

STATE OF NEW YORK

1239--C

2025-2026 Regular Sessions

IN SENATE

January 8, 2025

Introduced by Sens. KAVANAGH, SEPULVEDA, CLEARE, FAHY, GONZALEZ, HOYLMAN-SIGAL, JACKSON, MAY, MYRIE, 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets 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, it
9 shall be unlawful for any person, firm, association, or corporation to
10 manufacture, compound, brew, distill, produce, process, sell, deliver,
11 distribute, hold, offer or expose for sale any of the following
12 substances as food additives or food color additives or any food or food
13 product containing any of the following substances intended for human
14 consumption:

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

16 (ii) Potassium bromate; or

17 (iii) Propylparaben.

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

LBD01051-08-5

1 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
2 sion, a store shall be permitted to sell, deliver, distribute, hold,
3 offer or expose for sale any food or food product containing any of the
4 substances listed in paragraph (a) of this subdivision until the expira-
5 tion date, "best by" date, or "sell by" date printed on the packaging of
6 the food or food product by the manufacturer or producer, but no later
7 than three years after the effective date of this subdivision, provided,
8 however, that:

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

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

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

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

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

22 7-a. For purposes of this section, the term "generally recognized as
23 safe substance" or "GRAS substance" means any substance added to food
24 that is exempted from the definition of "food additive" under subdivi-
25 sion seven of this section because it is generally recognized, among
26 experts qualified by scientific training and experience to evaluate its
27 safety, as having been adequately shown to be safe under the conditions
28 of its intended use:

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

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

34 § 4. Subdivision 4 of section 199-a of the agriculture and markets
35 law, as amended by chapter 671 of the laws of 1966, is amended to read
36 as follows:

37 4. All data submitted to the commissioner in support of the food or
38 color additives report under this section shall be considered confiden-
39 tial by the commissioner and shall not be revealed to any person other
40 than to a person authorized by the commissioner in the performance of
41 [~~his~~] their official duties under this article. In case of an actual
42 controversy as to the validity of an order or decision of the commis-
43 sioner respecting the test data or report in which a proceeding to
44 review has been instituted as authorized by section two hundred two-c of
45 this article the petition, data and report shall be transmitted by the
46 commissioner to the clerk of the court in which the review proceeding is
47 instituted, together with a record of the proceedings on which the
48 commissioner based [~~his~~] the order or decision, and such transmittal
49 shall not be construed to be a violation of confidence. Subdivisions
50 two and three of this section shall not apply to food additives or color
51 additives which are safe within the meaning of the federal food, drug
52 and cosmetic act as amended.

53 § 5. The agriculture and markets law is amended by adding a new
54 section 199-g to read as follows:

55 § 199-g. Reporting of GRAS substances. 1. a. Except as provided in
56 subdivision two of this section, unless a report described in paragraph

1 b of this subdivision has been submitted to the commissioner and such
2 report is made available in the database described in subdivision five
3 of section one hundred ninety-nine-b of this article, and notwithstand-
4 ing any other provision of law to the contrary, it shall be unlawful for
5 any person, firm, association, or corporation to:

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

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

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

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

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

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

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

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

22 (4) intended conditions for the use of any GRAS substance discussed in
23 the report, including the foods in which the substance will be used, the
24 levels of such use in such foods, and the purposes for which the
25 substance will be used, including, when appropriate, a description of
26 any subpopulation expected to consume such GRAS substance or substances;

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

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

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

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

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

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

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

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

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

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

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

53 (1) scientific data and information that identifies the GRAS
54 substance, including:

55 (A) examples of appropriate data and information including the chemi-
56 cal name, applicable registry numbers (such as a chemical abstracts

1 service (CAS) registry number or an enzyme commission (EC) number),
2 empirical formula, structural formula, quantitative composition, and
3 characteristic properties; and

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

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

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

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

13 (2) a description of the method of manufacture of the GRAS substance
14 in sufficient detail to evaluate the safety of the notified substance as
15 manufactured;

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

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

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

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

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

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

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

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

39 (iv) Self-limiting levels of use in circumstances where the amount of
40 the notified substance that can be added to human food or animal food is
41 limited because the food containing levels of the notified substance
42 above a particular level would become unpalatable or technologically
43 impractical.

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

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

50 (1) an explanation for why the data and information in the report
51 provide a basis for that the notified substance is safe under the condi-
52 tions of its intended use. Such explanation shall address the safety of
53 the notified substance, considering all dietary sources and taking into
54 account any chemically or pharmacologically related substances in such
55 diet, and identify what specific data and information discussed in
56 accordance with this clause are generally available and not generally

1 available, by providing citations to the list of data and information
2 required in subparagraph (vii) of this paragraph;

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

8 (3) either:

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

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

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

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

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

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

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

31 (viii) Any previous GRAS substance notices submitted to the federal
32 food and drug administration on the reported substance and the federal
33 food and drug administration's responses.

34 (ix) All relevant currently available safety information.

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

37 a. Any GRAS substance for which the federal food and drug adminis-
38 tration has received a GRAS notice and issued a letter stating that the
39 federal food and drug administration has no questions regarding the
40 conclusion that the substance is generally recognized as safe under its
41 intended conditions of use;

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

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

46 d. Any substances subject to regulation approving its intended use for
47 food;

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

54 f. Any substance for which the federal food and drug administration
55 has received a new dietary ingredient notification and issued a letter

1 of acknowledgement without objection that the substance is safe under
2 its notification's intended conditions of use; and

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

5 3. Any person may file a report to the commissioner under this
6 section.

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

10 5. Data establishing the general recognition of safety shall be based
11 on publicly available information and shall not be based on trade
12 secrets.

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

15 5. The commissioner:

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

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

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

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

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

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

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

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

34 (i) a projected completion date;

35 (ii) a description of obstacles to development and implementation of
36 the database system; and

37 (iii) an estimate of the costs to complete the implementation of the
38 database system; and

39 f. may charge a fee to the reporter of a GRAS substance in order to
40 recover the costs incurred in listing such GRAS substance and maintain-
41 ing the database.

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

45 The commissioner may institute such action at law or in equity as may
46 appear necessary to enforce compliance with sections one hundred nine-
47 ty-nine-a, one hundred ninety-nine-g, two hundred and two hundred one of
48 this article, and any rule or order respecting a GRAS substance, food
49 additive, or color additive promulgated pursuant to sections one hundred
50 ninety-nine-b and two hundred fourteen-b of this article and, in addi-
51 tion to any other remedy under this chapter or otherwise, may apply for
52 relief by injunction to protect the public interest without being
53 compelled to allege or prove that an adequate remedy at law does not
54 exist. In an action instituted by the commissioner to enforce compliance
55 with said sections one hundred ninety-nine-a, two hundred and two
56 hundred one the commissioner shall not be required to prove that the

1 food, food additive or color additive mentioned in the complaint is
2 unsafe and the claim or defense of the defendant as to its safety shall
3 be immaterial, provided, however, that the recognition by the federal
4 food and drug administration of a food additive or color additive as
5 safe may be alleged as a proper defense.

6 § 8. This act shall take effect one year after it shall have become a
7 law.