

BILL ANALYSIS

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| SENATE RULES COMMITTEE | AB 2723 |
| Office of Senate Floor Analyses | |
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 THIRD READING

Bill No: AB 2723
 Author: Weason (D)
 Amended: 8/18/00 in Senate
 Vote: 21

SENATE HEALTH & HUMAN SERV. COMMITTEE : 5-1, 7/5/00
 AYES: Escutia, Figueroa, Polanco, Solis, Vasconcellos
 NOES: Mountjoy

SENATE APPROPRIATIONS COMMITTEE : 7-4, 8/21/00
 AYES: Johnston, Bowen, Burton, Escutia, Karnette, Perata,
 Vasconcellos
 NOES: Johnson, Kelley, Leslie, Mountjoy

ASSEMBLY FLOOR : 56-20, 5/25/00 - See last page for vote

SUBJECT : Bottled water

SOURCE : Author

DIGEST : This bill requires, after January 1, 2002, that the labels of bottled water sold in one-way packages include specified contact information, and bottlers, water haulers, operators of water vending machines and water retailers provide information about compliance with relevant laws and specified contact information to consumers through labels or information included in billing statements. Makes a number of technical and clarifying changes.

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Existing law:

- 1.Provides for a variety of requirements concerning bottled, vended, hauled and processed water. Specific provisions govern treatment and disinfection, quality standards, enforcement by local health officers, sanitary conditions, evaluations to determine compliance with standards, testing for substances, and source water monitoring. Specifies labeling and advertising, labeling for specific water types or treatments, labeling for substandard quality, labeling the sources of water, and licensing prerequisites.
- 2.Provides extensive definitions regarding the U.S. Food and Drug Administration's requirements for identifying, determining the quality, and methods for analyzing bottled water.

This bill:

- 1.Requires, after January 1, 2002, that the labeling on bottled water sold in one-way packages include a telephone number of the bottler or brand owner and their mailing address. Other forms of contact may be included, such as an e-mail address or website address.
- 2.Requires, after January 1, 2002, that bottlers or water haulers that distribute directly to consumers provide a telephone number of the bottler or brand owner and their mailing address, and may include the e-mail address or website address in each billing statement.
- 3.Requires, after January 1, 2002, that bottlers or water haulers that distribute directly to consumers provide to new and existing customers the following statement:

"As a food product, bottled water is subject to rules and regulations promulgated by the federal Food and Drug Administration (FDA). For further information, please contact (insert the name of the bottler or brand owner) at (insert the bottler's or brand owner's telephone number or mailing address.

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This information shall be provided once a year through billing statements."

- 4.Requires water vending machines to display the same information as above and retail water facilities to provide new customers the same information and in a take-home format, as sell.
- 5.Permits the State Department of Health Services (DHS), by written permission, to allow a person to package water for use in public emergencies without obtaining a water bottling plant license, where the emergency has resulted in the interruption, or has compromised the quality of, the public drinking water supply.
- 6.Makes a number of technical and clarifying changes to Health and Safety Code sections pertaining to bottled water. These changes are necessary for clarification purposes and to make state law more consistent with federal law.

Comments

Many Californians drink bottled water as an alternative to tap water and other beverages. Thirty-five percent of those who drink bottled water do so out of concerns about tap water safety. These individuals expend significantly more money to drink bottled water than they would to consume an equal amount of tap water. Given the price differential between tap water and bottled water, the author believes it is important that consumers are provided adequate safety information before incurring this additional expense.

Since the Safe Drinking Water Act was amended in 1996, community water systems are required to supply to their customers annual reports regarding the quality of their drinking water. These "consumer confidence reports" include information about levels of detected contaminants, water sources and treatment processes. The author considers bottled water to be an alternative to tap water. He believes bottled water should be subject to requirements similar to those imposed by the Environmental Protection Agency on tap water. This bill provides California

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consumers with information about bottled water similar to what is included in the "consumer confidence reports".

Bottled water is considered a food and an alternative to soft drinks. As such, it is regulated by the U.S. Food and Drug Administration (FDA). Bottled water is subject to FDA regulations and guidelines. It is subject to FDA enforcement actions when misbranded or adulterated. Bottled water is also subject to manufacturing, processing, packaging and labeling regulations. In addition to the federal standards, the State Department of Health Services has established a set of quality standards for bottled water products sold in the state. California requires that water bottlers, distributors, and vendors be licensed.

According to the California Bottled Water Association, bottled water labels provide information about the name and address of the manufacturer, packer or distributor as well as contact information. Further information is reportedly readily available if a consumer contacts the bottled water company via toll-free numbers or written requests.

According to a study conducted by the Natural Resources Defense Counsel in 1999, Bottled Water: Pure Drink or Pure Hype, current federal and state requirements are insufficient for ensuring high standards. A key finding of this report is that bottled water regulations are

inadequate to assure consumers of either purity or safety, although both the federal government and the states have bottled water safety programs. The report notes that U.S. Food and Drug Administration requirements exempt waters that are packaged and sold within the same state from these standards. California has adopted most of the FDA regulations. The report recommends that the FDA set limits for contaminants of concern in bottled water that are at least as strict as those applicable to city tap water supplies.

The Safe Drinking Water Act requires the U.S. Food and Drug Administration to, in consultation with the U.S. Environmental Protection Agency, publish for notice an comment a study on the feasibility of appropriate methods of informing customers of the contents of bottled water. In response to this mandate, the FDA recently issued a

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draft feasibility study report evaluating and identifying appropriate methods for conveying information about bottled water to consumers in a recently published Federal Register Notice (Federal Register Notice , Vol. 65, No. 35, February 22, 2000). The Notice considered the appropriateness and feasibility of six methods of informing customers of the contents of bottled water. FDA concluded that much of the information contained in a consumer confidence report is applicable to bottled water with the caveat that certain elements are only applicable to public drinking water systems. While the Notice stated that it is not economically feasible to include all analogous consumer confidence report information on a label, other methods for conveying information to consumers could be substituted.

The FDA study on appropriate methods of informing consumers of the contents of bottled water and the feasibility of employing these methods is likely to result in guidelines applicable to all U.S. bottled water. Industry representatives believe that national and international guidelines on how to inform clients about the content of bottled water are more appropriate than state requirements.

This bill requires, after January 1, 2002, that the labels of bottled water sold in one-way packages include specified contact information, and bottlers, water haulers, operators of water vending machines and water retailers provide information about compliance with relevant laws and specified contact information to consumers through labels or information included in billing statements. _

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: No

According to the Senate Appropriations Committee:

Fiscal Impact (in thousands)

| <u>Major Provisions</u> | <u>Fund</u> | <u>2000-01</u> | <u>2001-02</u> |
|-------------------------|-------------|----------------|----------------|
| <u>2002-03</u> | | | |
| Enforcement | | <50 | <50 |
| <50 | General | | |

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DHS has estimated that the state costs of implementing this bill will probably be less than \$50,000 per year, including the costs to issue regulations.

SUPPORT : (Verified 8/22/00)

California Water Association
Sierra Club of California
Consumers Union

OPPOSITION : (Verified 8/22/00)

California Chamber of Commerce
California Nevada Soft Drink Association
McKesson Water Products Company

ARGUMENTS IN SUPPORT : The author's office notes that

consumers are buying bottled water and other forms of retail water other than water provided by public water systems expecting the non-tap water to be healthier than tap water. Bottled water may be no more than tap water that is chilled in a machine or bottled for retail sale. In addition, bottled water may contain contaminants that must be disclosed by public water systems but not by bottlers. This bill provides the consumer with better information regarding the relative water quality between bottled water and tap water.

ARGUMENTS IN OPPOSITION : Opponents argue this bill is unnecessary. They argue that this bill requires bottlers include contact information in excess of what is required by the Federal Drug Administration. Opponents assert that the bill's requirement that bottlers and water haulers who distribute directly to consumers provide an annual statement to consumers that they are in compliance with all relevant laws, regulations and guidelines is unnecessary and ambiguous. Lastly, opponents believe that the bill's requirement of making an annual statement that for "further information regarding the quality of the water, the consumer may call a specified phone number" would result in confusion and infers that there are potential quality problems with the water. _

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ASSEMBLY FLOOR :

AYES: Alquist, Aroner, Battin, Bock, Calderon, Cardenas, Cardoza, Cedillo, Corbett, Correa, Cunneen, Davis, Ducheny, Dutra, Firebaugh, Florez, Floyd, Gallegos, Granlund, Havice, Honda, Jackson, Keeley, Knox, Kuehl, Leach, Lempert, Leonard, Longville, Lowenthal, Machado, Maddox, Maldonado, Mazzoni, Migden, Nakano, Robert Pacheco, Papan, Pescetti, Reyes, Romero, Scott, Shelley, Steinberg, Strom-Martin, Thomson, Torlakson, Vincent, Washington, Wayne, Wesson, Wiggins, Wildman, Wright, Zettel, Hertzberg

NOES: Aanestad, Ackerman, Ashburn, Baldwin, Bates, Baugh, Brewer, Briggs, Campbell, Cox, Dickerson, House, Kaloogian, Margett, McClintock, Olberg, Oller, Rod Pacheco, Runner, Thompson

CP:cm 8/22/00 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****