

STATE OF NEW YORK

8701

IN SENATE

January 7, 2026

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to requiring the testing of baby food for toxic heavy metals and the disclosure of such test results

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Baby Food
2 Safety and Transparency Act".

3 § 2. Legislative findings and intent. The legislature hereby finds and
4 declares that toxic heavy metals, including arsenic, cadmium, lead, and
5 mercury, have been detected in baby food products sold in the United
6 States. Even at low levels, exposure to these contaminants may cause
7 significant harm to infants and young children, including impaired
8 neurological development, reduced cognitive ability, and increased risk
9 of developmental and behavioral disorders.

10 The legislature further finds that existing federal standards and
11 enforcement mechanisms are inadequate to fully protect infants and young
12 children from unnecessary exposure to such contaminants. It is therefore
13 the intent of the legislature to require manufacturers of baby food sold
14 in this state to conduct regular testing for toxic heavy metals, to
15 prohibit the sale of products that exceed federal limits, to require
16 public disclosure of testing results, and to establish a system for
17 enforcement and consumer reporting.

18 § 3. The agriculture and markets law is amended by adding a new
19 section 214-p to read as follows:

20 § 214-p. Baby foods; toxic heavy metals. 1. Definitions. For purposes
21 of this section:

22 (a) "Baby food" shall mean food packaged in a jar, pouch, tub, or box
23 that is represented or sold for consumption by infants or children under
24 two years of age. "Baby food" shall not include infant formula as
25 defined in section two hundred one of this article or under applicable
26 federal law.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (b) "Manufacturer" shall mean any person, firm, corporation, or asso-
2 ciation engaged in the manufacturing, processing, or packing of baby
3 food for sale or distribution in this state.

4 (c) "Production aggregate" shall mean a quantity of product that is
5 intended to have uniform composition, character, and quality, and that
6 is produced pursuant to a master manufacturing order.

7 (d) "Proficient laboratory" shall mean a laboratory accredited to
8 ISO/IEC 17025:2017, which utilizes an analytical method at least as
9 sensitive as the method described in section 4.7 of the United States
10 food and drug administration elemental analysis manual for food and
11 related products, and which demonstrates proficiency in quantifying each
12 toxic heavy metal to at least six micrograms per kilogram of food
13 through an independent proficiency test achieving a Z score not greater
14 than plus two and not less than minus two.

15 (e) "Representative sample" shall mean a sample drawn in accordance
16 with rational criteria, including random sampling, intended to ensure
17 that the sample accurately portrays the material being sampled.

18 (f) "Toxic heavy metal" shall include, but not be limited to, arsenic,
19 cadmium, lead, and mercury.

20 (g) "QR code" shall mean a machine-readable code, consisting of an
21 array of squares, used for storing data that allows a user to access a
22 webpage.

23 2. Prohibition on sale. No person shall sell, distribute, or offer for
24 sale within this state any baby food that contains an amount of toxic
25 heavy metal which exceeds standards set by the department in collab-
26 oration with the department of health. Any baby food exceeding such
27 limit shall be deemed adulterated within the meaning of section two
28 hundred of this article and unsafe within the meaning of section two
29 hundred two of this article.

30 3. Testing requirements. (a) Each manufacturer shall test a represen-
31 tative sample of each production aggregate of the manufacturer's final
32 baby food product for each toxic heavy metal.

33 (b) Such testing shall be conducted not less than once per month by a
34 proficient laboratory.

35 (c) Testing may be conducted on the final baby food product prior to
36 the packaging of individual units for sale or distribution.

37 (d) Upon request of the commissioner, or an authorized agent thereof,
38 each manufacturer shall provide to the department the results of testing
39 conducted pursuant to this subdivision.

40 4. Public disclosure. Each manufacturer shall make publicly available,
41 on a website maintained by the manufacturer, the following information
42 with respect to each baby food product sold, manufactured, delivered,
43 held, or offered for sale in this state:

44 (a) the name and level of each toxic heavy metal present in the final
45 product, as determined by testing conducted pursuant to subdivision
46 three of this section;

47 (b) sufficient product identifiers, including but not limited to the
48 product name, universal product code, or lot or batch number, to enable
49 consumer identification of the final product; and

50 (c) a hyperlink to the website of the United States food and drug
51 administration containing the most recent guidance and information
52 regarding the health effects of toxic heavy metals on children. Such
53 information shall remain publicly available for the duration of the
54 product shelf life and for not less than one month thereafter.

55 5. Label requirements. If the baby food is tested for a toxic heavy
56 metal subject to an action level, regulatory limit, or tolerance estab-

1 lished by the department in collaboration with the department of health,
2 the product label shall include:

3 (a) the statement, "For information about the toxic heavy metal test-
4 ing on this product, scan the Quick Response (QR) code"; and

5 (b) a QR code providing direct access to the webpages described in
6 subdivision four of this section.

7 6. Rulemaking. The commissioner, in collaboration with the commis-
8 ioner of health, is hereby authorized and directed to promulgate such rules
9 and regulations as may be necessary to implement and give full effect to
10 the provisions of this section, including but not limited to rules
11 governing acceptable heavy metal levels, sampling procedures, laboratory
12 proficiency, record retention, data submission, public disclosures, and
13 consumer reporting. Such rules may incorporate by reference limits,
14 action levels, tolerances, or guidance established by the United States
15 food and drug administration for toxic elements in food, including any
16 amendments thereto. Such rules and regulations shall be promulgated
17 within one hundred eighty days of the effective date of this subdivi-
18 sion.

19 7. Consumer reporting. If a consumer believes, based on information
20 obtained through the QR code or other machine-readable code included on
21 the product label, that baby food is being sold in violation of this
22 section, the consumer may report such product to the department. The
23 department shall establish and maintain a system for consumer reporting
24 consistent with this subdivision. The department may share information
25 received pursuant to this subdivision with federal and state authori-
26 ties, consistent with applicable law.

27 8. Enforcement. A violation of this section or of any rule or regu-
28 lation promulgated hereunder shall constitute a violation of this chap-
29 ter and shall be subject to the penalties prescribed in section thirty-
30 nine of this chapter, the remedies set forth in sections two hundred
31 two-b and two hundred two-c of this article, and any other remedy
32 authorized by law.

33 9. Construction. Nothing in this section shall be construed to dimin-
34 ish or impair the authority of the department under this chapter or of
35 any other agency under any other law, including but not limited to
36 authority concerning adulteration, misbranding, seizure, quarantine, or
37 false advertising. The requirements of this section shall be in addition
38 to, and not in substitution for, federal requirements.

39 § 4. Severability. If any provision of this act, or the application
40 thereof to any person or circumstance, shall be adjudged invalid by a
41 court of competent jurisdiction, such judgment shall not affect or
42 impair the validity of the remainder of this act, or the application
43 thereof to other persons and circumstances.

44 § 5. This act shall take effect immediately; provided, however, subdivi-
45 sions 2 and 3 of section 214-p of the agriculture and markets law
46 added by section three of this act shall apply to the sale and testing
47 of baby food conducted on and after the first day of the thirteenth
48 month next succeeding such effective date; and provided further, howev-
49 er, the requirements of subdivisions 4 and 5 of section 214-p of the
50 agriculture and markets law added by section three of this act shall
51 apply to baby food manufacturers on and after the first day of the twen-
52 ty-fifth month next succeeding such effective date.