

# STATE OF NEW YORK

9026

2025-2026 Regular Sessions

## IN ASSEMBLY

September 5, 2025

Introduced by M. of A. TORRES -- read once and referred to the Committee on Consumer Affairs and Protection

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

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

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1 defined in section two hundred one of this article or under applicable  
2 federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 5. Label requirements. If the baby food is tested for a toxic heavy  
2 metal subject to an action level, regulatory limit, or tolerance estab-  
3 lished by the department in collaboration with the department of health,  
4 the product label shall include:

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

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

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

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

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

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

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

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