

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.

LBD13680-01-5

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.