

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2299 Session of
2022

INTRODUCED BY CRUZ, KINSEY, MADDEN AND DELLOSO, JANUARY 27, 2022

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 27, 2022

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) Prohibited conduct.--No person, whether acting for
13 himself or for another, shall directly or indirectly sell or
14 offer for 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.

20 (2) A cosmetic or food, after the expiration, "use by"

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

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

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

26 (d) Administration.--The department shall promulgate rules
27 and regulations to administer this section and may assess
28 administrative penalties on a person who violates this section.
29 If deemed necessary by the secretary, penalties may include the
30 revocation of any license, including a business privilege

1 license or sales license, held by a person who operates a
2 business in violation of this section.

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

6 "Baby food." Food manufactured, packaged and labeled
7 specifically for sale to a consumer for consumption by a child
8 under two years of age. The term includes infant formula.

9 "Department." The Department of Agriculture of the
10 Commonwealth.

11 "Infant formula." Food that purports to be or is represented
12 for special dietary use solely as a food by reason of the food's
13 simulation of human milk or suitability as a complete or partial
14 substitute for human milk and that is intended for consumption
15 by a child under two years of age.

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

20 "Secretary." The Secretary of Agriculture of the
21 Commonwealth.

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