

Skittles Survive as California Passes Landmark “California Food Safety Act”

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The so-called “Skittles Ban” is no more, but earlier this week the California legislature passed a novel bill that would ban four food additives from grocery store shelves starting in 2027. Governor Newsom has until October 14 to sign or veto the legislation.

It would mark the first time a state has banned food items containing additives that are otherwise permitted by the U.S. Food and Drug Administration (“FDA”).

The California Food Safety Act, [AB 418](#), prohibits a person or entity from manufacturing, selling, delivering, distributing, holding, or offering for sale, in commerce a food product for human consumption containing any of the following substances:

- Brominated vegetable oil (CAS no. 8016-94-2)
- Potassium bromate (CAS no. 7758-01-2)
- Propylparaben (CAS no. 94-13-3)
- Red dye 3 (CAS no. 16423-68-0)

These additives are commonly found in orange and citrus sodas, baked goods, candies, marshmallows, and processed foods. They are added to food for texture and aesthetic purposes as well as to extend shelf-life.

The FDA has already banned red dye 3, an artificial coloring agent derived from petroleum, from cosmetics. But, it is still authorized for use in foods and medicines to give them bright red coloring and sheen.

Titanium dioxide — the ingredient that would have required a Skittles reformulation — was dropped from the final bill over industry objections. Common in ice creams, chocolates, creamers, chewing gum, dressing, cakes, and all types of candies, titanium dioxide is added to provide whiteness and opacity. Critics of the original bill noted that titanium dioxide is approved for use and widely used in pharmaceuticals, which have a practically identical exposure and risk pattern as food consumption. The European Union is currently wrestling with this dichotomy.

The effective date of the ban also was amended to achieve bipartisan support for the bill, which was originally proposed to begin in 2025. With these compromises, the bill cleared the state Senate on a 33-3 vote and the Assembly on a 65-6 vote.

AB 418 will have national implications: large manufacturers likely will remove these additives from

their products entirely, rather than narrowly tailoring distribution to California. Such a strategy may be even more appealing as the New York state legislature debates bill [A6424](#), which mirrors the California law banning all the same chemicals plus titanium dioxide. The use of these additives in food is already banned in the European Union.

The bill authorizes the California Attorney General, a city attorney, a county counsel, or a district attorney to enforce the ban. Civil penalties may not exceed \$5,000 for first-time violations. For repeat violations, civil penalties may not exceed \$10,000 per violation.