

# SENATE BILL 723

J1

4lr2840  
CF HB 97

---

By: **Senator Benson**

Introduced and read first time: January 31, 2024

Assigned to: Finance

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 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)

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

21 **Article – Health – General**

---

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 **21-330.4.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

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

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

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) (1) 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.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.