

# SENATE BILL 723

J1

(4lr2840)

## ENROLLED BILL

— Finance/Health and Government Operations —

Introduced by **Senator Benson**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Baby Food – Toxic Heavy Metals – Testing and Labeling**  
3 **(Rudy’s Law)**

4 FOR the purpose of requiring, beginning on a certain date, manufacturers of baby food to  
5 conduct certain testing on baby food for toxic heavy metals before packaging  
6 individual units of baby food for sale or distribution in the State; requiring, beginning  
7 on a certain date, manufacturers of baby food to include certain information related  
8 to toxic heavy metals on the manufacturer’s website and on the baby food product  
9 label; requiring a consumer to report baby food to the Maryland Department of  
10 Health if the consumer believes, based on certain information, that the baby food is  
11 being sold in the State with toxic heavy metals that exceed limits established by the  
12 U.S. Food and Drug Administration; and generally relating to baby food and toxic  
13 heavy metals.

14 BY adding to

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 Article – Health – General  
 2 Section 21–330.4  
 3 Annotated Code of Maryland  
 4 (2023 Replacement Volume)

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

7 **Article – Health – General**

8 **21–330.4.**

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 10 INDICATED.

11 (2) (I) “BABY FOOD” MEANS FOOD PACKAGED IN A JAR, POUCH,  
 12 TUB, OR BOX SOLD SPECIFICALLY FOR BABIES AND CHILDREN UNDER THE AGE OF 2  
 13 YEARS.

14 (II) “BABY FOOD” DOES NOT INCLUDE INFANT FORMULA, AS  
 15 DEFINED IN 21 U.S.C. § 321(Z).

16 (3) “MANUFACTURER” INCLUDES A FOOD MANUFACTURER, FOOD  
 17 PROCESSOR, AND FOOD PACKER.

18 (4) “PRODUCTION AGGREGATE” MEANS A QUANTITY OF PRODUCT  
 19 THAT IS INTENDED TO HAVE UNIFORM COMPOSITION, CHARACTER, AND QUALITY  
 20 AND IS PRODUCED ACCORDING TO A MASTER MANUFACTURING ORDER.

21 ~~(4)~~ (5) “PROFICIENT LABORATORY” MEANS A LABORATORY *THAT:*

22 (I) *IS* ACCREDITED UNDER THE STANDARDS OF THE  
 23 INTERNATIONAL ORGANIZATION FOR ~~STANDARDIZATION~~  
 24 STANDARDIZATION/INTERNATIONAL ELECTROTECHNICAL COMMISSION  
 25 17025:2017;

26 (II) USES AN ANALYTICAL METHOD AT LEAST AS SENSITIVE AS  
 27 THE ANALYTICAL METHOD DESCRIBED IN SECTION 4.7 OF THE U.S. FOOD AND DRUG  
 28 ADMINISTRATION ELEMENTAL ANALYSIS MANUAL FOR FOOD AND RELATED  
 29 PRODUCTS; AND

30 (III) DEMONSTRATES PROFICIENCY IN QUANTIFYING EACH  
 31 TOXIC ELEMENT TO AT LEAST 6 MICROGRAMS OF THE TOXIC ELEMENT TO KILOGRAM  
 32 OF FOOD THROUGH AN INDEPENDENT PROFICIENCY TEST BY ACHIEVING A Z-SCORE

1 THAT IS LESS THAN OR EQUAL TO PLUS OR MINUS TWO.

2 ~~(5)~~ (6) “QR CODE” MEANS A MACHINE-READABLE CODE,  
3 CONSISTING OF AN ARRAY OF SQUARES, USED FOR STORING AN INTERNET WEBSITE  
4 IN ORDER TO ACCESS A WEBPAGE.

5 (7) “REPRESENTATIVE SAMPLE” MEANS A SAMPLE THAT CONSISTS  
6 OF A NUMBER OF UNITS THAT ARE DRAWN BASED ON RATIONAL CRITERIA, SUCH AS  
7 RANDOM SAMPLING, AND INTENDED TO ENSURE THAT THE SAMPLE ACCURATELY  
8 PORTRAYS THE MATERIAL BEING SAMPLED.

9 ~~(6)~~ (8) “TOXIC HEAVY METAL” MEANS ARSENIC, CADMIUM, LEAD,  
10 OR MERCURY.

11 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
12 ON OR AFTER JANUARY 1, 2025, A PERSON MAY NOT SELL, DISTRIBUTE, OR OFFER  
13 FOR SALE BABY FOOD IN THE STATE THAT CONTAINS TOXIC HEAVY METALS THAT  
14 EXCEED THE LIMITS ESTABLISHED BY THE U.S. FOOD AND DRUG ADMINISTRATION.

15 (2) A PERSON MAY SELL, DISTRIBUTE, OR OFFER FOR SALE BABY  
16 FOOD MANUFACTURED BEFORE JANUARY 1, 2026.

17 ~~(B)~~ (C) (1) BEGINNING JANUARY 1, 2025, EACH MANUFACTURER OF  
18 BABY FOOD SHALL TEST A REPRESENTATIVE SAMPLE OF EACH PRODUCTION  
19 AGGREGATE OF THE MANUFACTURER’S FINAL BABY FOOD PRODUCT FOR EACH  
20 TOXIC HEAVY METAL ~~BEFORE PACKAGING INDIVIDUAL UNITS OF BABY FOOD FOR~~  
21 ~~SALE OR DISTRIBUTION IN THE STATE.~~

22 (2) THE TESTING REQUIRED UNDER PARAGRAPH (1) OF THIS  
23 SUBSECTION SHALL BE CONDUCTED BY A PROFICIENT LABORATORY AT LEAST ONCE  
24 PER MONTH.

25 (3) A MANUFACTURER MAY TEST THE FINAL BABY FOOD PRODUCT IN  
26 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION BEFORE PACKAGING  
27 INDIVIDUAL UNITS OF BABY FOOD FOR SALE OR DISTRIBUTION.

28 ~~(C)~~ (D) ON THE REQUEST OF THE DEPARTMENT, A MANUFACTURER OF  
29 BABY FOOD SHALL PROVIDE THE RESULTS OF THE TESTING CONDUCTED UNDER  
30 SUBSECTION ~~(B)~~ (C) OF THIS SECTION TO AN AUTHORIZED AGENT OF THE  
31 DEPARTMENT.

32 ~~(D)~~ (E) BEGINNING JANUARY 1, 2026, EACH MANUFACTURER OF BABY  
33 FOOD SHALL:

1           **(1) MAKE PUBLICLY AVAILABLE ON THE MANUFACTURER’S WEBSITE**  
 2 **FOR EACH BABY FOOD PRODUCT SOLD, MANUFACTURED, DELIVERED, HELD, OR**  
 3 **OFFERED FOR SALE IN THE STATE:**

4           **(I) THE NAME AND LEVEL OF EACH TOXIC HEAVY METAL**  
 5 **PRESENT IN THE FINAL BABY FOOD PRODUCT AS DETERMINED BY THE TESTING**  
 6 **CONDUCTED UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION; ~~AND~~**

7           **(II) SUFFICIENT INFORMATION, SUCH AS THE PRODUCT NAME,**  
 8 **UNIVERSAL PRODUCT CODE, OR LOT OR BATCH NUMBER, TO ENABLE CONSUMERS**  
 9 **TO IDENTIFY THE FINAL BABY FOOD PRODUCT; AND**

10           ~~(H)~~ **(III) A LINK TO THE U.S. FOOD AND DRUG**  
 11 **ADMINISTRATION’S WEBSITE THAT INCLUDES THE MOST RECENT U.S. FOOD AND**  
 12 **DRUG ADMINISTRATION GUIDANCE AND INFORMATION ABOUT THE HEALTH**  
 13 **EFFECTS OF THE TOXIC HEAVY METALS ON CHILDREN; AND**

14           **(2) ~~INCLUDE~~ IF THE BABY FOOD IS TESTED FOR A TOXIC HEAVY**  
 15 **METAL SUBJECT TO AN ACTION LEVEL, REGULATORY LIMIT, OR TOLERANCE**  
 16 **ESTABLISHED BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER 21 C.F.R. §**  
 17 **109, INCLUDE ON THE BABY FOOD PRODUCT LABEL:**

18           **(I) THE FOLLOWING STATEMENT: “FOR INFORMATION ABOUT**  
 19 **TOXIC HEAVY METAL TESTING ON THIS PRODUCT, SCAN THE QUICK RESPONSE (QR)**  
 20 **CODE.”; AND**

21           **(II) A QR CODE OR OTHER MACHINE-READABLE CODE THAT**  
 22 **ALLOWS CONSUMERS TO ACCESS ON THE MANUFACTURER’S WEBSITE OR THE BABY**  
 23 **FOOD PRODUCT INFORMATION PAGE:**

24           ~~(H)~~ **1. THE TEST RESULTS FOR THE TOXIC HEAVY METALS;**  
 25 **OR AND**

26           ~~(H)~~ **2. A QR CODE OR OTHER MACHINE-READABLE CODE**  
 27 **~~THAT LINKS TO A PAGE ON THE MANUFACTURER’S WEBSITE CONTAINING THE TEST~~**  
 28 **~~RESULTS FOR THE TOXIC HEAVY METALS~~ LINK TO THE WEBPAGE ON THE U.S. FOOD**  
 29 **AND DRUG ADMINISTRATION WEBSITE THAT INCLUDES THE MOST RECENT**  
 30 **GUIDANCE AND INFORMATION ABOUT THE HEALTH EFFECTS OF THE TOXIC HEAVY**  
 31 **METAL ON CHILDREN.**

32           **(F) (1) IF A CONSUMER BELIEVES, BASED ON INFORMATION GATHERED**  
 33 **THROUGH THE USE OF THE CODE INCLUDED ON THE BABY FOOD PRODUCT LABEL**  
 34 **UNDER SUBSECTION (E)(2) OF THIS SECTION, THAT BABY FOOD IS BEING SOLD IN**  
 35 **THE STATE WITH TOXIC HEAVY METALS THAT EXCEED LIMITS ESTABLISHED BY THE**

1 U.S. FOOD AND DRUG ADMINISTRATION, THE CONSUMER SHALL REPORT THE BABY  
2 FOOD TO THE DEPARTMENT.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2024.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.