

## The New York Food Safety and Chemical Disclosure Act: *Your Food, Your Right to Know*

*“We simply do not have the information to vouch for the safety  
of many of these chemicals”*

-Michael Taylor, Former FDA Deputy Commissioner for Foods and Veterinary Medicine (2010-2016)<sup>1</sup>

### The Food Safety and Chemical Disclosure Act (A1556A/S1239A):<sup>2,3</sup>

1. Requires food companies to publicly disclose safety evidence for “generally recognized as safe” (GRAS) food chemicals.
2. Prohibits the sale of food containing Red 3, potassium bromate, and propylparaben—chemicals linked to cancer and reproductive toxicity—statewide.
3. Bans seven synthetic color dyes from food, snacks, and beverages in New York schools.

### 1. What is the GRAS Loophole?

The U.S. Food and Drug Administration (FDA) is responsible for ensuring the safety of food ingredients, but the agency’s current regulatory system leaves consumers vulnerable to harmful substances. While a small fraction of ingredients undergo FDA premarket approval, **most chemicals enter the food supply through the “generally recognized as safe” (GRAS) loophole**, which allows food companies to self-determine that a food chemical is safe.<sup>4,5</sup> While companies can choose to inform the FDA of their GRAS determination, many simply use the chemical without ever notifying the FDA—and this ‘secret GRAS’ pathway into the food supply is totally legal.<sup>6</sup> This lack of transparency leaves both consumers and regulators in the dark, with little ability to identify or address potential dangers in our food supply.

#### Case Study: Daily Harvest’s Tara Flour

Because there is no transparency when a GRAS determination is made in secret, the FDA often learns of dangerous food chemicals only after consumers are harmed. In 2022, a meal kit company called Daily Harvest recalled 28,000 units of its “French Lentil + Leek Crumbles,” made with a ‘secret GRAS’ ingredient called tara flour.<sup>7</sup> Customers reported nearly 400 adverse events to the FDA (including 133 hospitalizations, with symptoms ranging from nausea and fever to organ failure).<sup>8</sup> Daily Harvest stated that their supplier confirmed tara flour was GRAS, but two years later, the FDA reviewed available evidence and found no studies supporting the safe use of tara flour in food.<sup>9,10</sup> They declared that the ingredient was not GRAS.

## How the Food Safety and Chemical Disclosure Act protects New Yorkers

- **Stops the secrecy:** Companies will be required to report safety evidence for GRAS chemicals to the NY Department of Agriculture and Markets, who will publicly post this information in a database.
- **Empowers consumers and businesses:** Companies can demand GRAS ingredient listings from suppliers or search for them in the NY database before deciding to use a food chemical. Consumers, too, will be empowered to access safety data for food ingredients.
- **Gives regulators real oversight:** New York regulators—and the FDA—can flag and work to remove unsafe GRAS chemicals from the food supply by reviewing their evidence for safety in the NY GRAS database.
- **Dissuades bad actors:** Companies will think twice before introducing untested chemicals when they know the public and regulators are watching.

This bill could save lives. For example, if it had been in place before the Daily Harvest outbreak, Daily Harvest could have identified that there was no GRAS listing for tara flour before selling a dangerous product, and federal and NY state regulators could also have immediately understood the lack of safety data and banned the ingredient.

## 2. What about food chemicals we already *know* cause harm?

Closing the secret GRAS loophole is a crucial step towards improving the food chemical regulatory system. But it's also essential to ban food chemicals that are known to be unsafe. While the FDA conducts some food chemical post-market assessments, the agency's slow action to ban dangerous chemicals leaves consumers at risk, often for decades. For example, in 1990, the FDA classified Red 3 as carcinogenic to animals and promised to ban it in food, as required by law. They promptly banned it from cosmetics but waited until January 2025 (after CSPI filed a petition with the FDA) to ban the color additive.<sup>11</sup>

New York must act where the FDA has failed. That's why the Food Safety and Chemical Disclosure Act will ban three harmful chemicals across New York:

- **Red 3:** New York's ban will go into effect sooner than the federal ban, which is effective in 2027.
- **Potassium bromate:** A flour bleaching and maturing agent, this chemical was linked to cancer by the World Health Organization in 1992.<sup>12</sup>
- **Propylparaben:** A preservative, this chemical has been associated with reproductive toxicity and hormone disruption by the European Food Safety Authority in 2004.<sup>13</sup>

These chemicals were banned in California in 2023.<sup>14</sup> In the European Union, potassium bromate and propylparaben are prohibited, while Red 3 is allowed only in certain cocktail cherries.<sup>15</sup>

### 3. Protecting children from synthetic dyes in school

Some food chemicals pose a risk for certain populations—like children. In 2021, the California EPA (CalEPA) reviewed 27 clinical trials and found that synthetic dyes (Red 3, Red 40, Yellow 5, Yellow 6, Blue 1, Blue 2, and Green 3) can cause hyperactivity, inattentiveness, and anxiety in sensitive children.<sup>16</sup> Repeated, short-term exposure to these dyes may harm their social and academic success.

The FDA has yet to acknowledge CalEPA's findings. However, California banned synthetic dyes in school foods beginning in 2027, and several states have introduced similar legislation. **New York City schools have banned these dyes for decades—now, the Food Safety and Chemical Disclosure Act will extend this protection to all New York children.**<sup>17</sup>

#### The bottom line

- The secret GRAS loophole allows unvetted chemicals into our food. This bill ends the secrecy and empowers consumers, businesses, and regulators to consider ingredient safety.
- New Yorkers deserve protection from harmful chemicals, without waiting on the FDA. This bill bans chemicals known to cause health problems.

**The Food Safety and Chemical Disclosure Act is a crucial step toward a safer, more transparent food system.** For too long, food companies have kept safety data out of public view. This bill ends that secrecy, because New Yorkers deserve to know what risks are on the table.

## References

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