Sen. Laura Fine

Filed: 2/26/2025

AMENDMENT TO SENATE BILL 73

AMENDMENT NO. _____. Amend Senate Bill 73 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Food, Drug and Cosmetic Act is amended by adding Section 11.7 as follows:

(410 ILCS 620/11.7 new)

Sec. 11.7. Baby foods; toxic elements.

(a) In this Section:

"Baby food" means food packaged in a jar, pouch, tub, or box sold specifically for babies and children under the age of 2 years old. "Baby food" does not include infant formula as defined in Section 2.28.

"Final baby food product" means the finished product of baby food with a unique universal product code (UPC). "Final baby food product" does not include the individual ingredients that are in baby food.

"Manufacturer" includes a food manufacturer, food processor, and food packer.

"Product label" means a display of written, printed, or graphic material that is affixed to a product or the product's immediate container.

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

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

"Proficient laboratory" means a laboratory that:

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

(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 Elemental Analysis Manual for Food and Related Products; and

(3) demonstrates, when using an independent proficiency test, the achievement of a z-score within the range of plus or minus 2 in quantifying each toxic element to at least 6 micrograms of the toxic element per kilogram of food.

"QR code" means a machine-readable code, consisting of an array of squares, used for storing data that allows a user to access a webpage.

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

"Toxic element" means arsenic, cadmium, lead, or mercury.

(b) No person or entity shall sell or manufacture, deliver, or hold or offer for sale in this State any baby food that does not comply with the requirements of this Section.

(c) Each manufacturer of baby food shall test a representative sample of each production aggregate of the manufacturer's final baby food product for toxic elements at a proficient laboratory.

The testing required under this subsection shall be conducted by a proficient laboratory at least once per month.

A manufacturer may test the final baby food product in accordance with this subsection before packaging individual units of baby food for sale or distribution.

(d) Upon the request of the Department of Public Health, a manufacturer of baby food shall provide the results of the testing conducted under subsection (c) to an authorized agent of the Department of Public Health.

(e) Beginning January 1, 2027, for final baby food products sold, manufactured, delivered, or held or offered for

sale in this State, each manufacturer of baby food shall disclose product information to consumers consistent with the following:

(1) The manufacturer shall make publicly available on the manufacturer's website for each final baby food product that it manufactures and for the duration of the product shelf life for the final baby food product plus one month:

(A) the name and level of each toxic element present in each production aggregate of a final baby food product as determined by the testing conducted under subsection (c); and

(B) descriptive information, including, but not limited to, the product's name, UPC, size, lot numbers, or batch numbers, to enable accurate identification of the final baby food product by consumers.

(2) If a product is tested for a certain toxic element subject to an action level, regulatory limit, or tolerance established by the U.S. Food and Drug Administration under 21 CFR 109, the manufacturer shall also include on the baby food product label:

(A) a statement that reads: "For information about the toxic element testing on this product, scan the Quick Response (QR) Code."; and

(B) a QR code or other machine-readable code that

allows consumers to access the following information on the manufacturer's website on the final baby food product's information page:

(i) the test results for the toxic elements; and

(ii) a link to the webpage on the U.S. Food and Drug Administration website that includes the most recent guidance and information about the health effects of the toxic element on children.

(f) The Department of Public Health shall adopt rules to implement a system for consumer reporting of baby foods under this subsection.".