use by"
2 or "best before" date on its label or packaging has passed,
3 unless the 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. The information
7 must be visible on the packaging or label of the expired
8 cosmetic or food. A 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 If deemed necessary by the secretary, penalties may include the

1 revocation of any license, including a business privilege
2 license or sales license held by a person who operates a
3 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." Canned fresh fruits and vegetables, meats,
8 eggs, fruit juices, cereal, formulated entrees, desserts and
9 snacks using fresh, preprocessed or any combination of these and
10 other food ingredients necessary for the production of foods for
11 consumption by a child under two years of age.

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

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

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

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

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