

# STATE OF NEW YORK

1239--A

2025-2026 Regular Sessions

## IN SENATE

January 8, 2025

Introduced by Sens. KAVANAGH, SEPULVEDA, CLEARE, GONZALEZ, HOYLMAN-SI-GAL, JACKSON, OBERACKER, C. RYAN, WEBER, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law and the education law, in relation to enacting the "food safety and chemical disclosure act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "food safety and chemical disclosure act".

3 § 2. The section heading of section 199-a of the agriculture and  
4 markets law, as amended by chapter 797 of the laws of 1961, is amended  
5 and a new subdivision 5 is added to read as follows:

6 Prohibition as to adulterated or misbranded food and certain food  
7 additives and food color additives intended for human consumption.

8 5. (a) Notwithstanding any other provision of law to the contrary,  
9 commencing one year after the effective date of this subdivision, it  
10 shall be unlawful for any person, firm, association, or corporation to  
11 manufacture, compound, brew, distill, produce, process, sell, deliver,  
12 distribute, hold, offer or expose for sale any of the following  
13 substances as food additives or food color additives or any food or food  
14 product containing any of the following substances intended for human  
15 consumption:

16 (i) FD&C Red No. 3;

17 (ii) Potassium bromate; or

18 (iii) Propylparaben.

19 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
20 sion, a store shall be permitted to sell, deliver, distribute, hold,  
21 offer or expose for sale any food or food product containing any of the  
22 substances listed in paragraph (a) of this subdivision until the expira-

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

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1 tion date, "best by" date, or "sell by" date printed on the packaging of  
2 the food or food product by the manufacturer or producer, but no later  
3 than three years after the effective date of this subdivision, provided,  
4 however, that:

5 (i) the store sells food or food products at retail and is not prima-  
6 rily engaged in the sale of food for consumption on the premises;

7 (ii) the store is independently owned and operated by a business that  
8 employs ten or fewer persons; and

9 (iii) the food or food product was acquired by the business.

10 (c) Within thirty days of the effective date of this subdivision, the  
11 commissioner shall amend the exemption list maintained pursuant to  
12 subdivision three of this section to indicate that in this state the  
13 substances prohibited in this subdivision shall not be deemed to be safe  
14 for human consumption on or after one year after the effective date of  
15 this subdivision.

16 § 3. The education law is amended by adding a new section 915-a to  
17 read as follows:

18 § 915-a. Prohibiting the sale of foods containing synthetic color  
19 additives. 1. No foods or beverages, including competitive foods as  
20 defined under 7 CFR 210.11(a)(2) and meals reimbursed under programs  
21 authorized by the federal Richard B. Russell National School Lunch Act  
22 (Public Law 113-79) and the federal Child Nutrition Act of 1966 (42  
23 U.S.C. Sec. 1771 et seq.), containing any of the following substances  
24 shall be sold in any public school within the state:

25 a. FD&C Red No. 3

26 b. FD&C Red No. 40

27 c. FD&C Blue No. 1

28 d. FD&C Blue No. 2

29 e. FD&C Green No. 3

30 f. FD&C Yellow No. 5

31 g. FD&C Yellow No. 6

32 2. A school may permit the sale of foods and beverages that do not  
33 comply with subdivision one of this section if the sale of such items  
34 takes place either:

35 a. off and away from the premises of the school; or

36 b. on school premises at least one-half hour after the end of the  
37 school day.

38 § 4. Section 198 of the agriculture and markets law is amended by  
39 adding a new subdivision 7-a to read as follows:

40 7-a. For purposes of this section, the term "generally recognized as  
41 safe substance" or "GRAS substance" means any substance added to food  
42 that is not exempted from the definition of "food additive" under subdi-  
43 vision seven of this section because it is generally recognized, among  
44 experts qualified by scientific training and experience to evaluate its  
45 safety, as having been adequately shown to be safe under the conditions  
46 of its intended use:

47 (a) either through scientific procedures using the same quantity and  
48 quality of scientific evidence as is required to obtain approval of the  
49 substance as a food additive; or

50 (b) for a substance used in food prior to January first, nineteen  
51 hundred fifty-eight, through experience based on common use in food.

52 § 5. Subdivision 4 of section 199-a of the agriculture and markets  
53 law, as amended by chapter 671 of the laws of 1966, is amended to read  
54 as follows:

55 4. All data submitted to the commissioner in support of the food or  
56 color additives report under this section shall be considered confiden-

1 tial by the commissioner and shall not be revealed to any person other  
2 than to a person authorized by the commissioner in the performance of  
3 ~~his~~ their official duties under this article. In case of an actual  
4 controversy as to the validity of an order or decision of the commis-  
5 sioner respecting the test data or report in which a proceeding to  
6 review has been instituted as authorized by section two hundred two-c of  
7 this article the petition, data and report shall be transmitted by the  
8 commissioner to the clerk of the court in which the review proceeding is  
9 instituted, together with a record of the proceedings on which the  
10 commissioner based ~~his~~ the order or decision, and such transmittal  
11 shall not be construed to be a violation of confidence. Subdivisions  
12 two and three of this section shall not apply to food additives or color  
13 additives which are safe within the meaning of the federal food, drug  
14 and cosmetic act as amended.

15 § 6. The agriculture and markets law is amended by adding a new  
16 section 199-g to read as follows:

17 § 199-g. Reporting of GRAS substances. 1. a. Except as provided in  
18 subdivision two of this section, unless a report described in paragraph  
19 b of this subdivision has been submitted to the commissioner and such  
20 report is made available in the database described in subdivision five  
21 of section one hundred ninety-nine-b of this article, and notwithstand-  
22 ing any other provision of law to the contrary, it shall be unlawful for  
23 any person, firm, association, or corporation to:

24 (i) sell or offer or expose for sale for use in or on food, or to use  
25 in the manufacturing, compounding, brewing, distilling, producing, or  
26 processing of any food or food product, any GRAS substance or combina-  
27 tion of GRAS substances;

28 (ii) make any new use of any GRAS substance or combination of GRAS  
29 substances in or on food; or

30 (iii) sell or offer or expose for sale any food or food product  
31 containing any GRAS substance or combination of GRAS substances.

32 b. The report required pursuant to paragraph a of this subdivision  
33 shall include but not be limited to the following information:

34 (i) Signed statements and a certification, including:

35 (1) the date and signature of a responsible official of the reporter  
36 or reporting organization;

37 (2) the name and address of the reporter or reporting organization;

38 (3) the name of any GRAS substances discussed in the report, using an  
39 appropriately descriptive term;

40 (4) intended conditions for the use of any GRAS substance discussed in  
41 the report, including the foods in which the substance will be used, the  
42 levels of such use in such foods, and the purposes for which the  
43 substance will be used, including, when appropriate, a description of  
44 any subpopulation expected to consume such GRAS substance or substances;

45 (5) the statutory basis for the conclusion of GRAS status;

46 (6) a statement that the reported substance is not subject to the  
47 premarket approval requirements of the federal food, drug, and cosmetic  
48 act based on the conclusion that the notified substance is GRAS under  
49 the conditions of its intended use;

50 (7) a statement that, if asked to see the data and information that  
51 are the basis for the GRAS conclusion, the reporter will agree to:

52 (A) make the data and information available to the commissioner; and

53 (B) upon the commissioner's request, both of the following procedures  
54 for making the data and information available to the commissioner:

1 (I) allow the commissioner to review and copy the data and information  
2 during customary business hours at the address specified for where these  
3 data and information will be available; and

4 (II) provide a complete copy of the data and information either in an  
5 electronic format or on paper;

6 (8) views as to whether any of the data and information in the GRAS  
7 report are exempt from disclosure under the freedom of information law;

8 (9) certifications that, to the best of the reporter's knowledge, the  
9 GRAS report is a complete, representative, and balanced submission that  
10 includes both unfavorable and favorable information known to the repor-  
11 ter and pertinent to the evaluation of the safety and GRAS status of the  
12 use of the substance; and

13 (10) the name and position or title of the person who signs the GRAS  
14 report.

15 (ii) The identity, method of manufacture, specifications, and physical  
16 or technical effect of the notified substance, including:

17 (1) scientific data and information that identifies the GRAS  
18 substance, including:

19 (A) examples of appropriate data and information including the chemi-  
20 cal name, applicable registry numbers (such as a chemical abstracts  
21 service (CAS) registry number or an enzyme commission (EC) number),  
22 empirical formula, structural formula, quantitative composition, and  
23 characteristic properties; and

24 (B) when the source of a notified substance is a biological material,  
25 data and information sufficient to identify:

26 (I) the taxonomic source (e.g., genus, species) of the GRAS substance,  
27 including, as applicable, data and information at the sub-species level  
28 (e.g., variety, strain);

29 (II) the part of any plant or animal used as the source of the GRAS  
30 substance; and

31 (III) any known toxicants that could be in the source of the GRAS  
32 substance;

33 (2) a description of the method of manufacture of the GRAS substance  
34 in sufficient detail to evaluate the safety of the notified substance as  
35 manufactured;

36 (3) specifications for food-grade material; and

37 (4) when necessary to demonstrate safety, relevant data and informa-  
38 tion bearing on the physical or other technical effect the GRAS  
39 substance is intended to produce, including the quantity of the GRAS  
40 substance required to produce such effect.

41 (iii) Dietary exposure to the notified substance, including informa-  
42 tion about dietary exposure (i.e., the amount of relevant substances  
43 that consumers are likely to eat or drink as part of a total diet),  
44 including:

45 (1) an estimate of dietary exposure to the notified substance that  
46 includes exposure from its intended use and all sources in the diet;

47 (2) when applicable, an estimate of dietary exposure to any other  
48 substance that is expected to be formed in or on food because of the use  
49 of the notified substance (e.g., hydrolytic products or reaction  
50 products);

51 (3) when applicable, an estimate of dietary exposure to any other  
52 substance that is present with the notified substance either naturally  
53 or due to its manufacture (e.g., contaminants or by-products);

54 (4) sources of any food consumption data used to estimate dietary  
55 exposure, in accordance with clauses one through three of this subpara-  
56 graph; and

1 (5) any assumptions made to estimate dietary exposure, in accordance  
2 with clauses one through three of this subparagraph.

3 (iv) Self-limiting levels of use in circumstances where the amount of  
4 the notified substance that can be added to human food or animal food is  
5 limited because the food containing levels of the notified substance  
6 above a particular level would become unpalatable or technologically  
7 impractical.

8 (v) If the statutory basis for GRAS status is through experience based  
9 on common use in food, evidence of a substantial history of consumption  
10 of the notified substance for food use by a significant number of  
11 consumers prior to January first, nineteen hundred fifty-eight.

12 (vi) A narrative that provides the basis for the conclusion of GRAS  
13 status, including:

14 (1) an explanation for why the data and information in the report  
15 provide a basis for that the notified substance is safe under the condi-  
16 tions of its intended use. Such explanation shall address the safety of  
17 the notified substance, considering all dietary sources and taking into  
18 account any chemically or pharmacologically related substances in such  
19 diet, and identify what specific data and information discussed in  
20 accordance with this clause are generally available and not generally  
21 available, by providing citations to the list of data and information  
22 required in subparagraph (vii) of this paragraph;

23 (2) an explanation of how the generally available data and information  
24 relied on to establish safety in accordance with clause one of this  
25 subparagraph provides a basis for the conclusion that the reported  
26 substance is generally recognized, among qualified experts, to be safe  
27 under the conditions of its intended use;

28 (3) either:

29 (A) data and information that are, or may appear to be, inconsistent  
30 with the conclusion of GRAS status; or

31 (B) a statement that the available data and information was reviewed  
32 and the reporter is not aware of any data and information that are, or  
33 may appear to be, inconsistent with the conclusion of GRAS status;

34 (4) if any data and information in the report is exempt from disclo-  
35 sure under the freedom of information law, a statement that identifies  
36 such data and information; and

37 (5) for non-public, safety-related data and information considered in  
38 reaching a conclusion of GRAS status, an explanation of how there could  
39 be a basis for a conclusion of GRAS status if qualified experts do not  
40 have access to such data and information.

41 (vii) A list of the generally available data, information, and methods  
42 the notifier cites in the GRAS notice, including:

43 (1) a list of all of the data and information required by subparagraph  
44 (vi) of this paragraph to provide a basis for determining that the noti-  
45 fied substance is safe under the conditions of its intended use, as  
46 described in accordance with clause one of subparagraph (vi) of this  
47 paragraph; and

48 (2) identification of specific data and information listed in accord-  
49 ance with clause one of this subparagraph that are generally available  
50 and not generally available.

51 (viii) Any previous GRAS substance notices submitted to the federal  
52 food and drug administration on the reported substance and the federal  
53 food and drug administration's responses.

54 (ix) All relevant currently available safety information.

55 2. The following substances are exempt from the reporting requirements  
56 of subdivision one of this section:

1 a. Any GRAS substance for which the federal food and drug adminis-  
2 tration has received a GRAS notice and issued a letter stating that the  
3 federal food and drug administration has no questions regarding the  
4 conclusion that the substance is generally recognized as safe under its  
5 intended conditions of use;

6 b. Any substances recognized in federal regulations as prior sanc-  
7 tioned or GRAS substances for use in food or food packaging;

8 c. Any food contact substance for which there is an effective premar-  
9 ket notification demonstrating safety for its intended use;

10 d. Any substances subject to regulation approving its intended use for  
11 food;

12 e. A food ingredient of natural biological origin that has been widely  
13 consumed for its nutrient properties in the United States prior to Janu-  
14 ary first, nineteen hundred fifty-eight without known detrimental  
15 effects, which is subject only to conventional processing as practiced  
16 prior to January first, nineteen hundred fifty-eight, and for which no  
17 known safety hazard exists;

18 f. Any substance for which the federal food and drug administration  
19 has received a new dietary ingredient notification and issued a letter  
20 of acknowledgement without objection that the substance is safe under  
21 its notification's intended conditions of use; and

22 g. Any substance determined safe to be added to foods by the commis-  
23 sioner through rulemaking.

24 3. Any person may file a report to the commissioner under this  
25 section.

26 4. A small business, defined as a business that is independently owned  
27 and operated and employs ten or fewer persons, shall be exempt from the  
28 requirements of this section.

29 5. Data establishing the general recognition of safety shall be based  
30 on publicly available information and shall not be based on trade  
31 secrets.

32 § 7. Section 199-b of the agriculture and markets law is amended by  
33 adding a new subdivision 5 to read as follows:

34 5. The commissioner:

35 a. shall make reports submitted pursuant to section one hundred nine-  
36 ty-nine-g of this article available to the public in a database on its  
37 website. The database shall:

38 (i) be searchable by members of the public;

39 (ii) enable consumers to download and print displayed information; and

40 (iii) accommodate reasonably anticipated and actual public use.

41 b. shall redact from the public report any information that has been  
42 designated by the submitter as a trade secret, provided, however, that  
43 data establishing the general recognition of safety shall not be redact-  
44 ed;

45 c. shall update the database with any new information that the commis-  
46 sioner receives relating to the safety of the GRAS substance;

47 d. may refuse to list a GRAS substance if the commissioner determines  
48 the report does not contain the information required by section one  
49 hundred ninety-nine-g of this article;

50 e. shall provide an interim progress report concerning efforts to  
51 develop and implement the database system required by this subdivision,  
52 which shall include:

53 (i) a projected completion date;

54 (ii) a description of obstacles to development and implementation of  
55 the database system; and

1 (iii) an estimate of the costs to complete the implementation of the  
2 database system; and  
3 f. may charge a fee to the reporter of a GRAS substance in order to  
4 recover the costs incurred in listing such GRAS substance and maintain-  
5 ing the database.

6 § 8. The second undesignated paragraph of section 202-c of the agri-  
7 culture and markets law, as amended by chapter 671 of the laws of 1966,  
8 is amended to read as follows:

9 The commissioner may institute such action at law or in equity as may  
10 appear necessary to enforce compliance with sections one hundred nine-  
11 ty-nine-a, one hundred ninety-nine-g, two hundred and two hundred one of  
12 this article, and any rule or order respecting a GRAS substance, food  
13 additive, or color additive promulgated pursuant to sections one hundred  
14 ninety-nine-b and two hundred fourteen-b of this article and, in addi-  
15 tion to any other remedy under this chapter or otherwise, may apply for  
16 relief by injunction to protect the public interest without being  
17 compelled to allege or prove that an adequate remedy at law does not  
18 exist. In an action instituted by the commissioner to enforce compliance  
19 with said sections one hundred ninety-nine-a, two hundred and two  
20 hundred one the commissioner shall not be required to prove that the  
21 food, food additive or color additive mentioned in the complaint is  
22 unsafe and the claim or defense of the defendant as to its safety shall  
23 be immaterial, provided, however, that the recognition by the federal  
24 food and drug administration of a food additive or color additive as  
25 safe may be alleged as a proper defense.

26 § 9. This act shall take effect on the one hundred eightieth day after  
27 it shall have become a law.