



*VIRGINIA DEPARTMENT
OF AGRICULTURE AND
CONSUMER SERVICES*

Report from the Work Group Studying Toxic Heavy Metals in
Baby Food Products

Joseph W. Guthrie
Commissioner of Agriculture and Consumer Services

January 14, 2025

Executive Summary

The Virginia Food and Drink Law (Va. Code § 3.2-5100 *et seq.*) authorizes the Virginia Department of Agriculture and Consumer Services (VDACS) to permit and inspect food manufacturers in the Commonwealth of Virginia. Chapter 693 of the 2025 Acts of Assembly amended the Food and Drink Law to add Section 3.2-5125.1, which prescribes testing and labeling requirements for baby food products sold in Virginia (Appendix A). These requirements take effect on January 1, 2026.

Chapter 693 also directed VDACS to convene a work group to study and make recommendations on the current enforcement of laws related to the use of toxic heavy metals in baby food products and any further action needed to address the presence of toxic heavy metals in baby food products. Chapter 693 further directed VDACS to include in the work group a representative from VDACS, a representative from the Virginia Department of Health (VDH), one member of the House of Delegates, one member from the Senate, one manufacturer of baby food products, and any other relevant stakeholders. A work group meeting was held on October 6, 2025, with the required work group members and additional stakeholders. As a result of this work group, VDACS developed and distributed a Frequently Asked Questions document, geared towards industry, to provide information regarding the new requirements related to baby food products.

Work Group Attendees

Delegate Michelle Maldonado, Virginia House of Delegates
Senator Barbara Favola, Senate of Virginia
Joseph Guthrie, Commissioner of Agriculture and Consumer Services
Dr. Charles Broaddus, Director, Division of Animal and Food Industry Services, VDACS
Pam Miles, Program Manager, Office of Dairy and Foods, VDACS
Rashelly Bland, Food Safety Manager, VDACS
Karen Bergin, Food Safety Manager, VDACS
Travis Smiley, Executive Director, Virginia Food Industry Association
Julie Henderson, Director, Office of Environmental Health Services, VDH
Ezzahra Matthews, VP Applesauce, Baby Food, and Nutrition, Andros Bowman Products
Laramie LeLairstre, Compliance and Regulatory Manager, Andros Bowman Products
Hilary Thesmar, Chief Science Officer, SVP Food and Product Safety, Food Marketing Institute
Emma Bryan, Corporate and Government Affairs, Nestle
Sydney Hand, Government Affairs, Food Lion
Kimberly Siomkos, Publix
Dr. Dwight Flammia, State Public Health Toxicologist, VDH
Meagan Musick, Food Technical Specialist, VDACS
Matthew Koranek, Regional Manager, VDACS

Meeting Report

Commissioner Guthrie opened the work group meeting by welcoming the work group members and inviting the members to introduce themselves. The U.S. Food and Drug Administration

(FDA) was invited to participate in the work group but staff members were unable to attend, so they provided the following links and information to be shared with the work group:

- [FDA Closer to Zero initiative](#)
- [Guidance for Industry: Action Levels for Lead in Processed Food Intended for Babies and Young Children](#)
- [Final Guidance to Industry on Action Level for Inorganic Arsenic in Apple Juice](#)
- Three consumer guidance links:
 - [What you can do to limit exposure to arsenic](#)
 - [What you can do to limit exposure to arsenic and lead from juices](#)
 - [Help protect children from environmental contaminants: healthy choices for your baby aged 6-12 months](#)

Karen Bergin, a VDACS Food Safety Manager, presented the FDA information and began by reviewing FDA's Closer to Zero initiative. This initiative has a goal of reducing dietary exposure to contaminants to as low as possible while maintaining access to nutritious foods, including foods consumed by babies. The work group received information on the current action levels for lead in processed food intended for babies and young children, and action levels for arsenic in apple juice. Ms. Bergin reviewed FDA's current guidance documents that baby food manufacturers will be required to provide on their websites and to the public through a QR code provided on the labels of the baby food products.

Pam Miles, VDACS's Office of Dairy and Foods Program Manager then reviewed Chapter 693 of the 2025 Acts of Assembly (HB 1844), which prohibits the sale, distribution, or offering for sale of any baby food product that contains a toxic heavy metal that exceeds the limits established by FDA and establishes the following testing and labeling requirements:

1. A baby food manufacturer must test each production aggregate of baby food for toxic heavy metals and this testing must be conducted by a proficient laboratory at least once a month;
2. A manufacturer must make public on its website for the duration of the shelf life of the baby food product, plus one month, for each baby food product sold, manufactured, delivered, held, or offered for sale in the Commonwealth (i) the name and level of each toxic heavy metal present in the final baby food product as determined by the testing conducted; (ii) sufficient information, including the product name, universal product code, or lot or batch number, to enable consumers to identify the final baby food product; (iii) and a link to the FDA's website that provides the most recent FDA guidance and information about the health effects of toxic heavy metals on children; and
3. If the baby food product is tested for a toxic heavy metal subject to an action level, regulatory limit, or tolerance established by the FDA under 21 C.F.R. § 109, the manufacturer must display on the baby food product (i) a label that states in a clear, legible, and conspicuous form, the following: "For Information About Toxic Element Testing On his Product, Scan the QR Code."; and (ii) a QR code or other machine-readable code that directs the consumers to the manufacturer's website or the baby

food product information page providing (a) the test results for the toxic heavy metal and (b) a URL to the webpage on the FDA's website that includes the most recent guidance and information about the health effects of toxic heavy metals on children.

Chapter 693 also provides that, if a consumer reasonably believes, based on the information provided on the baby food product, that such baby food product is being sold in the Commonwealth in violation of these new requirements, the consumer shall report such baby food product to the Commissioner.

Ms. Miles provided the work group with an overview of the Food Safety Program's current regulation of food products, including baby food products. The Program has a surveillance food sampling program and works closely with the Virginia Department of General Services' Division of Consolidated Laboratory Services. Test results from violative food samples are shared with the FDA. Samples collected by VDACS have led to recalls conducted in collaboration with FDA and other state departments of agriculture. Virginia's Rapid Response Team is available to respond to concerns and reports of illness. The new requirements in Chapter 693 will add to current efforts. The Food Safety Program is working on revised inspection and compliance procedures and providing training for the Program's inspectors in preparation for the effective date of the new law. The Food Safety Program is also developing further communications with industry regarding the new law.

Ms. Miles asked the work group members to share with the group any concerns or questions about the new requirements. The primary question of the food industry members of the work group pertained to which products in a retail store will be subject to the new requirements. A representative of Andros Bowman Products, a Virginia manufacturer that co-packs applesauce for several brands, requested clarification and guidance from VDACS on what types of products will meet the definition of a baby food product. Delegate Maldonado stated that the definition does not include infant formula and that the new requirements clearly define that the subject baby food products are manufactured, packaged, and labeled in a jar, pouch, tub, or box sold specifically for babies and children younger than two years of age. Therefore, many food products sold in pouches, such as certain applesauce products, will not be subject to the new requirements unless the product is sold specifically for babies and children younger than two years of age.

The retail industry sought to clarify that existing inventory could continue to be used and that the intent was not to have any food product discarded but rather to deplete the current stock. This was confirmed that existing stock could be used until depleted.

Several work group members expressed the importance of providing information to parents on toxic heavy metals in baby food products while including education on how these metals may be naturally occurring and exist in the soils where food is grown. The message of a balanced diet is important for reducing exposure and not replacing a food of high nutritional value with a food of lesser nutritional value.

The Executive Director of the Virginia Food Industry Association and Senator Favola stated it would be helpful for VDACS to provide a clarifying document for industry. Commissioner

Guthrie advised that VDACS could develop a list of frequently asked questions and answers for industry to help alleviate some of the confusion and document the legislative intent.

On November 5, 2025, VDACS shared with the work group a document VDACS drafted entitled “VDACS Food Safety Program, House Bill 1844: Baby Food Protection Act, Frequently Asked Questions” and asked for the work group’s feedback on this document. In response to comments received, VDACS included links within the document to regulatory limits and clarified that manufacturers, not retailers, are responsible for testing baby food products for toxic heavy metals. VDACS distributed Section 3.2-5125.1 of the Food and Drink Law and the final version of the Frequently Asked Questions document (Appendix B) to industry on December 16, 2025.

In summary, the work group meeting on October 6, 2025, gave industry and members of the group the opportunity to share their questions and concerns around the new requirements going into effect January 1, 2026. As a result of this work group, VDACS developed and distributed a Frequently Asked Questions document.

Appendix A – CHAPTER 693 of the 2025 VIRGINIA ACTS OF ASSEMBLY (HB 1844)

VIRGINIA ACTS OF ASSEMBLY - 2025 RECONVENED SESSION

CHAPTER 693

An Act to amend the Code of Virginia by adding a section numbered 3.2-5125.1, relating to Baby Food Protection Act; testing and labeling requirements for toxic heavy metals.

[HB 1844]

Approved May 2, 2025

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 3.2-5125.1 as follows:

§ 3.2-5125.1. Baby Food Protection Act; testing and labeling requirements for toxic heavy metals.

A. As used in this section:

"Baby food product" means any food manufactured, packaged, and labeled in a jar, pouch, tub, or box sold specifically for babies and children younger than two years of age. "Baby food product" does not include infant formula, as defined in § 54.1-4300.

"FDA" means the U.S. Food and Drug Administration.

"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 (i) is accredited under the standards of the International Organization for Standardization or the International Electrotechnical Commission pursuant to standard

ISO/IEC 17025:2017, (ii) uses an analytical method as sensitive as the analytical method described in the FDA's Elemental Analysis Manual for Food and Related Products, and (iii) demonstrates proficiency in quantifying each toxic element to at least six 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.

"QR code" means a two-dimension matrix barcode consisting of blocks arranged in a grid that can be read by an imaging device.

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

"Toxic heavy metal" means arsenic, cadmium, lead, and mercury.

"URL" means uniform resource locator.

B. No person shall sell, distribute, or offer for sale any baby food that contains a toxic heavy metal that exceeds the limits established by the FDA. The provisions of this subsection shall not restrict the continued sale of such baby food product by a retailer of any existing inventory in stock before January 1, 2026.

C. A manufacturer of baby food shall test a representative sample of each production aggregate of the manufacturer's final baby food product for a toxic heavy metal. Testing of a baby food product shall be conducted by a proficient laboratory at least once a month. Such manufacturer may test the final baby food product before packaging individual units of baby food for sale or distribution. Upon request of the Commissioner, a manufacturer shall provide the results of the test conducted pursuant to this subsection.

D. A manufacturer shall make publicly available on its website for the duration of the product shelf life of a final baby food product, plus one month, for each baby food product sold, manufactured, delivered, held, or offered for sale in the Commonwealth:

- 1. The name and level of each toxic heavy metal present in the final baby food product as determined by the testing conducted under subsection C;*
- 2. Sufficient information, including the product name, universal product code, or lot or batch number, to enable consumers to identify the final baby food product; and*
- 3. A link to the FDA's website that provides the most recent FDA guidance and information about the health effects of toxic heavy metals on children.*

E. If the baby food product is tested for a toxic heavy metal subject to an action level, regulatory limit, or tolerance established by the FDA under 21 C.F.R. § 109, the manufacturer shall display on the baby food product:

- 1. A label that states in a clear, legible, and conspicuous form, the following:
"For Information About Toxic Element Testing On This Product, Scan the QR Code."; and*
- 2. A QR code or other machine-readable code that directs the consumers to the manufacturer's website or the baby food product information page providing (i) the test results for the toxic heavy metal and (ii) a URL to the webpage on the FDA's website that includes the most recent guidance and information about the health effects of toxic heavy metals on children.*

F. If a consumer reasonably believes based on the information provided on the baby food product that such baby food product is being sold in the Commonwealth in violation of this section, the consumer shall report such baby food product to the Commissioner.

2. That the provisions of the first enactment of this act shall become effective on January 1, 2026.

3. That the Department of Agriculture and Consumer Services shall convene a work group to study and make recommendations on the current enforcement of laws related to the use of toxic heavy metals in baby food products, as those terms are defined in § 3.2-5125.1 of the Code of Virginia, as created by this act, and any further action needed to address the issue of the presence of toxic heavy metals in baby food products. Such work group shall consist of a representative from the Department of Agriculture and Consumer Services, a representative from the Department of Health, one member of the Senate and one member of the House of Delegates, a manufacturer of baby food products, and any other relevant stakeholders. The work group shall complete its meetings by November 1, 2025, and report its findings and recommendations to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources no later than the first day of the 2026 Regular Session of the General Assembly.

Appendix B – VDACS Food Safety Program, House Bill 1844: Baby Food Protection Act, Frequently Asked Questions

VDACS Food Safety Program House Bill 1844: Baby Food Protection Act Frequently Asked Questions

1. What is House Bill 1844?

House Bill 1884, enacted into law as the Baby Food Protection Act, was proposed and passed in the 2025 Session of the Virginia General Assembly, and became law on July 1, 2025. The Baby Food Protection Act requires manufacturers of baby food to test and disclose the levels of four toxic elements that may be present in baby food, and to meet particular labeling requirements. These changes were made to the Virginia Food and Drink Law section §3.2-5125.1 and the new laws specify that they will go into effect on January 1, 2026. The [full text of the law is available](#).

2. What is the goal of the Baby Food Protection Act?

The goal of the Baby Food Protection Act is to enhance the safety of baby food products by publicly disclosing information to consumers about levels of the four toxic elements in the products, promoting transparency in the industry, and enabling consumers to make educated decisions associated with their health. This goal is in line with the U.S. Food and Drug Administration’s “Closer to Zero” Initiative.

3. What is the U.S. Food and Drug Administration’s “Closer to Zero” Initiative?

In 2021, the FDA released its “Closer to Zero” initiative, which aims to decrease the exposure of babies and young children to harmful substances such as lead, arsenic, cadmium, and mercury in food. The initiative includes conducting and evaluating research, proposing draft action levels, consulting with stakeholders, and finalizing regulatory action levels. Additional information can be found at [FDA Closer to Zero](#).

4. What are the four toxic elements required by the Baby Food Protection Act that baby food manufacturers must test for?

Arsenic, cadmium, lead, and mercury are the four toxic elements under the Baby Food Protection Act.

5. Why are arsenic, lead, cadmium, and mercury in some foods?

These contaminants may occur in the environment naturally (as elements in the earth’s crust) and from human activities. Levels in the air, water, and soil used to grow crops,

process foods, and raise animals can vary depending on natural geographical differences and proximity to past or current pollution.

The amount of arsenic, lead, cadmium, or mercury in certain foods depends on the amount in the environment and how much the plant or animal ‘takes up’ from the environment.

6. What is Virginia’s definition of a “baby food product”?

"Baby food product" means any food manufactured, packaged, and labeled in a jar, pouch, tub, or box sold specifically for babies and children younger than two years of age. "Baby food product" does not include infant formula, as defined in § 54.1-4300. Specifically, baby food products are those products that are represented, purported, or marketed to be sold for babies and children younger than two years of age. Food products that may be consumed by those under two years of age but that are not marketed to be sold to babies are not considered to be “baby food product.”

7. Does the Baby Food Protection Act apply only to baby food manufactured in Virginia?

No. The Baby Food Protection Act applies to all baby food products that are sold, distributed or offered for sale in Virginia.

8. Does the January 1, 2026, effective date apply to baby food products manufactured before that date that may still be in retailers or distribution centers?

No. The provisions of this subsection shall not restrict the continued sale of such baby food product by a retailer of any existing inventory in stock before January 1, 2026. This allows for retailers to continue to use existing inventory in warehouses and distribution centers, while baby food products manufactured after this date must comply with the law.

9. Who is responsible for testing baby food products for the four toxic heavy metals?

The manufacturer of the baby food product is responsible for testing the baby food product. Testing is not required by retailers and distribution centers.

10. How often do baby food products need to be tested for the four toxic heavy metals?

A manufacturer of baby food shall test a representative sample of each production aggregate of the manufacturer's final baby food product for a toxic heavy metal. Testing of a baby food product shall be conducted by a proficient laboratory at least once a month. Such manufacturer may test the final baby food product before packaging individual units of baby food for sale or distribution. Upon request of the VDACS Food Safety Program, a manufacturer shall provide the results of the test conducted pursuant to this subsection.

11. What kind of laboratory can be used to provide this testing?

Testing of a baby food product shall be conducted by a proficient laboratory. "Proficient laboratory" means a laboratory that (i) is accredited under the standards of the International Organization for Standardization or the International Electrotechnical Commission pursuant to standard ISO/IEC 17025:2017, (ii) uses an analytical method as sensitive as the analytical method described in the FDA's Elemental Analysis Manual for Food and Related Products, and (iii) demonstrates proficiency in quantifying each toxic element to at least six 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.

12. Do the testing results need to be made available to the public?

Yes. A manufacturer shall make the following information publicly available on its website for the duration of the product shelf life of a final baby food product, plus one month, for each baby food product sold, manufactured, delivered, held, or offered for sale in the Commonwealth:

- a. The name and level of each toxic heavy metal present in the final baby food product as determined by the testing conducted under subsection C of the Virginia Food and Drink Law section §3.2-5125.1;
- b. Sufficient information, including the product name, universal product code, or lot or batch number, to enable consumers to identify the final baby food product; and
- c. A link to the FDA's website that provides the most recent FDA guidance and information about the health effects of toxic heavy metals on children.

13. Are there any additional labeling requirements for baby food products as a result of the Baby Food Protection Act?

Yes. If the baby food product is tested for a toxic heavy metal subject to an action level, regulatory limit, or tolerance established by the FDA under 21 C.F.R. § 109, the manufacturer shall display on the baby food product:

- a. A label that states in a clear, legible, and conspicuous form, the following: "For Information About Toxic Element Testing On his Product, Scan the QR Code."; and
- b. A QR code or other machine-readable code that directs the consumers to the manufacturer's website or the baby food product information page providing (i) the test results for the toxic heavy metal and (ii) a URL to the webpage on the FDA's website that includes the most recent guidance and information about the health effects of toxic heavy metals on children.

14. What baby food products currently have an action level and trigger the requirement to include a QR code?

- a. The FDA “Action Levels for Lead in Processed Food Intended for Babies and Young Children: Guidance for Industry” can be found at FDA Action Levels for Lead.
 - **10 parts per billion (ppb)** for fruits, vegetables (excluding single-ingredient root vegetables), mixtures (including grain- and meat-based mixtures), yogurts, custards/puddings, and single-ingredient meats;
 - **20 ppb** for single-ingredient root vegetables; and
 - **20 ppb** for dry infant cereals.
- b. The FDA “Issues Final Guidance to Industry on Action Level for Inorganic Arsenic in Apple Juice” can be found at FDA Action Level for Arsenic
 - **10 parts per billion (ppb)** or inorganic arsenic in apple juice.

VDACS recommends you stay informed regarding action levels, regulatory limits and tolerances established by the FDA.

15. Is it necessary to have multiple QR Codes to meet the Baby Food Protection Act’s labeling requirements?

No. One QR Code is sufficient provided the QR Code leads to a website that contains both:

- a. the test results for the toxic heavy metal and
- b. a URL to the webpage on the FDA's website that includes the most recent guidance and information about the health effects of toxic heavy metals on children.
- c. The manufacturer's website linked by the QR Code on the baby food product label shall provide the consumer with access to all information required by the Baby Food Protection Act in a clear and effective manner that is easy-to-use and minimizes the need to visit multiple webpages.

16. What can a consumer do if they suspect a baby food product is not compliant with the Baby Food Protection Act?

If a consumer reasonably believes based on the information provided on the baby food product, that such baby food product is being sold in the Commonwealth in violation of this section, the consumer shall report such baby food product to the VDACS Food Safety Program at 804-786-3520 or foodsafety@vdacs.virginia.gov. Include in the subject line Baby Food Protection Act.

17. What is a good contact for questions related to the Baby Food Protection Act?

VDACS Food Safety Program at 804-786-3520 or foodsafety@vdacs.virginia.gov. Include in the subject line Baby Food Protection Act.