

Testimony in Support of H. 536 Regarding Lead, Cadmium, Mercury, and Arsenic in Baby Food

Before the Vermont House Committee on Agriculture, Food Resiliency, and Forestry

Tom Neltner, National Director, Unleaded Kids

tneltner@unleadedkids.org

www.unleadedkids.org



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About Tom Neltner and Unleaded Kids

- Tom Neltner is a chemical engineer and attorney focusing on chemical safety issues in workplace, community, home, food, and water. He has experience working in and with pharmaceutical, food, and chemical industries.
- Much of his work since 1996 has focused on children's lead exposure while he was at Indiana Department of Environmental Management, Improving Kids' Environment, National Center for Healthy Housing, Pew Charitable Trusts, and Environmental Defense Fund.
- In 2023, he founded Unleaded Kids to focus on reducing children's exposure to lead.



Key Milestones in FDA's Closer to Zero Program

- In 2011, the National Toxicology Program concluded there was no safe level of lead in children's blood and that more was needed to prevent even low-level lead exposure.
- In 2017, EPA published a study showing that lead in food was a significant source of young children's lead exposure.
 - Unlike lead-based paint, it did not cause the alarming high blood lead levels that warrant case-by-case investigation. Rather, because all children ate food, it provided a baseline exposure that caused harm.
- In 2018, FDA announced an effort to reduce children's exposure to **cadmium, lead, mercury, and inorganic arsenic** based on risks to children's developing brain and potential combined effect. FDA referred to these as "**toxic elements**."
- In 2018, FDA set interim goal of reducing young children's dietary intake of lead to contribute less than 10% of CDC's blood lead reference value.



Key Milestones in FDA's Closer to Zero Program

- In 2021, the House Oversight Committee released a high-profile report that included testing results of toxic elements in baby food.
- In April 2021, FDA launched its Closer to Zero program to reduce toxic elements prioritizing baby food with a timeline for action levels.
- In November 2023, FDA recalled applesauce pouches marketed as baby food containing extraordinary levels of lead chromate that appeared to be intentionally added for color to cinnamon. It has also issued recalls for lead in cinnamon over 2,000 ppb.
- In January 2025, FDA issue action levels for lead in some baby foods that were generally 10 ppb, half of EU's limits. It promised action levels for cadmium and inorganic arsenic by end of 2025 and just delayed that to end of 2026.

About FDA Action Levels for Toxic Elements

- Action levels, while only in guidance and not regulations, have a major impact and industry follows them closely.
- They are not health-based. FDA surveys the marketplace and sets limits to remove those products with the highest levels. The default is top 5%. For baby food, it aims for top 10%.
- FDA's interim reference levels for lead are 2.2 µg/day for children and 8.8 µg/day for pregnant individuals.
- In 2024, FDA's scientists said:
 - 10% of young children (2.6 million) consumed at least 2.4 µg/day of lead with 81% from processed baby food and infant formula.
 - > 50% of young children (12 million) consumed more cadmium than FDA considers protective.

California's Innovative Approach in 2023

- With rare exceptions, toxic elements are not intentional added. They are contaminants from the environment from human activity and natural sources.
- Reports from the House Oversight Committee, Consumer Reports and others revealed that there was significant variation in toxic elements levels in baby food products – even between lots.
- If parent could access this information, they could choose brands, products, and lots with the lowest levels.
- The General Assembly enacted AB 899 requiring baby food companies to test each lot of their products and make it publicly available on their website beginning in 2025. A QR code on the label would help parents find the information.
- The companies began to post test results starting in January 2025.



What Happened?

- As of September 2025, Unleaded Kids and Consumer Reports found:
 - 20 of 39 baby food companies are making the test results publicly available.
 - 17 required lot code to see the test results, essentially requiring parents to buy or find product on shelf. One company required parents to accurately type in as many as 28 digits to see results.
 - 2 did not have webpages with test results.
 - Finding the testing results from the company or third-party websites is hard.
- Many companies are promoting their results and providing essential context that helps parents make informed choices.
- Most companies are providing results well below the 6 ppb in the law.
- One company posted 2024 test results showing a consistent reduction in lead levels as it found ingredients and suppliers with lower levels.
- When parents find the test results, they appear to value the transparency and have not freaked out as industry claimed. There are no signs that parents stopped buying baby foods.

About Infant Formula Exemption

- California's AB 899 in 2023 included infant formula in Assembly version but Senate removed it because industry argued:
 - Fragile market due to massive recalls by Abbot Nutrition.
 - Insufficient studies showing levels in infant formula and potential opportunities to reduce levels.
- In May 2025, Consumer Reports published study of 41 products showing significant contamination and variation.
- In January 2026, Florida Governor and Department of Health published study of 24 products. It “found elevated levels of heavy metals like mercury in 16, pointing to systemic problems in sourcing or manufacturing.”

State Leadership

- California enacted law for baby food in 2023, for prenatal vitamins in 2025, and is considering bills on protein powders and spices in 2026.
- Maryland enacted law for baby food in 2024 and is considering bills to add protein powder in 2026.
- Virginia and Illinois enacted laws for baby food in 2025.
- In 2026, Connecticut, Michigan, New York, Pennsylvania, Vermont, and West Virginia are considering bills for baby food.

Potential Amendments to H.536 to Consider

- Page 2, lines 3–4: Remove exemption for infant formula as follows:
 - “Baby food product” ~~does not include~~ includes infant formula.”
- Page 4, line 4 after “make” insert as follows:
 - “A manufacturer of baby food shall make the following information publicly available, without requiring the provision of a UPC number, a lot number, or a proof of purchase, on its website . . .”
- Page 4, insert between lines 16 and 17 a new subparagraph (d)(4) that says:
 - “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, include in the product details page of each internet website where the baby food is sold the following statement “For information about toxic element testing on this product, visit (insert link to the page on which the information required under item X of this subsection is posted).”