

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 92

Short Title: Regulation of Candy.

(Public)

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Sponsors: Representatives Brawley; Grimmer, Redwine, Duncan, Blue, Burke, Brubaker, and Buchanan.

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Referred to: Government.

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January 26, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE THE ALCOHOL CONTENT OF CANDY.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 106-129 reads as rewritten:

5 **"§106-129. Foods deemed to be adulterated.**

6 A food shall be deemed to be adulterated:

7 (1) a. If it bears or contains any poisonous or deleterious substance which  
8 may render it injurious to health; but in case the substance is not an  
9 added substance such food shall not be considered adulterated under  
10 this paragraph if the quantity of such substance in such food does not  
11 ordinarily render it injurious to health; or

12 b. 1. If it bears or contains any added poisonous or  
13 added deleterious substance, other than one which is

14 I. A pesticide chemical in or on a raw  
15 agricultural commodity;

16 II. A food additive; or

17 III. A color additive, which is unsafe within  
18 the meaning of G.S. 106-132; or

19 2. If it is a raw agricultural commodity and it bears or  
20 contains a pesticide chemical which is unsafe within the  
21 meaning of G.S. 106-132; or

22 3. If it is or it bears or contains any food additive which is  
23 unsafe within the meaning of G.S. 106-132;

- 1 provided, that where a pesticide chemical has been used in or  
2 on a raw agricultural commodity in conformity with an  
3 exemption granted or tolerance prescribed under G.S. 106-132  
4 of this Article, and such raw agricultural commodity has been  
5 subjected to processing such as canning, cooking, freezing,  
6 dehydrating, or milling, the residue of such pesticide chemical  
7 remaining in or on such processed food shall, notwithstanding  
8 the provisions of G.S. 106-132 and clause 3 of this section, not  
9 be deemed unsafe if such residue in or on the raw agricultural  
10 commodity has been removed to the extent possible in good  
11 manufacturing practice, and the concentration of such residue in  
12 the processed food when ready-to-eat, is not greater than the  
13 tolerance prescribed for the raw agricultural commodity; or
- 14 c. If it consists in whole or in part of a diseased, contaminated,  
15 filthy, putrid or decomposed substance, or if it is otherwise unfit  
16 for food; or
- 17 d. If it has been produced, prepared, packed or held under  
18 ~~insanitary~~ unsanitary conditions whereby it may have become  
19 contaminated with filth, or whereby it may have been rendered  
20 diseased, unwholesome or injurious to health; or
- 21 e. If it is the product of a diseased animal or an animal which has  
22 died otherwise than by slaughter, or that has been fed upon the  
23 uncooked offal from a slaughterhouse; or
- 24 f. If its container is composed, in whole or in part, of any  
25 poisonous or deleterious substance which may render the  
26 contents injurious to health;
- 27 g. If it has been intentionally subjected to radiation, unless the use  
28 of the radiation was in conformity with a regulation or  
29 exemption in effect pursuant to G.S. 106-132 of this Article; or
- 30 h. If a retail or wholesale establishment has added sulfiting agents,  
31 including sulfur dioxide, sodium sulfite, sodium or potassium  
32 bisulfite, and sodium or potassium metabisulfite, separately or  
33 in combination, to fresh fruits and fresh vegetables intended for  
34 retail sale as fresh food products.
- 35 (2) a. If any valuable constituent has been in whole or in part omitted or  
36 abstracted therefrom; or
- 37 b. If any substance has been substituted wholly or in part therefor;  
38 or
- 39 c. If damage or inferiority has been concealed in any manner; or
- 40 d. If any substance has been added thereto or mixed or packed  
41 therewith so as to increase its bulk or weight, or reduce its  
42 quality or strength or make it appear better or of greater value  
43 than it is.
- 44 (3) If it is confectionery, and:

- 1                   a.     Has partially or completely imbedded therein any nonnutritive  
2                   object: Provided, that this clause shall not apply in the case of  
3                   any nonnutritive object if, in the judgment of the Board of  
4                   Agriculture as provided by regulations, such object is of  
5                   practical functional value to the confectionery product and  
6                   would not render the product injurious or hazardous to health;  
7                   or  
8                   b.     Bears or contains any alcohol other than alcohol not in excess  
9                   of ~~one half of one per centum (0.5%) by volume~~ five percent (5%)  
10                  ~~by weight derived solely from the use of flavoring extracts~~; or  
11                  c.     Bears or contains any nonnutritive substance: Provided, that this  
12                  clause shall not apply to a safe nonnutritive substance which is  
13                  in or on confectionery by reason of its use for some practical  
14                  functional purpose in the manufacture, packaging, or storing of  
15                  such confectionery if the use of the substance does not promote  
16                  deception of the consumer or otherwise result in adulteration or  
17                  misbranding in violation of any provision of this Article; and  
18                  provided further, that the Board may, for the purpose of  
19                  avoiding or resolving uncertainty as to the application of this  
20                  clause, issue regulations allowing or prohibiting the use of  
21                  particular nonnutritive substances.  
22                  (4)     If it is or bears or contains any color additive which is unsafe within  
23                  the meaning of G.S. 106-132.”  
24                  Sec. 2. This act is effective upon ratification.