
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 855 Session of
2023

INTRODUCED BY HANBIDGE, SANCHEZ, SAMUELSON, HOHENSTEIN, MADDEN,
RABB, HILL-EVANS, CIRESI, BURGOS, HOWARD, SHUSTERMAN, GILLEN,
N. NELSON AND CERRATO, APRIL 10, 2023

REFERRED TO COMMITTEE ON HEALTH, APRIL 10, 2023

AN ACT

1 Providing for the testing and labeling of baby food and for
2 prohibited levels of toxic heavy metals in baby food; and
3 imposing duties on the Department of Health.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Baby Food
8 Protection Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Baby food." Food that is pureed or minced to be easily
14 consumed by babies or toddlers under two years of age.

15 "Department." The Department of Health of the Commonwealth.

16 "Secretary." The Secretary of Health of the Commonwealth.

17 "Toxic heavy metal." An individual metal or metal compound
18 that negatively affects the health of individuals.

1 Section 3. Testing of baby food.

2 The department shall test a representative sample of each
3 batch of baby food manufactured in this Commonwealth for the
4 presence of inorganic arsenic, lead, cadmium, mercury or other
5 toxic heavy metal.

6 Section 4. Limits on toxic heavy metals.

7 (a) State limits.--Baby food that exceeds the following
8 limits for toxic heavy metals shall not be sold or otherwise
9 distributed in this Commonwealth:

10 (1) For inorganic arsenic, 10 parts per billion.

11 (2) For lead, five parts per billion.

12 (3) For cadmium, five parts per billion.

13 (4) For mercury, two parts per billion.

14 (b) Federal limits.--

15 (1) If at any time the United States Food and Drug
16 Administration sets a limit on inorganic arsenic, lead,
17 cadmium, or mercury in baby food that is lower than the limit
18 specified in subsection (a), the department shall adopt the
19 lower Federal limit.

20 (2) If at any time the United States Food and Drug
21 Administration sets a limit on a toxic heavy metal, other
22 than inorganic arsenic, lead, cadmium or mercury, in baby
23 food, the department shall adopt the Federal limit.

24 Section 5. Labeling.

25 All baby food that has been tested by the department under
26 this act must be affixed with a label noting the levels of
27 inorganic arsenic, lead, cadmium and mercury found in the
28 representative sample from that batch and the presence of other
29 toxic heavy metals.

30 Section 6. Rules and regulations.

1 The department shall promulgate any necessary rules or
2 regulations to carry out the provisions of this act.

3 Section 7. Sunset.

4 If Federal legislation is enacted on or after the effective
5 date of this section that regulates the testing or labeling of
6 baby food or the limits on toxic heavy metals in baby food, the
7 following apply:

8 (1) Within 90 days of the enactment of the Federal
9 legislation, the secretary shall determine whether the
10 provisions of this act are substantially similar to the
11 Federal legislation or any part of the Federal legislation.

12 (2) If the secretary determines that the provisions of
13 this act are substantially similar to the Federal legislation
14 or any part of the Federal legislation, within 10 days of
15 that determination, the secretary shall transmit notice to
16 the Legislative Reference Bureau for publication in the
17 Pennsylvania Bulletin that the provisions of this act are
18 substantially similar to the Federal legislation or any part
19 of the Federal legislation.

20 (3) Upon publication of the notice described in
21 paragraph (2), the provisions of this act that have been
22 determined to be substantially similar to the Federal
23 legislation or any part of the Federal legislation shall
24 sunset.

25 Section 8. Effective date.

26 This act shall take effect in one year.