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ASSOCIATION**

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June 14, 2010

Dr. Joan Denton, Director
Carol Monahan-Cummings, Chief Counsel
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95812

Dear Joan and Carol,

I write on behalf of the California Grocers Association ("CGA"), representing the majority of all food retailers and certain food distributors throughout the state.

As you know, CGA has spent significant time and resources attending workgroup meetings, meeting personally with OEHHHA, writing comments and even attempting to write a draft regulation that was workable for our members and manufacturers. CGA has repeated its concerns at each stage. CGA member companies are quite frustrated at this juncture as OEHHHA and others apparently have not heard that CGA members need to have the ability to actually comply with the regulation or will not be able to support it.

Our members may be able to utilize a brochure, but only if it is self executing--that is, all that need be given as a warning is on it, in a 3 fold flyer that can be downloaded from the website with no requirement that retailers create any content or updates themselves. The labor costs involved with the current draft regulation make it prohibitive, even if it could otherwise be implemented. Shelf labels or symbols to accompany a brochure are unworkable and will not be utilized.

We have concerns regarding the cash register receipt option based on the requirement that the complete language of each warning be included. CGA is concerned that warnings will not be succinct enough to fit on a receipt given that food is different and warnings must be highly nuanced.

In addition, our retail members cannot utilize a compendium where it requires a corresponding shelf symbol or shelf warning. Grocery retailers do not want to receive individual warnings by the hundreds from manufacturers or distributors and then be liable for not warning. This method has been an utter failure for leaded crystal and CGA members will not agree to a wholesale repeat.

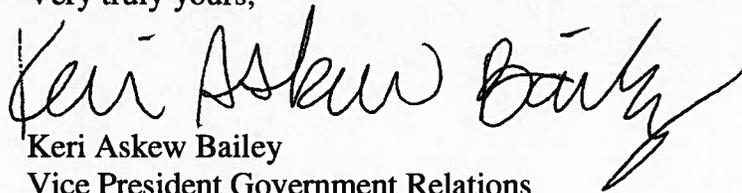
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Our distributor members are also concerned that OEHHA has not addressed the separate role of a food distributor (not a manufacturer and not a retailer). A "Distributor" is defined as a "Food Provider" just like a manufacturer. Does the distributor have to get warnings from the manufacturer and send them to the retailer? What if the distributor sources from someone other than the manufacturer? Does the distributor have to put warnings on the web? How would they know what to warn for if they are not the manufacturer or don't get a product from the manufacturer? Are they liable as a Food Provider nonetheless? Unfortunately, this aspect was overlooked by the stakeholders and needs to be addressed before CGA can support a draft.

Thus, there are too many obligations for food retailers in this draft, with no ability to comply, notwithstanding CGA's repeated comments to this same effect during this long process. There are also unaddressed issues for distributors.

The California Grocer's Association does appreciate that revisions were made to reflect some of the concerns that CGA has expressed in meetings and prior written comments. However, in light of the remaining concerns that CGA members have with the current draft and the limited time allotted to prepare written comments, unless this time period is extended to no earlier than July 30, CGA will have to oppose the draft regulation and the continued process outright. CGA needs this additional time to work with its members and OEHHA to try to bridge the gap and meet concerns about CGA's members' inability to comply. In addition, extensive review and comment on the newly released Initial Statement of Reasons must be completed. It would be a shame to have invested 2 years' time and money in a good faith attempt to create a program that benefits both consumers and the food industry, only to have it collapse when we feel so much progress has been made.

Very truly yours,



Keri Askew Bailey
Vice President Government Relations
California Grocers Association