

HOUSE BILL 443

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5lr1402

By: **Delegates Taveras, Lehman, Pena–Melnik, Roberson, and Williams**

Introduced and read first time: January 16, 2025

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Baby Food Labeling – Statement Regarding Toxic Heavy Metal Testing –**
3 **Terminology**

4 FOR the purpose of altering the statement that must be included on a baby food product
5 label if the baby food product has been tested for toxic heavy metals for the purpose
6 of changing the term included on the label from “toxic heavy metal” to “toxic
7 element”; and generally relating to the labeling of baby food.

8 BY repealing and reenacting, with amendments,
9 Article – Health – General
10 Section 21–330.4
11 Annotated Code of Maryland
12 (2023 Replacement Volume and 2024 Supplement)

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

15 **Article – Health – General**

16 21–330.4.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) (i) “Baby food” means food packaged in a jar, pouch, tub, or box sold
19 specifically for babies and children under the age of 2 years.

20 (ii) “Baby food” does not include infant formula, as defined in 21
21 U.S.C. § 321(z).

22 (3) “Manufacturer” includes a food manufacturer, food processor, and food
23 packer.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) “Production aggregate” means a quantity of product that is intended to
2 have uniform composition, character, and quality and is produced according to a master
3 manufacturing order.

4 (5) “Proficient laboratory” means a laboratory that:

5 (i) Is accredited under the standards of the International
6 Organization for Standardization/International Electrotechnical Commission 17025:2017;

7 (ii) Uses an analytical method at least as sensitive as the analytical
8 method described in Section 4.7 of the U.S. Food and Drug Administration Elemental
9 Analysis Manual for Food and Related Products; and

10 (iii) Demonstrates proficiency in quantifying each toxic element to at
11 least 6 micrograms of the toxic element to kilogram of food through an independent
12 proficiency test by achieving a z-score that is less than or equal to plus or minus two.

13 (6) “QR code” means a machine-readable code, consisting of an array of
14 squares, used for storing an Internet website in order to access a webpage.

15 (7) “Representative sample” means a sample that consists of a number of
16 units that are drawn based on rational criteria, such as random sampling, and intended to
17 ensure that the sample accurately portrays the material being sampled.

18 (8) “Toxic heavy metal” means arsenic, cadmium, lead, or mercury.

19 (b) (1) Except as provided in paragraph (2) of this subsection, on or after
20 January 1, 2025, a person may not sell, distribute, or offer for sale baby food in the State
21 that contains toxic heavy metals that exceed the limits established by the U.S. Food and
22 Drug Administration.

23 (2) A person may sell, distribute, or offer for sale baby food manufactured
24 before January 1, 2026.

25 (c) (1) Beginning January 1, 2025, each manufacturer of baby food shall test
26 a representative sample of each production aggregate of the manufacturer’s final baby food
27 product for each toxic heavy metal.

28 (2) The testing required under paragraph (1) of this subsection shall be
29 conducted by a proficient laboratory at least once per month.

30 (3) A manufacturer may test the final baby food product in accordance with
31 paragraph (1) of this subsection before packaging individual units of baby food for sale or
32 distribution.

1 (d) On the request of the Department, a manufacturer of baby food shall provide
2 the results of the testing conducted under subsection (c) of this section to an authorized
3 agent of the Department.

4 (e) Beginning January 1, 2026, each manufacturer of baby food shall:

5 (1) Make publicly available on the manufacturer's website for each baby
6 food product sold, manufactured, delivered, held, or offered for sale in the State:

7 (i) The name and level of each toxic heavy metal present in the final
8 baby food product as determined by the testing conducted under subsection (c) of this
9 section;

10 (ii) Sufficient information, such as the product name, universal
11 product code, or lot or batch number, to enable consumers to identify the final baby food
12 product; and

13 (iii) A link to the U.S. Food and Drug Administration's website that
14 includes the most recent U.S. Food and Drug Administration guidance and information
15 about the health effects of the toxic heavy metals on children; and

16 (2) If the baby food is tested for a toxic heavy metal subject to an action
17 level, regulatory limit, or tolerance established by the U.S. Food and Drug Administration
18 under 21 C.F.R. § 109, include on the baby food product label:

19 (i) The following statement: "For information about toxic [heavy
20 metal] **ELEMENT** testing on this product, scan the [Quick Response (QR)] **QR** code."; and

21 (ii) A QR code or other machine-readable code that allows
22 consumers to access on the manufacturer's website or the baby food product information
23 page:

24 1. The test results for the toxic heavy metals; and

25 2. A link to the webpage on the U.S. Food and Drug
26 Administration website that includes the most recent guidance and information about the
27 health effects of the toxic heavy metal on children.

28 (f) If a consumer believes, based on information gathered through the use of the
29 code included on the baby food product label under subsection (e)(2) of this section, that
30 baby food is being sold in the State with toxic heavy metals that exceed limits established
31 by the U.S. Food and Drug Administration, the consumer shall report the baby food to the
32 Department.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2025.