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:

Section 1. This act shall be known and may be cited as the "Baby Food and Infant Formula Safety and Transparency Act".

§ 2. Legislative findings and intent. The legislature hereby finds and declares that toxic heavy metals, including arsenic, cadmium, lead, and mercury, have been detected in baby food and infant formula products sold in the United States. Even at low levels, exposure to these contaminants may cause significant harm to infants and young children, including impaired neurological development, reduced cognitive ability, and increased risk of developmental and behavioral disorders.

The legislature further finds that existing federal standards and enforcement mechanisms are inadequate to fully protect infants and young children from unnecessary exposure to such contaminants. It is therefore the intent of the legislature to require manufacturers of baby food or infant formula sold in this state to conduct regular testing for toxic heavy metals, to prohibit the sale of products that exceed federal limits, to require public disclosure of testing results, and to establish a system for enforcement and consumer reporting.

§ 3. The agriculture and markets law is amended by adding a new section 214-p to read as follows:

§ 214-p. Baby foods and infant formulas; toxic heavy metals. 1. Definitions. For purposes of this section:

(a) "Baby food" shall mean food packaged in a jar, pouch, tub, or box that is represented or sold for consumption by infants or children under two years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the statement, "For information about the toxic heavy metal testing on this product, scan the Quick Response (QR) code"; and

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

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

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

8. Enforcement. A violation of this section or of any rule or regulation promulgated hereunder shall constitute a violation of this chapter and shall be subject to the penalties prescribed in section thirty-nine of this chapter, the remedies set forth in sections two hundred two-b and two hundred two-c of this article, and any other remedy authorized by law.

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

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

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

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