



April 3, 2013

The Honorable Mitch Greenlick, Chair
House Health Care Committee
900 Court St. NE, H-493
Salem, OR 97301

RE: Opposition to HB 2928 – regulating food packaging substances

Dear Representative Greenlick:

Northwest Food Processors Association (NWFP) urges opposition to HB 2928 which modifies food packaging regulations. NWFP serves as the voice of the food processing industry in the Northwest, representing 450 member companies including nearly 80 food processors with nearly 200 production facilities throughout the Northwest in fruit and vegetable, seafood, dairy, poultry, bakery, specialty and fresh-cut food products.

HB 2928 makes changes to the definition of hazardous substances subject to regulation by the Oregon Health Authority (OHA), as well as changes to the exemptions, so as to include food contact packaging. This will create overlapping regulatory authority, creating uncertainty in the market and harming Oregon food processors.

The Food and Drug Administration and the Oregon Department of Agriculture currently have oversight authority over food packaging and food labeling. The FDA maintains the internal staff expertise and bureaucratic infrastructure to evaluate the safety of food contact substances, including packaging. In addition, the agency maintains an unbiased science advisory board to continuously review chemicals of interest for emerging public health impacts.

The FDA also regulates food labeling, including statements regarding the safety of products or packaging. Federal law requires all label statements to be truthful and not misleading. Precautionary statements where FDA has not confirmed the science could be considered misleading under federal regulations. The ODA is the state authority that works with the FDA to enforce both state and federal regulations on food manufactured or sold within Oregon.

Section 2, subsection (5) and Section 3, subsection (1) of HB 2928 would bring food packaging and food labeling under the purview of an additional state agency. Another bureaucracy within the Oregon Health Authority to regulate what is already covered under separate state and federal agencies would be duplicative to the role of the FDA and ODA on evaluating and regulating food packaging and labeling, and could potentially conflict with existing state and federal regulations.

Additionally, the definitional changes of a “hazardous substance” under Section 1, subsection (7)(a) could create new liability for food processing companies that would now be affected by these new rules. This liability could extend to compounds that are deemed safe for use by FDA, but not by the Oregon Health Authority.



The food packaging compound that is widely used in packaged foods and would be subject to this liability is bisphenol-A (BPA). Food processors use epoxy resin that contains BPA in food and beverage containers to enable high temperature sterilization for safety and long shelf life of the product. The purpose of the BPA is to prevent the breakdown of the lining, without which the food container would corrode, which leads to contamination of the food and potentially severe or fatal health consequences to consumers of the product.

Can liners and glass jar seals made with BPA have been used safely and effectively since the early 1960's when first approved by the FDA. In August, 2008, the FDA released a report finding that BPA remains safe in food contact materials. In January, 2010, and again in March 2012 and March 2013, FDA issued an update on BPA, with the support of the National Institute of Environmental Health and the National Toxicology Program. The Food and Drug Administration's assessment is that the scientific evidence at this time does not suggest that the very low levels of human exposure to BPA through the diet are unsafe. In fact, the agency urges consumers not to make changes in their diets, with reference to BPA, that would prevent good nutrition, particularly for infants.

Food processors, can manufacturers and coating manufacturers have been working together to find non-epoxy solutions, not because there is a concern for consumer safety but because consumer groups have asked for alternatives. Over the past several years, hundreds of coating combinations have been evaluated but there is no single solution that works for all food products. Though there are some potential solutions, even those carry a shorter shelf life which creates problems in distribution and customer expectations. Finding viable alternatives will continue to take time, but public safety should be the highest concern in both the short and long term.

Forcing food processors out of the use of this form of packaging would remove many forms of shelf stable foods from the marketplace. Canned and jarred foods are essential when storage of fresh or frozen foods is prohibitive, such as emergency food stores, food pantries and food banks. In addition, many consumers maintain canned and jarred food stores to provide nutritious meals when time is too short for preparation of fresh foods. Without a viable canning industry in Oregon, Oregon food processors would be disadvantaged in bringing Oregon food products to market without this important technology.

NWFPFA urges the legislature not to move forward with HB 2928. It adds an additional layer of overlapping authority on food packaging and labeling while creating unique regulatory challenges for Oregon food processors.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Curry".

James Curry
Director, Government Affairs

cc: Honorable Members of the House Health Care Committee