

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4124

By Delegate Pritt

[Introduced January 14, 2026; referred to the
Committee on Health and Human Resources then the
Judiciary)

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §16-7A-1, relating to baby food safety; providing definitions; and requiring
3 manufacturers follow certain food testing procedures to sell, manufacture, deliver, hold, or
4 offer for sale any baby food in West Virginia.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7A. BABY FOOD SAFETY.

§16-7A-1. Baby food safety protocols.

1 (a) For purposes of this article, the following definitions apply:

2 "Baby food" means food packaged in jars, pouches, tubs, and boxes represented or
3 purported to be specifically for babies and young children less than two years of age. "Baby food"
4 does not include infant formula, as defined in Section 321(z) of Title 21 of the United States Code.

5 "Final baby food product" means the finished product of baby food with a unique universal
6 product code (UPC). "Final baby food product" does not mean the constituent ingredients of baby
7 food.

8 "Product label" means a display of written, printed, or graphic material that is affixed to a
9 product or its immediate container.

10 "Product shelf life" means the time, measured in the number of months, between the date
11 of manufacture and the expiration date for a final baby food product.

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

14 "Proficient laboratory" is a laboratory that meets the criteria listed in subsection (c).

15 "Quick response (QR) code" means a machine-readable code, consisting of an array of
16 squares, used for storing an internet website in order to access a web page.

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

"Toxic elements" means arsenic, cadmium, lead, and mercury.

(b) A manufacturer of baby food for sale or distribution in this state shall comply with all of the following:

(1) Beginning on January 1, 2027, test a representative sample of each production aggregate of the manufacturer's final baby food product, at a proficient laboratory, for toxic elements;

(2) A manufacturer shall test the final baby food product pursuant to subsection (d) before packaging individual units of baby food for sale or distribution;

(3) A manufacturer shall test each final baby food product for toxic elements pursuant to subsection (d) at least once per month; and

(4) A manufacturer shall provide test results to any authorized agent of the Department of Health upon their request.

(c) For final baby food products sold, manufactured, delivered, held, or offered for sale in the state on and after January 1, 2027, a manufacturer shall disclose product information to consumers consistent with all of the following:

(1) Make publicly available on the manufacturer's internet website, for the duration of the product shelf life for a final baby food product plus one month, the name and level of each toxic element present in each production aggregate of a final baby food product; and

(2) Provide descriptive information on the internet website to enable accurate identification of the final baby food product by consumers. Descriptive information may include, but is not limited to, product name, UPC, size, lot numbers, or batch numbers.

(d) If a final baby food product is tested for a certain toxic element subject to an action level, regulatory limit, or tolerance established by the United States Food and Drug Administration (FDA) pursuant to Part 109 (commencing with Section 109.3) of Title 21 of the Code of Federal Regulations, include on the product label both of the following:

(1) A QR code or other machine-readable code that links to a page on the manufacturer's

internet website containing all of the following information, test results for the toxic element, as provided pursuant to subsection (d), an internet website link to a website of the FDA where consumers can find the most recent FDA guidance and information about the health effects of the toxic element on children; and

(2) A statement that reads: "For information about toxic element testing on this product, scan the QR code."

(e) The proficient laboratory that analyzes the final baby food product for toxic elements shall meet all of the following criteria:

(1) Be accredited under the standards of the International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) 17025:2017 regarding the general requirements for the competence of testing and calibration laboratories;

(2) Use an analytical method that is at least as sensitive as that described in the FDA Elemental Analysis Manual 4.7; and

(3) Demonstrate proficiency in quantifying each toxic element to at least six micrograms of the toxic element to kilogram of food ($\mu\text{g/kg}$) through an independent proficiency test. Proficiency means that laboratories achieve a z-score that is less than, or equal to, plus or minus two ($\leq \pm 2$).

(f) No person or entity shall sell in the state or manufacture, deliver, hold, or offer for sale in the state any baby food that does not comply with the requirements described in this article.

NOTE: The purpose of this bill is to ensure the safety of baby food products sold in West Virginia.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.