

Why Kinder Surprise is banned in America

From the sweeties.net wiki

Kinder Surprise is a chocolate egg with a plastic capsule inside, holding a small toy. It is made by Ferrero and sold across Europe and much of the world. But not in the United States.

The 1938 law

The reason is an American law from 1938, the Federal Food, Drug, and Cosmetic Act. It bans confectionery that contains a non nutritive object, meaning something that is not food, unless that object has a functional value. In effect, it bans the sale of any sweet with a toy or trinket embedded in it.

A Kinder Surprise, with its toy sealed inside the chocolate, falls foul of the rule. American officials also took the view that the egg broke rules on small parts, because of the risk that a young child could choke on the toy.

The border stories

The ban has produced some remarkable stories. In January 2011, US Customs and Border Protection threatened a resident of Manitoba, Canada, with a fine of 300 Canadian dollars for carrying a single Kinder egg across the border into Minnesota. In 2012 the Food and Drug Administration reissued its import alert, warning that the embedded objects may pose a public health risk because a consumer may unknowingly choke on them.

Europe's view

The toys have been controversial in Europe too. In 2000, three families who had lost children who choked on toys from chocolate eggs campaigned to have the products withdrawn from the European Union. That campaign did not succeed; one response at the time was that if every product a child could swallow were banned, there would be very few toys left.

Kinder Joy: the workaround

Ferrero found a way into the American market with a different product. Kinder Joy comes in a plastic egg shaped pack divided into two halves: one holds a creamy treat eaten with a little spoon, the other holds the toy, sealed separately. Because the toy is not embedded in the food, Kinder Joy has been sold in the United States since at least 2017.

Is it safe?

In Britain, Kinder Surprise is sold legally. Toys in food are a reminder that small parts and young children do not mix, and the same goes for hard sweets: see [hard sweets and young children](#).

The Kinder brand faced a very different safety scare in 2022: see [the Kinder salmonella recall](#).

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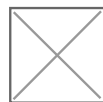
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