



April 7, 2015

Dr. George Alexeeff
Director
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

SUBJECT: Alcohol Warning Signs

Dear Dr. Alexeeff:

Fetal alcohol spectrum disorder (FASD), a birth defect, is one of the two leading causes of developmental disabilities in the United States, close to or exceeding autism spectrum disorders. It is estimated that one percent of people in the United States may have FASD, and recent evidence suggests that the rate could be as high as five percent. Among women in California in 2006-07 who reported that they were trying to get pregnant (and who, of course, could not know whether they were pregnant yet), 50 percent also reporting drinking in the last month. We believe this constitutes a public health emergency.

While your office's regulations require each alcohol retailer to prominently post warning signs, compliance is spotty at best. A walk through even a few markets, bars, and restaurants reveals warning signs that are inconspicuous, incomplete, obstructed, on moving doors, printed in type that is hard to read even in good light, or most often, missing entirely. Contrast this with Oregon, where compliance with their similar law is much more widespread.

In 2012 we wrote you suggesting amendments to the requirements for alcohol warning signs in Article 6 of Title 27 of the California Administrative Code to provide for clearer warnings about the hazards of alcohol consumption during pregnancy, more effective sign placement, and procedures that would make it more likely that retailers would actually place the signs as required. Last year we and Senator Jim Beall's chief of staff met with you and your staff to discuss our proposals, and we followed up with more detailed recommendations in the form of suggested amendments to your office's initial draft.

***The Arc and United Cerebral Palsy California Collaboration
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We were distressed to note that your office's final draft dated January 16, 2015, took few of our suggestions and, in several significant ways, actually weakened your earlier draft. These are our comments on the 2015 draft, all of them paralleling our 2012 and 2014 suggestions.

First, we believe it is necessary for the regulations to place responsibility for placement clearly on retailers, rather than on wholesalers as at present. This would allow anyone who notices retailers that are noncompliant to more easily achieve compliance using the procedure in Health and Safety Code Section 25249.7. However, we also believe that each wholesaler should be required to notify each retailer of the warning sign requirement annually and to offer to provide the retailer with signs that comply with the regulations. We think this would bring about much more widespread voluntary compliance.

As to the "method of transmission," we believe the sign placement requirement in your office's draft Section 25608.3 are inadequate. Specifically, we believe the signs under option (1) need to be conspicuous, readable in any lighting, unobstructed, stationary, and at eye level in the range adult women of average height standing to average height in wheelchairs. We also believe that the signs under option (2) likewise must be conspicuous, readable in any lighting, unobstructed, and stationary, and the warning in menus in option (3) must be conspicuous and readable in any lighting.

Finally, we believe the language of the warning signs in the proposed Section 25608.4 needs to be clearer.

We suggest that the signs should begin with the words "ALCOHOL WARNING," not simply "WARNING." Most people most of the time will not read beyond this heading, and they should at least be aware that there is something about alcohol that requires a warning. To further get their attention, we believe those words should be in bright red.

We recommend simpler wording of the text than your office's draft regulation includes. And we recommend putting "birth defects" above "cancer risks." By putting "cancer risks" first, the draft assures that many people will read no further and will disregard the warning because they think everything causes cancer.

Instead, we suggest:

"Drinking alcohol while pregnant can cause birth defects. This includes any amount of alcohol at any time during pregnancy. Alcohol also increases cancer risks.

"Alcohol includes beer, coolers, distilled spirits, and wine.

"For more information go to"

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Greg deGiere". The signature is written in a cursive, flowing style.

Greg deGiere
Public Policy Director