

June 28, 2024

**VIA PORTAL: <https://oehha.ca.gov/comments>**

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Re: Comments on Modification to Proposed Amendments to Title 27, Article 6, Clear and Reasonable Warnings - Safe Harbor Methods and Content

Dear Ms. Vela:

These comments are submitted on behalf of California Retailers Association, regarding OEHHA's Notice 15-Day Modification to Proposed Amendments to Title 27, Article 6, regarding short-form warnings for consumer products. We appreciate OEHHA's consideration of our comments on the original proposed amendments and the removal of the revisions relating to online warnings.

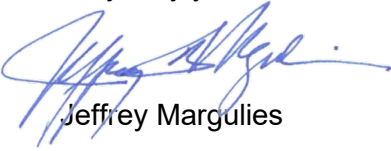
As our comment to the original proposed amendments noted, many retailers will have to reprogram their websites in order to accommodate the new warning language. We pointed out that, if they are unable to immediately do so, they may be exposed to liability if they continue to provide warnings that a supplier no longer supports, and which may be challenged by enforcers. We asked that OEHHA should clarify that retailers may continue to provide the current safe-harbor short-form warning during the grace period, even if their suppliers ask them to change to the new short-form warning.

The modified proposed amendments would require a retailer to provide the new short-form warning within the three-year grace period within 60 days of receiving a warning or written notice from a manufacturer or supplier that directs the retailer to use that new short-form warning. (See proposed § 25602(b)(2).) While CRA appreciates OEHHA's understanding that online warnings often cannot be immediately changed, the current proposal assumes that online retailers can stand up an online warning system that allows them to display the new short-form warning as soon as 61 days of the effective date of the amendments. CRA suggests that this is an unrealistic expectation, and again submits that the regulation specify that retailers may continue to provide the current safe-harbor warning throughout the grace period. Given that the grace period is intended to allow businesses flexibility to incorporate the new warnings with undue burden and cost, it is inappropriate to raise the burdens and costs of compliance solely for online retailers (see Health & Saf. Code § 25249.11, subd. (f)) based on the decisions of *others* in the supply chain whom they do not control.

We appreciate OEHHA's consideration of these comments.

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Very truly yours,



Jeffrey Margulies

JBM