

**California Chamber of Commerce  
National Federation of Independent Business  
AdvaMed – Advanced Medical Technology Association  
California League of Food Processors  
International Formula Council  
California Manufacturers and Technology Association  
California Citizens Against Lawsuit Abuse  
Grocery Manufacturers Association  
California Grocers Association  
American Chemistry Council  
Can Manufacturers Institute  
Civil Justice Association of California  
Consumer Specialty Products Association  
Industrial Environmental Association  
Juvenile Products Manufacturers Association  
North American Metal Packaging Alliance, Inc.  
California Healthcare Institute**

April 11, 2011

The Honorable Betsy Butler  
Member of the Assembly  
State Capitol  
Sacramento, CA 95814

RE: **AB 1319 (Butler) – OPPOSE**  
*Set for hearing 4/26/11 – Assembly Environmental Safety & Toxic Materials Cmte.*

Dear Assembly Member Butler:

The above listed organizations must regretfully inform you of our collective opposition to your AB 1319. In our view, this legislation runs contrary to the consensus of the scientific community and international regulatory agencies that have concluded BPA is safe as used. Consider the following:

- **US Food and Drug Administration and Department of Health and Human Services reaffirmed that “BPA is not proven to harm children or adults” (January 2010).**

On January 15, 2010 FDA issued a statement regarding the use of BPA in food contact applications, including baby bottles, cups and infant formula cans. When asked if the FDA thought BPA was unsafe, Dr. Joshua Sharfstein of the FDA responded “**If we thought it was unsafe, we would be taking strong regulatory action.**”

The FDA did not urge parents to stop using food products that include BPA. “FDA is not recommending that families change the use of infant formula or foods, as the benefit of a stable source of good nutrition outweighs the potential risk of BPA exposure.” Regarding baby bottles, Dr. Sharfstein stated “**FDA does support the use of baby bottles with BPA.**”

- **Regulatory bodies around the world have assessed the science on BPA and have determined that BPA is safe for use in food contact products.**
  - European Food Safety Authority (September 2010)
  - European Commission Risk Assessment (June 2008)
  - Swiss Federal Office of Public Health (February 2009)

- French Food Safety Authority (February 2010)
  - Dutch Food and Consumer Product Safety Authority (November 2008)
  - Danish Environmental Protection Agency (October 2008)
  - German Federal Institute for Risk Assessment (January 2010)
  - Food Standards Australia and New Zealand (November 2010)
  - Japanese National Institute of Advanced Industrial Science and Technology (November 2005)
  - Health Canada (October 2008, July 2009, August 2010)
- The World Health Organization (WHO) and the Food and Agriculture Organization of the United Nations (FAO) concluded that “initiation of public health measures would be premature.” The panel also concluded that BPA does not accumulate in the body, is rapidly eliminated in urine, and that it is difficult to interpret the relevance of studies claiming adverse health effects from BPA.
  - In July 2009 a panel of independent scientific experts convened by the California EPA’s Office of Environmental Health Hazard Assessment unanimously concluded that **BPA should not be listed as a reproductive or developmental toxicant under California’s Proposition 65 law.**
  - In March 2010, the US Environmental Protection Agency (EPA) released a BPA “Action Plan” that outlines EPA’s review of BPA and their plan for follow-up actions. Notably, EPA did not propose any actions, regulatory or otherwise, regarding human health but will continue to coordinate with FDA and other agencies.
  - Existing food safety programs are already precautionary - they use safety factors, typically between 100 and 1000, to create a margin of safety between public exposure and levels that cause effects in laboratory animals.

For example, the European Food Safety Authority (EFSA) set a Tolerable Daily Intake (TDI) by applying a safety factor of 100 to the No-Observed-Adverse-Effect-Level from laboratory animal studies. The TDI is the amount of BPA a consumer (including infants) can safely ingest without harm over a whole lifetime.

- A consumer would have to ingest more than 500 pounds of food and beverages in contact with BPA every day for a lifetime to exceed the TDI set by EFSA
  - A 22 pound infant would have to drink more than 423 4 oz bottles per day to exceed the TDI
- **WHY DON’T FOOD MANUFACTURERS SIMPLY USE BPA ALTERNATIVES?**

Proponents of banning BPA are incorrect when they suggest alternatives to BPA based canned food liners are readily available for all applications and products. While some canned food products utilize an alternative to epoxy coatings, this use is very limited. Any alternative coating is merely a candidate material until safety and performance is thoroughly evaluated. Recently, the Can Manufacturers Institute and the North American Metal Packaging Alliance said in part to previous legislation, “**There is no readily available, suitable alternative to BPA-based can coatings that meets the essential safety and performance requirements for the broadest spectrum of all foods now packaged in metal containers.**”

**Bear in mind that there are some 125 billion cans produced annually in the US; 28 billion of those are food cans, requiring hundreds of different coating specifications.**

- **FOOD SAFETY RISKS MUST BE CONSIDERED FIRST**

Unlike BPA, what has been proven to harm children and families are food borne pathogens that develop from improperly canned foods. For over 50 years epoxy resin has enabled the high temperature sterilization that eliminates the dangers of food poisoning from microbial contaminants. With recent high profile incidences of food contamination resulting in tragic consequences, these risks to food safety must be considered. Furthermore, utilization of unproven alternatives could jeopardize food safety.

- **DTSC SHOULD IMPLEMENT GREEN CHEMISTRY PROGRAM**

California's Department of Toxics Substances Control (DTSC) should implement a science-based "Green Chemistry" Program as required by statute. This program was created by the Legislature so that scientific expertise can inform regulatory decision-making regarding chemicals in consumer products.

For the above listed reasons, we are opposed to AB 1319.

Sincerely,



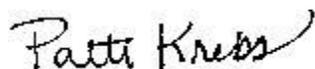
Tim Shestek  
American Chemistry Council



Robert Callahan  
California Chamber of Commerce



Mike Rogge  
California Manufacturers and Technology Association



Patti Krebs  
Industrial Environmental Association



Mike Dwyer  
Juvenile Products Manufacturers Association



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Robert Rankin  
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Kara Bush  
California Grocers Association



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*Consuelo Hernandez*

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*Tom Scott*

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California Citizens Against Lawsuit Abuse

*Kathleen M. Roberts*

Kathleen Roberts  
North American Metal Packaging Alliance

*Carrie A. Hartgen*

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AdvaMed -- Advanced Medical Technology Association

cc: Members, Assembly Environmental Safety & Toxic Materials Cmte