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HOUSE BILL NO. 1844

Offered January 13, 2025

Prefiled January 6, 2025

A *BILL* to amend the Code of Virginia by adding a section numbered 3.2-5125.1, relating to Baby Food Protection Act; testing and labeling requirements for toxic heavy metals.

Patrons—Maldonado, Bennett-Parker, Glass, Price, Shin, Askew, Callsen, Carr, Clark, Cohen, Conviris-Fowler, Cousins, Delaney, Feggans, Gardner, Hayes, Henson, Hernandez, Hope, Jones, Keys-Gamarra, Krizek, Laufer, LeVere Bolling, Lopez, Martinez, McClure, Mundon King, Rasoul, Reaser, Reid, Seibold, Sewell, Sickles, Simon, Simonds, Singh, Sullivan, Thomas, Tran, Ward and Willett

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 3.2-5125.1 as follows:

§ 3.2-5125.1. Baby Food Protection Act; testing and labeling requirements for toxic heavy metals.

A. As used in this section:

"Baby food product" means any food manufactured, packaged, and labeled in a jar, pouch, tub, or box sold specifically for babies and children younger than two years of age. "Baby food product" does not include infant formula, as defined in § 54.1-4300.

"FDA" means the U.S. Food and Drug Administration.

"Production aggregate" means a quantity of product that is intended to have uniform composition, character, and quality and is produced according to a master manufacturing order.

"Proficient laboratory" means a laboratory that (i) is accredited under the standards of the International Organization for Standardization or the International Electrotechnical Commission, (ii) uses an analytical method as sensitive as the analytical method described in the FDA's Elemental Analysis Manual for Food and Related Products, and (iii) demonstrates proficiency in quantifying each toxic element to at least six micrograms of the toxic element to kilogram of food through an independent proficiency test by achieving a z-score that is less than or equal to plus or minus two.

"QR code" means a two-dimension matrix barcode consisting of blocks arranged in a grid that can be read by an imaging device.

"Representative sample" means a sample that consists of a number of units that are drawn based on rational criteria, including random sampling, and intended to ensure that the sample accurately portrays the material being sampled.

"Toxic heavy metal" means arsenic, cadmium, lead, and mercury.

"URL" means uniform resource locater.

B. No person shall sell, distribute, or offer for sale any baby food that contains a toxic heavy metal that exceeds the limits established by the FDA. The provisions of this subsection shall not restrict the continued sale of such baby food product by a retailer of any existing inventory in stock before January 1, 2026.

C. A manufacturer of baby food shall test a representative sample of each production aggregate of the manufacturer's final baby food product for a toxic heavy metal. Testing of a baby food product shall be conducted by a proficient laboratory at least once a month. Such manufacturer may test the final baby food product before packaging individual units of baby food for sale or distribution. Upon request of the Commissioner, a manufacturer shall provide the results of the test conducted pursuant to this subsection.

D. A manufacturer shall make publicly available on its website for each baby food product sold, manufactured, delivered, held, or offered for sale in the Commonwealth:

1. The name and level of each toxic heavy metal present in the final baby food product as determined by the testing conducted under subsection C;

2. Sufficient information, including 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's website that provides the most recent FDA guidance and information about the health effects of toxic heavy metals on children.

E. If the baby food product is tested for a toxic heavy metal subject to an action level, regulatory limit, or tolerance established by the FDA under 21 C.F.R. § 109, the manufacturer shall display on the baby food product:

1. A label that states in a clear, legible, and conspicuous form, the following:

"For Information About Toxic Heavy Metal Testing On This Product, Scan the QR Code."; and

2. A QR code or other machine-readable code that directs the consumers to the manufacturer's website or

55 *the baby food product information page providing (i) the test results for the toxic heavy metal and (ii) a URL*
56 *to the webpage on the FDA's website that includes the most recent guidance and information about the health*
57 *effects of toxic heavy metals on children.*

58 *F. If a consumer reasonably believes based on the information provided on the baby food product that*
59 *such baby food product is being sold in the Commonwealth in violation of this section, the consumer shall*
60 *report such baby food product to the Commissioner.*

61 **2. That the provisions of the first enactment of this act shall become effective on January 1, 2026.**

62 **3. That the Department of Agriculture and Consumer Services shall convene a work group to study**
63 **and make recommendations on the current enforcement of laws related to the use of toxic heavy metals**
64 **in baby food products, as those terms are defined in § 3.2-5125.1 of the Code of Virginia, as created by**
65 **this act, and any further action needed to address the issue of the presence of toxic heavy metals in**
66 **baby food products. Such work group shall consist of a representative from the Department of**
67 **Agriculture and Consumer Services, a representative from the Department of Health, one member of**
68 **the Senate and one member of the House of Delegates, a manufacturer of baby food products, and any**
69 **other relevant stakeholders. The work group shall complete its meetings by November 1, 2025, and**
70 **report its findings and recommendations to the Chairmen of the Senate Committee on Agriculture,**
71 **Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and**
72 **Natural Resources no later than the first day of the 2026 Regular Session of the General Assembly.**