

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 1844]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 3.2-5125.1 as follows:**8 **§ 3.2-5125.1. *Baby Food Protection Act; testing and labeling requirements for toxic heavy metals.***9 *A. As used in this section:*10 *"Baby food product" means any food manufactured, packaged, and labeled in a jar, pouch, tub, or box*  
 11 *sold specifically for babies and children younger than two years of age. "Baby food product" does not*  
 12 *include infant formula, as defined in § 54.1-4300.*13 *"FDA" means the U.S. Food and Drug Administration.*14 *"Production aggregate" means a quantity of product that is intended to have uniform composition,*  
 15 *character, and quality and is produced according to a master manufacturing order.*16 *"Proficient laboratory" means a laboratory that (i) is accredited under the standards of the International*  
 17 *Organization for Standardization or the International Electrotechnical Commission pursuant to standard*  
 18 *ISO/IEC 17025:2017, (ii) uses an analytical method as sensitive as the analytical method described in the*  
 19 *FDA's Elemental Analysis Manual for Food and Related Products, and (iii) demonstrates proficiency in*  
 20 *quantifying each toxic element to at least six micrograms of the toxic element to kilogram of food through an*  
 21 *independent proficiency test by achieving a z-score that is less than or equal to plus or minus two.*22 *"QR code" means a two-dimension matrix barcode consisting of blocks arranged in a grid that can be*  
 23 *read by an imaging device.*24 *"Representative sample" means a sample that consists of a number of units that are drawn based on*  
 25 *rational criteria, including random sampling, and intended to ensure that the sample accurately portrays the*  
 26 *material being sampled.*27 *"Toxic heavy metal" means arsenic, cadmium, lead, and mercury.*28 *"URL" means uniform resource locator.*29 *B. No person shall sell, distribute, or offer for sale any baby food that contains a toxic heavy metal that*  
 30 *exceeds the limits established by the FDA. The provisions of this subsection shall not restrict the continued*  
 31 *sale of such baby food product by a retailer of any existing inventory in stock before January 1, 2026.*32 *C. A manufacturer of baby food shall test a representative sample of each production aggregate of the*  
 33 *manufacturer's final baby food product for a toxic heavy metal. Testing of a baby food product shall be*  
 34 *conducted by a proficient laboratory at least once a month. Such manufacturer may test the final baby food*  
 35 *product before packaging individual units of baby food for sale or distribution. Upon request of the*  
 36 *Commissioner, a manufacturer shall provide the results of the test conducted pursuant to this subsection.*37 *D. A manufacturer shall make publicly available on its website for the duration of the product shelf life of*  
 38 *a final baby food product, plus one month, for each baby food product sold, manufactured, delivered, held, or*  
 39 *offered for sale in the Commonwealth:*40 *1. The name and level of each toxic heavy metal present in the final baby food product as determined by*  
 41 *the testing conducted under subsection C;*42 *2. Sufficient information, including the product name, universal product code, or lot or batch number, to*  
 43 *enable consumers to identify the final baby food product; and*44 *3. A link to the FDA's website that provides the most recent FDA guidance and information about the*  
 45 *health effects of toxic heavy metals on children.*46 *E. If the baby food product is tested for a toxic heavy metal subject to an action level, regulatory limit, or*  
 47 *tolerance established by the FDA under 21 C.F.R. § 109, the manufacturer shall display on the baby food*  
 48 *product:*49 *1. A label that states in a clear, legible, and conspicuous form, the following:*50 *"For Information About Toxic Element Testing On This Product, Scan the QR Code."; and*51 *2. A QR code or other machine-readable code that directs the consumers to the manufacturer's website or*  
 52 *the baby food product information page providing (i) the test results for the toxic heavy metal and (ii) a URL*  
 53 *to the webpage on the FDA's website that includes the most recent guidance and information about the health*  
 54 *effects of toxic heavy metals on children.*55 *F. If a consumer reasonably believes based on the information provided on the baby food product that*  
 56 *such baby food product is being sold in the Commonwealth in violation of this section, the consumer shall*

57 *report such baby food product to the Commissioner.*

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

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