



The Arc and United Cerebral Palsy California Collaboration

January 25, 2016

Monet Vela
Office of Environmental Health Hazard Assessment
P. O. Box 4010
Sacramento, California 95812-4010

SUBJECT: Alcohol Warning Signs

Dear Ms. Vela:

The Arc and United Cerebral Palsy California Collaboration, a coalition of people with intellectual and all developmental disabilities and their families, friends and service providers, submits the following comments on the proposed new Article 6 of Title 27 of the California Code of Regulations.

Fetal alcohol spectrum disorder (FASD), a birth defect, is at epidemic levels. It is one of the two leading causes of developmental disabilities in the United States, close to or exceeding autism spectrum disorders. At least one percent of people in the United States may have FASD, and some evidence suggests that it could be as many as five percent. Among women in California in 2006-07 who reported that they were trying to get pregnant -- and who could not know whether they were pregnant yet -- 50 percent also reporting drinking in the last month. We defy anyone to tell us this does not constitute a public health emergency.

While your office's current regulations require each alcohol retailer to prominently post warning signs, compliance is spotty at best. A walk through even a few stores, 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.

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While the proposed new Article 6 represents some progress toward warning women of the grave risks of FASD, it falls far short of the recommendations we have made repeatedly since February 9, 2012, and we believe it does not adequately address this health emergency.

Our specific suggestions follow.

Responsibility

While the proposed new regulations appropriately relieve alcoholic beverage distributors of responsibility for placing or maintaining the warning signs, putting responsibility on retailers where it belongs, they do not meet the Health and Safety Code Section 25249.11 requirement that OEEHA minimize the burden on retailers and they do not go far enough to assure that retailers know and are accountable for complying with the warning requirement.

The regulations should require distributors to annually notify retailers of the warning requirements and to offer retailers, at no cost, signs that the retailers can use to meet the requirements. This would be the single most important step toward widespread voluntary compliance. Without it, we see little good that any other regulatory changes will do in the real world.

Furthermore, the alcoholic beverage warnings should not be subject to the provisions of the proposed Section 25600.2 that allow agreements to shift responsibility from retailers to distributors. Almost every alcohol retailer has many distributors. Allowing them to shift responsibility to some or all of their distributors would put an enormous burden on concerned citizens who want to complain about noncompliance. Even in cases where concerned citizens can somehow find out which distributors are responsible for which violations, it's very unlikely that these usually large, usually distant distributors would be as responsive to complaints as the owners and managers of local retail businesses.

Methods of Transmission

The current warning signs, when there are any posted at all, often are virtually invisible -- a cynic might think deliberately so.

The regulations should require that the signs be: (a) displayed so that they are clearly visible under all lighting conditions normally encountered during business hours, (b) unobstructed, (c) at eye level for persons in the range from adult women of average height standing to adult women of average height in wheelchairs, and (d) stationary.

Content

Finally, we continue to believe that the language of the warning signs needs to be much more noticeable and much clearer.

The signs should begin with the words “ALCOHOL WARNING,” not simply “WARNING.” Most people most of the time will stop reading at the heading, and they should at least be aware that there is something about alcohol that requires a warning. Further, to stand out a bit more from the noise of advertising and notices of all kinds that everyone is subject to, those words should be in bright red.

The words “birth defects” should come before “cancer risk” on the signs. By putting “cancer risk” first, the proposed language would assure that many people will stop reading right there because they think everything caucus cancer.

Instead, we suggest:

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

“For more information go to”

Thank for your consideration of these urgent requests to help end this epidemic.

Sincerely,

A handwritten signature in cursive script that reads "Greg deGiere". The signature is written in black ink and is positioned above the typed name.

Greg deGiere
Public Policy Director