Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 570 (Senator Ellis)
Finance

Public Health - Baby Food Testing - Definition of Baby Food

This bill alters the definition of "baby food" to include infant formula and infant cereal, which subjects such products to current baby food testing, labeling, and related reporting requirements, as well as the prohibition on the sale of baby food that contains specified toxic heavy metals.

Fiscal Summary

State Effect: Any increase in workload for the Maryland Department of Health (MDH) can be handled within existing budgeted resources. Revenues are not affected.

Local Effect: The bill is not anticipated to have a material impact on local governments.

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.

Per 21 U.S.C. § 321, "infant formula" means a food that purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk.

Per 7 C.F.R. § 220.2, "infant cereal" means any iron-fortified dry cereal especially formulated and generally recognized as cereal for infants that is routinely mixed with breast milk or iron-fortified formula prior to consumption.

Testing and Labeling Baby Food in the State

Chapters 953 and 954 of 2024 (Rudy's Law) prohibit a person, from selling, distributing, or offering for sale baby food that contains toxic heavy metals that exceed the limits established by U.S. Food and Drug Administration (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 MDH, a manufacturer of baby food must provide the laboratory test results to an authorized agent of the department.

Additionally, 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 FDA under 21 C.F.R. § 109, include on the baby food product label a (1) Quick Response (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.

Chapter 713 of 2025 altered baby food labeling requirements to replace the phrase "toxic heavy metal" with "toxic element" on a tested baby food product. Specifically, if baby food has been tested for a toxic heavy metal subject to the limits established by FDA, the product label must say, "for information about *toxic element* testing on this product, scan the QR code."

Maryland Department of Health

MDH's Center for Food Processing is responsible for licensing and inspecting facilities that make, process, store, hold, or distribute food to sell wholesale to other businesses in Maryland. The Center for Facility and Process Review conducts a plan and process review

for all food processing plants and prototypical food service facilities. Food processing plans are inspected to ensure compliance with applicable State and federal laws and regulations. Facilities that manufacture, process, pack, and hold food and operate (receive or distribute) across state lines fall under FDA jurisdiction and must comply with federal regulations.

The federal Food, Drug, and Cosmetics Act prohibits the manufacture or sale of any food that is adulterated or misbranded. The Food Additives Amendment to the Act authorizes FDA to regulate food ingredients. MDH implements the Maryland Food, Drug, and Cosmetic Act, which conforms to the federal Act.

Additional Information

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

Designated Cross File: HB 196 (Delegate Taveras) - Health.

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

Fiscal Note History: First Reader - February 9, 2026
sj/jc

Analysis by: Amberly E. Holcomb

Direct Inquiries to:
(410) 946-5510
(301) 970-5510