



Legislators in California and New York have proposed bills to ban five food additives that have purportedly been linked to health concerns such as cancer, neurodevelopmental issues, and hormone dysfunction. The five additives, brominated vegetable oil (BVO), potassium bromate, propylparaben, Red Dye No. 3, and titanium dioxide, are found in many food products. These substances are subject to regulation by the U.S. Food and Drug Administration (FDA), which allows their use in food.

- In California, [AB 418](#), which was introduced on February 2, 2023 and cosponsored by the Environmental Working Group (EWG). The bill was amended on April 13 to add penalties of up to \$5,000 for initial violations, and up to \$10,000 for each subsequent violation of the proposal's restrictions. This bill seeks to prohibit the five ingredients listed above effective January 1, 2025.

- In New York, [Senate Bill S6055A](#), introduced on March 27, 2023 also seeks to prohibit the additives effective January 1, 2025. This bill provides that in an action to enforce compliance, the recognition by the FDA of any of the substances as safe may not be alleged as a defense.

Given that the federal government has expressly authorized the use of certain substances that these bills would potentially prohibit, legal challenges to the bills are likely if they are enacted into law.

Authors



[David T. Biderman](#)

Partner

DBiderman@perkinscoie.com [310.788.3220](tel:310.788.3220)



[Kristine E. Kruger](#)

Senior Counsel

KKruger@perkinscoie.com [206.359.3111](tel:206.359.3111)

Explore more in

[Food & Consumer Packaged Goods Litigation](#) [Food & Beverage](#)

Blog series

Food & Consumer Packaged Goods Litigation

Food & Consumer Packaged Goods Litigation shares timely insights into litigation developments, emerging arguments and challenges facing food and consumer packaged goods manufacturers and related industries.

[Subscribe ?](#)

[View the blog](#)