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**Attorney General's Office Testimony on H.536:
An act relating to toxic heavy metals in baby food products**

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Overview: The Attorney General's Office (AGO) supports H.536. This bill provides important protections for the most vulnerable consumers in Vermont: babies and young children. Along with prohibiting the sale of baby food that exceeds FDA limits on certain toxic heavy metals, the bill also requires regular product testing (available to the AGO upon request) and publication of further information for consumers. The AGO believes that consumer education is an important tool in protecting Vermonters.

The AGO also supports the bill's path toward including infant formula under the protections of the anticipated law. While not a direct and immediate prohibition on toxic heavy metals in infant formula (something the AGO would also support), the stepped-in approach outlined in H.536 ensures that Vermont will not enact legislation that could impact the availability of infant formula for Vermonters.

Beyond general support for the legislation, the AGO has one suggested amendment and one request for clarification, detailed below.

Suggested Amendment: The AGO suggests a slight modification in 18 V.S.A § 4091(g) (page 5, lines 12-16 in the "As Passed by House" version of the bill):

(g) A violation of this section shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority ~~to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions,~~ and private parties have the same rights and remedies, as provided under 9 V.S.A. chapter 63, subchapter 1.

This modification does not change the goal of this provision. It simply removes the list of specific authority the AGO can exercise under 9 V.S.A chapter 63, subchapter 1 (the Consumer Protection Act) and makes a direct and simple cross-reference to the existing authority.

Requested Clarification: Sec. 2 of H.536 would amend 18 V.S.A § 4091(g) (page 6, lines 4-6) and permit the AGO to “suspend the application of [§ 4091] to infant formula if the Attorney General verifies that there is insufficient infant formula in the State to meet the need.”

The AGO does not have a method for determining what a sufficient supply of infant formula for the State might be and would welcome the Committee’s suggestions for further parties with which to consult, including state and industry partners.

It has further been suggested that this language could be amended to permit the AGO to suspend application of § 4091 in advance of an actual shortage of infant formula (so Vermont does not reach the point of running out of available infant formula), if the AGO determined a shortage was reasonably likely to occur in the near future or within a specific timeframe.

Thank you for the opportunity to testify on H.536.