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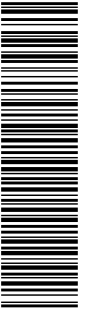
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02/10/26 03:06 PM
RN 26 08691 PAGE 1

An act to add Chapter 4.7 (commencing with Section 110424.5) to Part 5 of Division 104 of the Health and Safety Code, relating to public health.

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 4.7 (commencing with Section 110424.5) is added to Part 5 of Division 104 of the Health and Safety Code, to read:

CHAPTER 4.7. PROTEIN PRODUCTS

110424.5. For purposes of this chapter, the following definitions apply:

(a) "Brand owner" means the person who owns or licenses the trademark that is the most prominent trademark on the principal display panel of the protein product label. The manufacturer of a protein product for another person who owns the trademark is not the brand owner.

(b) "Bulk protein product" means the bulk protein product in finished form before it is packaged and labeled. Bulk protein product does not mean the constituent ingredients of a protein product.

(c) "Heavy metals" means arsenic, cadmium, lead, and mercury.

(d) "Lot" means a batch, or a specific identified portion of a batch, that is uniform and is intended to meet specifications for identity, purity, strength, and composition or, in the case of a dietary supplement produced by continuous process, a specific identified amount produced in a specified unit of time or quantity in a manner that is uniform and that is intended to meet specifications for identity, purity, strength, and composition.

(e) "Manufacturer" means a person who is either of the following:

(1) A brand owner who manufactures, as defined in Section 109970, a protein product.

(2) A person who manufactures, as defined in Section 109970, but is not the brand owner of a protein product.

(f) "Packaged protein product" means the bulk protein product that has been packaged for sale or distribution to the public. The product label may include, but is not required to have, a unique universal product code (UPC).

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

(h) "Product shelf life" means the time, measured in the number of months, as printed on the product label, between the date of manufacture and the expiration date for a packaged protein product.

(i) "Proficient laboratory" is a laboratory that meets the criteria listed in subdivision (b) of Section 110424.6.

(j) "Protein product" means a powdered supplement, liquid beverages, or other food product containing concentrated protein, often derived from animal or plant sources, used to increase dietary protein intake.

(k) "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.

110424.6. (a) Commencing January 1, 2028, a manufacturer of a bulk protein product or a packaged protein product that is sold, manufactured, delivered, held, or offered for sale in the state shall test a representative sample of each lot of the



manufacturer's bulk protein product or packaged protein product at a proficient laboratory for heavy metals.

(b) The proficient laboratory, including a manufacturer's in-house laboratory, that analyzes the bulk protein product or packaged protein product for heavy metals shall meet all of the following criteria:

(1) (A) Be accredited under the standards of the International Organization for Standardization's (ISO) and the International Electrotechnical Commission's (IEC) ISO/IEC 17025:2017 international standard regarding the general requirements for the competence of testing and calibration laboratories as they pertain to the testing of heavy metals.

(B) To the extent such standards contradict the requirements of any federal regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act pertinent to supplements, the federal regulations shall control.

(2) Use an analytical method that is at least as sensitive and specific as that described in Section 4.7 of the United States Food and Drug Administration's Elemental Analysis Manual for Food and Related Products: Inductively Coupled Plasma-Mass Spectrometric Determination of Arsenic, Cadmium, Chromium, Lead, Mercury, and Other Elements in Food Using Microwave Assisted Digestion.

(3) Demonstrate proficiency in quantifying each heavy metal to six micrograms or less of the heavy metal to kilogram of supplement ($\mu\text{g}/\text{kg}$) through an independent proficiency test. Proficiency means that a laboratory achieves a z-score that is less than, or equal to, plus or minus two ($\leq \pm 2$).

(c) Both manufacturers and brand owners shall provide test results to an authorized agent of the department upon their request pursuant to Article 2 (commencing with Section 110140) of Chapter 2 or Article 11 (commencing with Section 111015) of Chapter 5. If a brand owner does not manufacture the bulk protein product or packaged protein product, they may comply with this subdivision by providing the test results of the manufacturer they use to produce the bulk protein product or packaged protein product.

110424.7. Commencing January 1, 2028, a brand owner of a packaged protein product that is sold, manufactured, delivered, held, or offered for sale in the state, including, without limitation, protein products that are sold by a retailer or that are sold directly to consumers, shall disclose product information to the public consistent with all of the following:

(a) (1) Make publicly available on the brand owner's internet website, for the duration of the product shelf life for a packaged protein product plus one month, all of the following:

(A) The name and level of each heavy metal present in each lot of a packaged protein product when the product lot is tested pursuant to Section 110424.6.

(B) Information from the product's supplement facts panel, including the amount per serving of each ingredient.

(C) The statement:

"Protein products containing certain minerals that are used to supplement protein intake may contain trace levels of heavy metals based on how the ingredients are sourced."

(2) The information required in paragraph (1) shall all be provided on the same web page.



(b) The heavy metal testing information shall be available to the public without having to provide a UPC number, a lot number, or a proof of purchase.

(c) Provide descriptive information on its internet website to enable accurate identification of the packaged protein product by the public, including information that makes the levels of heavy metals available to the public by lot. Descriptive information may include, but is not limited to, product name, UPC, size, or lot numbers.

(d) An internet website hyperlink to the United States Food and Drug Administration (FDA) where the public can find the most recent FDA internet website relating to heavy metals in food.

(e) On the brand owner's internet website describing a packaged protein product, include a prominent statement that reads "For information about heavy metal testing on this product" followed by a hyperlink to the internet website that contains the publicly available test results.

(f) (1) For a product sold in a retail store on or after January 1, 2028, the outermost "package," as defined in Section 1459(b) of Title 15 of the United States Code, of a packaged protein product shall include a statement that reads: "For information about heavy metal testing on this product, visit" followed by the internet website where the information required by subdivision (a) is posted.

(2) For a product sold online or directly to consumers on or after January 1, 2028, the product details page for the product, on an internet website where the product is sold, shall include a statement that reads: "For information about heavy metal testing on this product, visit" followed by a hyperlink to the internet website where the information required by subdivision (a) is posted.

110424.8. Commencing January 1, 2028, a person shall not sell in the state or manufacture, deliver, hold, or offer for sale in the state a protein product, including, without limitation, a protein product that is sold by a retailer or that is sold directly to consumers, that does not comply with the requirements described in this chapter.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



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02/10/26 03:06 PM
RN 26 08691 PAGE 1

LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, Padilla.
General Subject: Protein products.

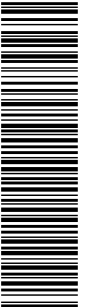
Existing law, the Sherman Food, Drug, and Cosmetic Law, under the administration and enforcement of the State Department of Public Health, provides for the regulation of various subjects relating to the manufacturing, processing, labeling, advertising, and sale of food, drugs, and cosmetics. Existing law places product testing and disclosure requirements on various products, including baby food and prenatal vitamins. A violation of the Sherman Food, Drug, and Cosmetic Law is punishable as a misdemeanor.

This bill would, commencing January 1, 2028, require a manufacturer of a bulk protein product or a packaged protein product, as defined, that is sold, manufactured, delivered, held, or offered for sale in this state to test a representative sample of each lot of the product for heavy metals, as defined. The bill would require both a manufacturer and brand owner to provide test results to an authorized agent of the department upon their request, as specified. The bill would, commencing January 1, 2028, require a brand owner of a packaged protein product that is sold, manufactured, delivered, held, or offered for sale in the state to disclose specified product information to the public, including, among other things, the heavy metal testing information. Commencing on or after January 1, 2028, the bill would require a statement regarding heavy metal testing to be included on the outermost package of a packaged protein product sold in a retail store and on the product details page on an internet website for products sold online or directly to consumers. The bill would, commencing January 1, 2028, prohibit a person from selling in the state or manufacturing, delivering, holding, or offering for sale in the state a protein product that does not comply with these provisions. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



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