

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 443

(Delegate Taveras, *et al.*)

Health and Government Operations

Finance

Baby Food Labeling - Statement Regarding Toxic Heavy Metal Testing -
Terminology

This bill alters baby food labeling requirements to replace the phrase “toxic heavy metal” with “toxic element” on a tested baby food product. If baby food has been tested for toxic heavy metal subject to the limits established by the U.S. Food and Drug Administration (FDA), the product label must say, “for information about *toxic element* testing on this product, scan the QR code.”

Fiscal Summary

State Effect: None. The bill pertains exclusively to private-sector activities.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: “Baby food” means food packaged in a jar, pouch, tub, or box sold specifically for babies and children younger than age two. “Baby food” does not include infant formula. “Toxic heavy metal” means arsenic, cadmium, lead, or mercury.

Rudy’s Law (Chapter 954 of 2024) prohibits a person, from selling, distributing, or offering for sale baby food that contains toxic heavy metals that exceed the limits established by the FDA. Each manufacturer of baby food must test a representative sample of each production aggregate of the manufacturer’s final baby food product for each toxic heavy metal. On request of the Maryland Department of Health (MDH), a

manufacturer of baby food must provide the laboratory test results to an authorized agent of the department.

Each manufacturer of baby food must:

- make publicly available on their website for each baby food product sold, manufactured, delivered, held, or offered for sale in the State (1) the name and level of each toxic heavy metal present in the final baby food product; (2) sufficient information, such as the product name, universal product code, or lot or batch number, to enable consumers to identify the final baby food product; and (3) a link to the FDA website that includes the most recent guidance and information about the health effects of toxic heavy metals on children; and
- if the baby food is tested for a toxic heavy metal subject to an action level, regulatory limit, or tolerance established by the FDA under 21 CFR § 109, include on the baby food product label a (1) QR Code or other machine-readable code that allows consumers to access on the manufacturer's website of the baby food product information page, the test results for the toxic heavy metals and a link to the webpage on the FDA website that includes the most recent guidance and information about the health effects of the toxic heavy metal on children and (2) specified statement regarding the QR Code.

Small Business Effect: Small business baby food manufacturers and distributors must comply with the revised labeling requirement. However, the bill aligns Maryland's labeling policy with California's, thereby allowing companies that ship nationally to use the same labelling for both Maryland and California (the only two states that require toxic element testing and the corresponding labeling of baby food).

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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