



NEW CALIFORNIA GREEN CHEMISTRY LAWS COULD REQUIRE ADDITIONAL PRODUCT LABELING

Heralding “the most comprehensive Green Chemistry program ever established,” California Governor Arnold Schwarzenegger (R) has signed into law two bills ([A.B. 1879](#), [S.B. 509](#)) intended to reduce “chemicals of concern” in consumer products and the environment. While the measures apply to a broad array of products from appliances and electronics to furnishings and spare tires, they do not apply to food.

Both the California Department of Toxic Substances Control (DTSC) and the Office of Environmental Health Hazard Assessment (OEHHA) will have new authority under the legislation. DTSC is tasked with identifying and prioritizing toxic chemicals and analyzing their alternatives. OEHHA will establish an online information database to increase consumer knowledge about their purported hazards. Under the legislation, chemicals of concern will be evaluated in terms of their life-cycle emissions, environmental contamination, worker safety, and public health impacts. Special attention will be given to effects on sensitive subpopulations, such as infants and children.

The Assembly bill also requires the adoption of regulations, as needed, that (i) impose “requirements on the labeling or other type of consumer product information”; (ii) impose “a restriction on the use of the chemical of concern in the consumer product”; (iii) prohibit “the use of the chemical of concern in the consumer product”; (iv) impose “requirements that control access to or limit exposure to the chemical of concern in the consumer product”; or (v) impose “requirements for the manufac-

Corporate and governmental sustainability initiatives are forcing heightened standards of producer responsibility at every step in the product lifecycle, from product design, raw material supply, manufacturing, and packaging to disposal. Shook, Hardy & Bacon represents many industrial, chemical and consumer product manufacturers in matters covering labeling, packaging, defects, and regulatory approval.

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urer to manage the product at the end of its useful life, including recycling or responsible disposal of the consumer product.”

DTSC will have until January 2011 to develop a science-based program to carry out its green chemistry mission and to adopt appropriate regulations. The new law requires the agency to consult with other state agencies, the public and stakeholders before adopting its chemical review protocols and promulgating consumer product regulations. Thus, consumer-product manufacturers will have the opportunity to monitor and provide input into the program.

Questions have been raised about the expansion of DTSC’s authority under A.B. 1879, because it has not traditionally regulated consumer-product content, and the confidentiality of trade secrets has been cited as another concern. SHB’s Sustainability and Climate Change lawyers can provide more information about any of the new program’s provisions.

SHB ACCOLADES

In January 2008, *The American Lawyer* magazine named SHB the Litigation Department of the Year in the Product Liability category. The United States’ 200 largest law firms (by gross revenue) were invited to participate in the biennial competition, which recognizes the leading firms in four litigation categories. The magazine described SHB’s success in defeating class certification involving an array of products from diverse industrial sectors and noted that SHB has “built the deepest bench of product liability talent anywhere.”

In 2008, the firm was named Global Product Liability Firm of the Year for the fourth consecutive year by *Who’s Who Legal* and listed in *Chambers USA* as one of just six elite “Band One” firms for national product liability defense.

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