

# Food & Beverage

## LITIGATION UPDATE

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## LITIGATION UPDATE

### Legislation, Regulations and Standards

#### Institute of Medicine (IOM)

**[1] Institute of Medicine Issues Summary  
Findings of Childhood Obesity Symposium**

The National Academies' Institute of Medicine has released a report summarizing the proceedings of a December 1, 2005, symposium titled "Progress in Preventing Childhood Obesity: Focus on Industry." About 90 stakeholders participated in the Irvine, California, event organized as part of IOM's assessment of obesity prevention efforts and promotion of recommendations contained in its 2004 report, *Preventing Childhood Obesity: Health in the Balance*. Topics at the California symposium included marketing strategies that endorse healthful products and physical activity opportunities; public and private educational campaigns; and industry self-regulation of advertising aimed at youth. The symposium's findings will be incorporated into a final report on childhood obesity prevention initiatives that IOM expects to issue during fall 2006. More information is available [here](#).

### Codex Alimentarius Commission

**[2] U.S. Codex Delegates Schedule Public Meeting to Discuss Analysis and Sampling Issues**

The U.S. Department of Agriculture, Food and Drug Administration, and Department of Health and Human Services have scheduled a May 9, 2006, [meeting](#) to discuss draft positions to be presented at the 27th Session of the Codex Committee on Methods of Analysis and Sampling in Budapest, Hungary, on May 15-19. Issues to be discussed at the May 9 meeting include (i) criteria for methods of detection and identification of foods derived from biotechnology, and (ii) methods of analysis for dioxins and PCBs. See *Federal Register*, April 19, 2006.

**[3] Polish Senate Passes Legislation Banning GM Seeds**

Poland's upper house of Parliament last week passed a bill prohibiting the sale and planting of genetically engineered seeds. If approved by the Sejm (the lower house of Parliament) and signed by President Lech Kaczyński, Poland reportedly risks conflict with the European Commission for imposing a blanket ban without scientific justification. See *Planet Ark*, April 21, 2006.



#### [4] **Chicago City Council Outlaws the Sale of Foie Gras**

By a vote of 48-1, the Chicago City Council yesterday became the first U.S. municipality to make “food dispensing establishments” subject to \$500 fines for selling foie gras. Translated from French as “fatty liver,” foie gras is most often served as the primary ingredient in pâté and is produced by using pipes to force-feed grain down the throats of ducks and geese to make their livers expand up to 10 times their normal size. Animal-rights activists deem the force-feeding process brutal and cruel. “Government shouldn’t be dictating what we eat,” Rick Tamonto, a Chicago celebrity chef, was quoted as saying. Mayor Richard Daley was similarly unenthusiastic about the new ordinance. “We have children getting killed by gang leaders and dope dealers,” Daley told *The Chicago Sun-Times*. “We have real issues here in this city. And we’re dealing with foie gras? Let’s get some priorities.” See *The New York Times*, April 27, 2006.

#### [5] **Soft Drink Sales Prohibited in Schools Under Bill Passed by Connecticut Senate**

The Connecticut Senate has passed contentious legislation banning the sale of all soft drinks, sports drinks and juices that contain less than 100 percent fruit juice in elementary, middle and high schools. “There is no parent I know who wants their child to consume unhealthy food,” Senate Pro Tem Donald Williams (D-Brooklyn), chief sponsor of the bill, was quoted as saying. “It’s time to do the right thing for children’s health.” The measure now moves to the Connecticut House of Representatives for consideration.

Republican Governor M. Jodi Rell has reportedly endorsed the legislation because it does not

mandate recess for elementary schools or require schools to meet state-imposed nutritional guidelines. The proposal would allow schools to continue to sell chips and candy, though school districts opting to sell “healthy” snacks only would be eligible for a 10-cent increase in school lunch subsidies. See *The Hartford Courant*, April 21, 2006.

## Litigation Warnings

#### [6] **California AG Reaches Settlement with Pepsico over Lead in Mexican Bottles**

Pepsico will reportedly eliminate labels using lead-based ink on soft drinks imported from Mexico under terms of a [settlement](#) reached last week with California Attorney General Bill Lockyer and Los Angeles City Attorney Rocky Delgadillo. The settlement resolves allegations that Pepsico violated California’s Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986, by not warning consumers that the painted labels contain lead. The anti-toxics law requires product manufacturers to warn the public about exposure to chemicals “known to the state to cause cancer or reproductive toxicity.”

Among other things, Lockyer and Delgadillo charged that labels on glass Pepsi bottles manufactured in Mexico and imported into the United States contain 45 percent lead that could rub off onto consumers’ hands, creating a “hand-to-mouth” pathway for exposure. They also alleged lead from the labels could make its way into the beverages themselves as a result of the washing process for the refillable bottles.



The settlement requires Pepsico to immediately move to lead-free labels on new bottles for Mexican products and phase out existing lead-painted bottles within 10 years, with the goal of eliminating such bottles within seven years. The company must also pay a \$1 million civil penalty and provide \$500,000 to fund surveillance efforts to keep Mexican Pepsi bottles out of California and educational campaigns on ways to prevent lead exposure. See *Press Release of California Attorney General Bill Lockyer*, April 21, 2006.

## Scientific/Technical Items

### Cardiovascular Disease

#### [7] Heavy Coffee Consumption Does Not Raise Heart Disease Risk, Says New Study

A large-scale study from Harvard University and Autonoma University of Madrid researchers published this week indicates that even heavy, long-term coffee drinking is not associated with an

increased risk of heart disease. (Lopez-Garcia, E., et al., "Coffee Consumption and Coronary Heart Disease in Men and Women. A Prospective Cohort Study," *Circulation* (on-line publication): April 24, 2006). The researchers assessed coffee drinking habits in more than 128,000 men and women for 20 years and found no difference in heart disease risks between individuals who consumed less than one cup of coffee per week and those who consumed more than six cups of coffee daily. The results were adjusted for age, smoking, alcohol consumption, history of Type 2 diabetes, and body mass index. "We believe this study clearly shows there is no association between filtered coffee consumption and coronary heart disease," lead author Esther Lopez-Garcia the Autonoma University School of Medicine in Madrid. "This lack of effect is good news because coffee is one of the most widely consumed beverages in the world." See *Reuters*, April 24, 2006.



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