

California Enacts Landmark Law to Regulate Baby Food Heavy Metal Levels



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California Governor Gavin Newsom has signed a groundbreaking law, AB 899, that is poised to outpace FDA guidelines to compel baby food manufacturers to reduce toxic heavy metals in their products. This significant move is in response to growing concerns about heavy metal exposure in baby foods, an issue that the FDA has yet to address adequately.

Monthly Testing Mandate

Starting in January, baby food manufacturers, both within and outside California, will be required to conduct monthly tests to measure the levels of lead, mercury, cadmium, and arsenic in their products. By 2025, these companies will also be mandated to publicly disclose the results of these tests and indicate on their product labels whether they meet the recommended heavy metal limits set by the FDA.

Addressing a Critical Issue

This California law is a crucial step in pressuring manufacturers to take action to limit heavy metal exposure, especially given the sluggish federal response to this issue. Food safety groups have welcomed this move as a necessary intervention to protect children from potential health risks associated with heavy metal exposure.

Support for Legal Claims and Accountability

The new law may also empower consumers to take legal action against companies for exposure to toxic substances. Early exposure to heavy metals has been linked to developmental problems and other health issues, making this an important issue for state and federal policymakers. The FDA, however, has not yet finalized national action levels for metals in baby foods and has fallen behind on its goals for proposing limits on lead and other toxic metals.

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An Overview of Current FDA Progress

The FDA is conducting scientific evaluations and plans to issue draft guidance in 2024, proposing action levels for arsenic and cadmium in foods intended for babies and young children. According to an FDA spokesperson, draft action levels for mercury will be developed in the future. If these proposed limits are deemed necessary, they could be finalized by early 2025.

Widespread Issue

A recent investigation by Bloomberg Law discovered that toxic elements in baby food are widespread in the United States. Nearly all 33 baby food products tested in this investigation contained at least two of three heavy metals: lead, arsenic, or cadmium. These heavy metals primarily originate from the environments where fruits, vegetables, and grains like rice are grown. Reducing heavy metals can be achieved by using low-metal soil, investing in irrigation systems, and selecting specific crop varieties.

Consumer-Friendly Initiatives

Under the new California law, by 2025, baby food companies must include quick response codes (QR codes) on their products, enabling consumers to access the results of toxic elements tests online. The law also prohibits the sale or possession of baby foods that do not comply with the new standards.

Compliance and Industry Response

Gerber, a leading baby food manufacturer, has expressed its commitment to complying with the law, including the disclosure of test results online. The company has a track record of adhering to stringent standards to minimize

heavy metals in the ingredients it uses for its products, such as soil testing for suitable growing locations.

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Beech-Nut, another major baby food manufacturer, is currently reviewing the new California law to determine how it aligns with federal food safety standards in the United States.

While no baby food manufacturer has publicly announced plans to challenge the law, legal experts suggest that it may be a possibility. However, the law's impact could be significant, as many companies may choose to adjust their products to meet California's standards due to the state's size and influence.

California's Law as a Game Changer

Scott Faber, Senior Vice President of Government Affairs at the Environmental Working Group, hails California's new law as a "game changer" that will transform the national baby food market. He believes that once companies are required to test and report, they will take steps to clean up their supply chains, enhancing the safety of baby foods.

FDA Lagging Behind

The FDA has faced criticism for delays in finalizing limits on lead and other heavy metals in baby food products. While it initiated the Closer to Zero plan in April 2021 to establish guidelines for toxic metals in baby foods, it has missed its goals and removed some deadlines from its website, causing concern. The FDA's progress has been slow, and the agency is facing pressure from lawmakers and advocates to expedite its regulatory efforts.

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