

STATE OF NEW YORK

8701--A

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 -- 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 requiring the testing of baby food and infant formula 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 and Infant Formula 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 and infant formula products
6 sold in the United States. Even at low levels, exposure to these contam-
7 inants may cause significant harm to infants and young children, includ-
8 ing impaired neurological development, reduced cognitive ability, and
9 increased risk 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 or
14 infant formula sold in this state to conduct regular testing for toxic
15 heavy metals, to prohibit the sale of products that exceed federal
16 limits, to require public disclosure of testing results, and to estab-
17 lish a system for 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 and infant formulas; toxic heavy metals. 1. Defi-
21 initions. For purposes 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.

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

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1 (b) "Infant formula" shall mean a food which purports to be or is
2 represented for special dietary use solely as a food for infants by
3 reason of its simulation of human milk or its suitability as a complete
4 or partial substitute for human milk.

5 (c) "Manufacturer" shall mean any person, firm, corporation, or asso-
6 ciation engaged in the manufacturing, processing, or packing of baby
7 food or infant formula for sale or distribution in this state.

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

11 (e) "Proficient laboratory" shall mean a laboratory accredited to
12 ISO/IEC 17025:2017 by an accreditation body that is a signatory to the
13 Global Accreditation Cooperation Incorporated, which utilizes an analyt-
14 ical method at least as sensitive as the method described in section 4.7
15 of the United States food and drug administration elemental analysis
16 manual for food and related products, and which demonstrates proficiency
17 in quantifying each toxic heavy metal to at least six micrograms per
18 kilogram of food through an independent proficiency test achieving a Z
19 score not greater than plus two and not less than minus two.

20 (f) "Representative sample" shall mean a sample drawn in accordance
21 with rational criteria, including random sampling, intended to ensure
22 that the sample accurately portrays the material being sampled.

23 (g) "Toxic heavy metal" shall include, but not be limited to, arsenic,
24 cadmium, lead, and mercury.

25 (h) "QR code" shall mean a machine-readable code, consisting of an
26 array of squares, used for storing data that allows a user to access a
27 webpage.

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

35 3. Testing requirements. (a) Each manufacturer shall test a represen-
36 tative sample of each production aggregate of the manufacturer's final
37 baby food or infant formula product for each toxic heavy metal.

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

40 (c) Testing may be conducted on the final baby food or infant formula
41 product prior to the packaging of individual units for sale or distrib-
42 ution.

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

46 4. Public disclosure. Each manufacturer shall make publicly available,
47 on a website maintained by the manufacturer, the following information
48 with respect to each baby food or infant formula product sold, manufac-
49 tured, delivered, held, or offered for sale in this state:

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

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

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

6 5. Label requirements. If the baby food or infant formula is tested
7 for a toxic heavy metal subject to an action level, regulatory limit, or
8 tolerance established by the department in collaboration with the
9 department of health, the product label shall include:

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

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

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

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

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

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

46 § 4. Severability. If any provision of this act, or the application
47 thereof to any person or circumstance, shall be adjudged invalid by a
48 court of competent jurisdiction, such judgment shall not affect or
49 impair the validity of the remainder of this act, or the application
50 thereof to other persons and circumstances.

51 § 5. This act shall take effect immediately; provided, however, subdivi-
52 sions 2 and 3 of section 214-p of the agriculture and markets law
53 added by section three of this act shall apply to the sale and testing
54 of baby food or infant formula conducted on and after the first day of
55 the thirteenth month next succeeding such effective date; and provided
56 further, however, the requirements of subdivisions 4 and 5 of section

1 214-p of the agriculture and markets law added by section three of this
2 act shall apply to baby food or infant formula manufacturers on and
3 after the first day of the twenty-fifth month next succeeding such
4 effective date.