

HOUSE BILL 97

J1

(4lr1369)

ENROLLED BILL

— Health and Government Operations/Finance —

Introduced by ~~Delegates Taveras and Pasteur~~, Pasteur, Pena-Melnyk, Cullison, Alston, Bagnall, Bhandari, Chisholm, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Reilly, Rosenberg, Szeliga, White Holland, and Woods

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Baby Food – Toxic Heavy Metals – Testing and Labeling**
3 **(Rudy’s Law)**

4 FOR the purpose of requiring, beginning on a certain date, manufacturers of baby food to
5 conduct certain testing on baby food for toxic heavy metals before packaging
6 individual units of baby food for sale or distribution in the State; requiring, beginning
7 on a certain date, manufacturers of baby food to include certain information related
8 to toxic heavy metals on the manufacturer’s website and on the baby food product
9 label; requiring a consumer to report baby food to the Maryland Department of
10 Health if the consumer believes, based on certain information, that the baby food is
11 being sold in the State with toxic heavy metals that exceed limits established by the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 U.S. Food and Drug Administration; and generally relating to baby food and toxic
2 heavy metals.

3 BY adding to
4 Article – Health – General
5 Section 21–330.4
6 Annotated Code of Maryland
7 (2023 Replacement Volume)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
9 That the Laws of Maryland read as follows:

10 **Article – Health – General**

11 **21–330.4.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (2) (I) “BABY FOOD” MEANS FOOD PACKAGED IN A JAR, POUCH,
15 TUB, OR BOX SOLD SPECIFICALLY FOR BABIES AND CHILDREN UNDER THE AGE OF 2
16 YEARS.

17 (II) “BABY FOOD” DOES NOT INCLUDE INFANT FORMULA, AS
18 DEFINED IN 21 U.S.C. § 321(Z).

19 (3) “MANUFACTURER” INCLUDES A FOOD MANUFACTURER, FOOD
20 PROCESSOR, AND FOOD PACKER.

21 (4) “PRODUCTION AGGREGATE” MEANS A QUANTITY OF PRODUCT
22 THAT IS INTENDED TO HAVE UNIFORM COMPOSITION, CHARACTER, AND QUALITY
23 AND IS PRODUCED ACCORDING TO A MASTER MANUFACTURING ORDER.

24 ~~(4)~~ (5) “PROFICIENT LABORATORY” MEANS A LABORATORY THAT:

25 (I) IS ACCREDITED UNDER THE STANDARDS OF THE
26 INTERNATIONAL ORGANIZATION FOR STANDARDIZATION
27 STANDARDIZATION/INTERNATIONAL ELECTROTECHNICAL COMMISSION
28 17025:2017;

29 (II) USES AN ANALYTICAL METHOD AT LEAST AS SENSITIVE AS
30 THE ANALYTICAL METHOD DESCRIBED IN SECTION 4.7 OF THE U.S. FOOD AND DRUG
31 ADMINISTRATION ELEMENTAL ANALYSIS MANUAL FOR FOOD AND RELATED
32 PRODUCTS; AND

1 (III) DEMONSTRATES PROFICIENCY IN QUANTIFYING EACH
2 TOXIC ELEMENT TO AT LEAST 6 MICROGRAMS OF THE TOXIC ELEMENT TO KILOGRAM
3 OF FOOD THROUGH AN INDEPENDENT PROFICIENCY TEST BY ACHIEVING A Z-SCORE
4 THAT IS LESS THAN OR EQUAL TO PLUS OR MINUS TWO.

5 ~~(5)~~ (6) “QR CODE” MEANS A MACHINE-READABLE CODE,
6 CONSISTING OF AN ARRAY OF SQUARES, USED FOR STORING AN INTERNET WEBSITE
7 IN ORDER TO ACCESS A WEBPAGE.

8 (7) “REPRESENTATIVE SAMPLE” MEANS A SAMPLE THAT CONSISTS
9 OF A NUMBER OF UNITS THAT ARE DRAWN BASED ON RATIONAL CRITERIA, SUCH AS
10 RANDOM SAMPLING, AND INTENDED TO ENSURE THAT THE SAMPLE ACCURATELY
11 PORTRAYS THE MATERIAL BEING SAMPLED.

12 ~~(6)~~ (8) “TOXIC HEAVY METAL” MEANS ARSENIC, CADMIUM, LEAD,
13 OR MERCURY.

14 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
15 ON OR AFTER JANUARY 1, 2025, A PERSON MAY NOT SELL, DISTRIBUTE, OR OFFER
16 FOR SALE BABY FOOD IN THE STATE THAT CONTAINS TOXIC HEAVY METALS THAT
17 EXCEED THE LIMITS ESTABLISHED BY THE U.S. FOOD AND DRUG ADMINISTRATION.

18 (2) A PERSON MAY SELL, DISTRIBUTE, OR OFFER FOR SALE BABY
19 FOOD MANUFACTURED BEFORE JANUARY 1, 2026.

20 ~~(B)~~ (C) (1) BEGINNING JANUARY 1, 2025, EACH MANUFACTURER OF
21 BABY FOOD SHALL TEST A REPRESENTATIVE SAMPLE OF EACH PRODUCTION
22 AGGREGATE OF THE MANUFACTURER’S FINAL BABY FOOD PRODUCT FOR EACH
23 TOXIC HEAVY METAL ~~BEFORE PACKAGING INDIVIDUAL UNITS OF BABY FOOD FOR~~
24 ~~SALE OR DISTRIBUTION IN THE STATE.~~

25 (2) THE TESTING REQUIRED UNDER PARAGRAPH (1) OF THIS
26 SUBSECTION SHALL BE CONDUCTED BY A PROFICIENT LABORATORY AT LEAST ONCE
27 PER MONTH.

28 (3) A MANUFACTURER MAY TEST THE FINAL BABY FOOD PRODUCT IN
29 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION BEFORE PACKAGING
30 INDIVIDUAL UNITS OF BABY FOOD FOR SALE OR DISTRIBUTION.

31 ~~(C)~~ (D) ON THE REQUEST OF THE DEPARTMENT, A MANUFACTURER OF
32 BABY FOOD SHALL PROVIDE THE RESULTS OF THE TESTING CONDUCTED UNDER
33 SUBSECTION ~~(B)~~ (C) OF THIS SECTION TO AN AUTHORIZED AGENT OF THE
34 DEPARTMENT.

1 ~~(D)~~ (E) BEGINNING JANUARY 1, 2026, EACH MANUFACTURER OF BABY
2 FOOD SHALL:

3 (1) MAKE PUBLICLY AVAILABLE ON THE MANUFACTURER'S WEBSITE
4 FOR EACH BABY FOOD PRODUCT SOLD, MANUFACTURED, DELIVERED, HELD, OR
5 OFFERED FOR SALE IN THE STATE:

6 (I) THE NAME AND LEVEL OF EACH TOXIC HEAVY METAL
7 PRESENT IN THE FINAL BABY FOOD PRODUCT AS DETERMINED BY THE TESTING
8 CONDUCTED UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION; ~~AND~~

9 (II) SUFFICIENT INFORMATION, SUCH AS THE PRODUCT NAME,
10 UNIVERSAL PRODUCT CODE, OR LOT OR BATCH NUMBER, TO ENABLE CONSUMERS
11 TO IDENTIFY THE FINAL BABY FOOD PRODUCT; AND

12 ~~(H)~~ (III) A LINK TO THE U.S. FOOD AND DRUG
13 ADMINISTRATION'S WEBSITE THAT INCLUDES THE MOST RECENT U.S. FOOD AND
14 DRUG ADMINISTRATION GUIDANCE AND INFORMATION ABOUT THE HEALTH
15 EFFECTS OF THE TOXIC HEAVY METALS ON CHILDREN; AND

16 (2) ~~INCLUDE~~ IF THE BABY FOOD IS TESTED FOR A TOXIC HEAVY
17 METAL SUBJECT TO AN ACTION LEVEL, REGULATORY LIMIT, OR TOLERANCE
18 ESTABLISHED BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER 21 C.F.R. §
19 109, INCLUDE ON THE BABY FOOD PRODUCT LABEL:

20 (I) THE FOLLOWING STATEMENT: "FOR INFORMATION ABOUT
21 TOXIC HEAVY METAL TESTING ON THIS PRODUCT, SCAN THE QUICK RESPONSE (QR)
22 CODE."; AND

23 (II) A QR CODE OR OTHER MACHINE-READABLE CODE THAT
24 ALLOWS CONSUMERS TO ACCESS ON THE MANUFACTURER'S WEBSITE OR THE BABY
25 FOOD PRODUCT INFORMATION PAGE:

26 ~~(H)~~ 1. THE TEST RESULTS FOR THE TOXIC HEAVY METALS;
27 ~~OR AND~~

28 ~~(H)~~ 2. ~~A QR CODE OR OTHER MACHINE-READABLE CODE~~
29 ~~THAT LINKS TO A PAGE ON THE MANUFACTURER'S WEBSITE CONTAINING THE TEST~~
30 ~~RESULTS FOR THE TOXIC HEAVY METALS~~ LINK TO THE WEBPAGE ON THE U.S. FOOD
31 AND DRUG ADMINISTRATION WEBSITE THAT INCLUDES THE MOST RECENT
32 GUIDANCE AND INFORMATION ABOUT THE HEALTH EFFECTS OF THE TOXIC HEAVY
33 METAL ON CHILDREN.

1 **(F) IF A CONSUMER BELIEVES, BASED ON INFORMATION GATHERED**
2 **THROUGH THE USE OF THE CODE INCLUDED ON THE BABY FOOD PRODUCT LABEL**
3 **UNDER SUBSECTION (E)(2) OF THIS SECTION, THAT BABY FOOD IS BEING SOLD IN**
4 **THE STATE WITH TOXIC HEAVY METALS THAT EXCEED LIMITS ESTABLISHED BY THE**
5 **U.S. FOOD AND DRUG ADMINISTRATION, THE CONSUMER SHALL REPORT THE BABY**
6 **FOOD TO THE DEPARTMENT.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.