

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 196
Health

(Delegate Taveras, *et al.*)

Finance

Public Health - Baby Food Testing and Labeling - Requirements

This bill alters the definition of “baby food” to include “infant cereal,” thus subjecting infant cereal 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 elements. Each manufacturer of baby food must make specified information publicly available on the manufacturer's website for each baby food product sold, manufactured, delivered, held, or offered for sale in the State without requiring the provision of a Universal Product Code (UPC) number, lot number, or proof of purchase: (1) for baby food that is not infant cereal, beginning January 1, 2026; and (2) for infant cereal, beginning January 1, 2028. Beginning April 1, 2028, each manufacturer must retain each “certificate of analysis” for baby food that has been tested for at least five years. A person may sell, distribute, or offer for sale infant cereal manufactured before April 1, 2028. The bill replaces the term “toxic heavy metal” with “toxic element” in provisions relating to baby food testing and labeling.

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

Bill Summary:

Definitions

“Baby food” includes infant cereal but does not include infant formula as defined under federal law.

“Certificate of analysis” means a written report, which may be in electronic form, issued by a laboratory accredited under the Standards of the International Organization for Standardization/International Electrotechnical Commission that identifies: (1) the production lot tested; (2) the analytical methods used; and (3) the measured concentration of each regulated element in parts per billion.

“Infant cereal” means a cereal-based food product that is: (1) specifically manufactured for consumption by children younger than 12 months; (2) labeled, marketed, or otherwise represented as suitable for infant feeding, including through packaging, advertising, or instructions indicating use for infants; and (3) typically prepared by mixing with breast milk, infant formula, or water to form a soft or semi-liquid consistency appropriate for infants. “Infant cereal” includes rice cereal, oat cereal, multigrain cereal, or other grain-based cereals marketed for infants younger than 12 months. “Infant cereal” does not include grain-based breakfast cereals intended for consumption by children at least 12 months old or by adults.

The bill alters the definition of “proficient laboratory” to include a laboratory that is capable of performing validated trace-element analytical testing.

The bill alters the term “toxic heavy metal” to be “toxic *element*.”

Online Sale of Baby Food

If the baby food is sold online or directly to consumers in the State and shipped to consumers in the State on or after January 1, 2027, each manufacturer of baby food must include a specified statement on the product details page of each internet website where the baby food is sold.

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.

“Proficient laboratory” means a laboratory that (1) is accredited under the standards of the International Organization for Standardization/International Electrotechnical Commission 17025:2017; (2) uses an analytical method at least as sensitive as the analytical method described in Section 4.7 of the U.S. Food and Drug Administration (FDA) Elemental Analysis Manual for Food and Related Products; and (3) demonstrates proficiency in quantifying each toxic element to at least 6 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.

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 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, UPC, 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: SB 570 (Senator Ellis) - Finance.

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

Fiscal Note History: First Reader - January 30, 2026
caw/jc Third Reader - March 30, 2026
Revised - Amendment(s) - March 30, 2026

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