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AMENDMENTS FAIL TO CURE SB 1713'S FATAL FLAWS

Epoxy resins containing trace amounts of bisphenol A (BPA) are used to protect the integrity of metal packaging, which prevents spoilage and contamination of foods. SB 1713 would not only ban these resins but may ultimately result in the elimination of metal packaging and its food safety benefits for the most critical groups -- infants and children. Regulators and scientific authorities all over the world, including the United States, have found BPA to be safe for use in contact with food. By circumventing the regulatory review process, SB 1713 may in fact be increasing risk to consumers.

The 0.5 ppb standard change is irrelevant. Amending the maximum level specified in SB 1713 from 0.1 ppb to 0.5 ppb is meaningless. SB 1713 incorrectly states that this level is the voluntary standard for infant products in Japan, and in fact this is FALSE. The level of 0.5 ppb is only referenced as an analytical detection limit, not a regulatory limit. No scientific regulatory review has limited the amount of BPA that can migrate into food below the 600 ppb level established by the European Union (in fact, its latest review by the European Food Safety Authority increased the "Tolerable Daily Intake" five-fold based on all of the science on BPA). No regulatory review of BPA has occurred in California and therefore this legislation has no scientific justification.

Two more years will not keep food on the shelf. The amendment that changes the compliance deadline from January 1, 2010, to January 1, 2012, is inappropriate. It often takes many years for an alternative to be developed, tested, clear regulatory hurdles, and be integrated into the manufacturing process and distribution chain. The U.S. Food and Drug Administration (FDA) requires all infant formula to be evaluated with the packaging. This can be a lengthy process to develop all of the data required to submit to the FDA for its review. As no alternatives have been identified to date that meet the performance criteria established by epoxy coatings, many infant products potentially could be pulled off the shelf if safe alternatives cannot be developed by this deadline.

Food cans in Japan contain BPA at trace levels comparable to what is sold in California. The claim that the 0.5 ppb level has been voluntarily achieved in Japan is fiction. BPA migration from beverage containers in both Japan and the United States is already less than 0.5 ppb in the beverage product, but food cans and metal lids used on jars are an entirely different matter because of the nature of their food content and processing requirements. In fact, a great number of canned products from the United States are exported to Japan, including canned infant formula, in the metal packaging manufactured in the United States.

The impact of SB 1713 goes far beyond infants and toddlers. The language added to SB 1713 to specify that it does not apply to foods meant for the general population is vague and unspecific. There is no way definitively to segregate food products according to age group. Would string beans stocked with baby food be covered, while the same product would not be subject to SB 1713's provisions if it were put on the shelves with canned vegetables? This

language opens up a Pandora's Box of confusion, manufacturing headaches, and potential litigation. To avoid these potential regulatory and litigation complexities, many food manufacturers will choose to avoid this market entirely.

SB 1713 has no scientific justification and has not been improved through amendments. The North American Metal Packaging Alliance, Inc. (NAMPA) urges the California Assembly to keep this measure from going any further.

FOR FURTHER INFORMATION

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