

HOUSE BILL 97

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(PRE-FILED)

4r1369
CF SB 723

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

Requested: October 31, 2023

Introduced and read first time: January 10, 2024

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2024

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

14 BY adding to
15 Article – Health – General
16 Section 21–330.4
17 Annotated Code of Maryland
18 (2023 Replacement Volume)

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.



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

3 **Article – Health – General**

4 **21-330.4.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

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

9 (3) “MANUFACTURER” INCLUDES A FOOD MANUFACTURER, FOOD
10 PROCESSOR, AND FOOD PACKER.

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

14 ~~(4)~~ (5) “PROFICIENT LABORATORY” MEANS A LABORATORY
15 ACCREDITED UNDER THE STANDARDS OF THE INTERNATIONAL ORGANIZATION FOR
16 STANDARDIZATION.

17 ~~(5)~~ (6) “QR CODE” MEANS A MACHINE-READABLE CODE,
18 CONSISTING OF AN ARRAY OF SQUARES, USED FOR STORING AN INTERNET WEBSITE
19 IN ORDER TO ACCESS A WEBPAGE.

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

24 ~~(6)~~ (8) “TOXIC HEAVY METAL” MEANS ARSENIC, CADMIUM, LEAD,
25 OR MERCURY.

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

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

1 ~~(B)~~ (C) (1) BEGINNING JANUARY 1, 2025, EACH MANUFACTURER OF
2 BABY FOOD SHALL TEST A REPRESENTATIVE SAMPLE OF EACH PRODUCTION
3 AGGREGATE OF THE MANUFACTURER'S FINAL BABY FOOD PRODUCT FOR EACH
4 TOXIC HEAVY METAL BEFORE PACKAGING INDIVIDUAL UNITS OF BABY FOOD FOR
5 SALE OR DISTRIBUTION IN THE STATE.

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

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

12 ~~(C)~~ (D) ON THE REQUEST OF THE DEPARTMENT, A MANUFACTURER OF
13 BABY FOOD SHALL PROVIDE THE RESULTS OF THE TESTING CONDUCTED UNDER
14 SUBSECTION ~~(B)~~ (C) OF THIS SECTION TO AN AUTHORIZED AGENT OF THE
15 DEPARTMENT.

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

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

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

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

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

31 (2) ~~INCLUDE~~ IF THE BABY FOOD IS TESTED FOR A TOXIC HEAVY
32 METAL SUBJECT TO AN ACTION LEVEL, REGULATORY LIMIT, OR TOLERANCE
33 ESTABLISHED BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER 21 C.F.R. §
34 109, INCLUDE ON THE BABY FOOD PRODUCT LABEL;

1 **(I) THE FOLLOWING STATEMENT: “FOR INFORMATION ABOUT**
 2 **TOXIC HEAVY METAL TESTING ON THIS PRODUCT, SCAN THE QUICK RESPONSE (QR)**
 3 **CODE.”; AND**

4 **(II) A QR CODE OR OTHER MACHINE-READABLE CODE THAT**
 5 **ALLOWS CONSUMERS TO ACCESS ON THE MANUFACTURER’S WEBSITE OR THE BABY**
 6 **FOOD PRODUCT INFORMATION PAGE:**

7 ~~(H)~~ **1. THE TEST RESULTS FOR THE TOXIC HEAVY METALS;**
 8 ~~OR AND~~

9 ~~(H)~~ **2. A QR CODE OR OTHER MACHINE-READABLE CODE**
 10 ~~**THAT LINKS TO A PAGE ON THE MANUFACTURER’S WEBSITE CONTAINING THE TEST**~~
 11 ~~**RESULTS FOR THE TOXIC HEAVY METALS**~~ **LINK TO THE WEBPAGE ON THE U.S. FOOD**
 12 **AND DRUG ADMINISTRATION WEBSITE THAT INCLUDES THE MOST RECENT**
 13 **GUIDANCE AND INFORMATION ABOUT THE HEALTH EFFECTS OF THE TOXIC HEAVY**
 14 **METAL ON CHILDREN.**

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.