



To the Editor:

This is an article from a series of monthly columns by Environmental Law Specialist Dianne Saxe, one of the top 25 environmental lawyers in the world. These articles are available for publishing at no charge, provided Dr. Saxe is cited as the author. She can be contacted at (416) 962 5882 or admin@envirolaw.com. For more information, visit <http://envirolaw.com>.

What's toxic in consumer products? A law we should have

Labels on consumer products like cosmetics contain a long list of ingredients, usually in teeny tiny print, in English and in French. Unfortunately, most of us have no idea how to pronounce the multi-syllable ingredients, or why they are in the product, or whether they are toxic. We choose our lipsticks based on colour, not ingredients...and certainly not on the toxicity of those ingredients.

One member of Parliament wants us to know. Peter Julian, a BC New Democrat MP, keeps proposing that the federal Parliament adopt a *Toxic Substances Labelling Act*. The latest Bill, C-338, received first reading on March 3, 2010.ⁱ

The proposed statute is concise. It covers “toxic substances” that are carcinogenic, mutagenic, toxic to development or reproduction, or endocrine disruptors. Any products (including food) that contain or produce a toxic substance are required to carry a warning label. The label must list each toxic substance and describe the risks of using it, plus the name and address of the manufacturer or distributor.

Penalties for breaking the law would start at \$5,000 for a summary conviction relating to non-food products, and \$50,000 for foods. For convictions on indictment (more serious offences), proposed penalties for non-food products are \$10,000 and/or prison for up to 6 months; for food-related offences, penalty would be a fine of up to \$250,000 and/or prison for up to 2 years. Where the offender is a corporation, its officers, directors or agents would be liable to conviction, regardless of whether the corporation were prosecuted or convicted. These penalties sound reasonable, and in line with many of the environmental statutes throughout Canada. Ultimately, most penalties would likely be fines, in the range of a few thousand dollars.

Although the government has shown no interest in the Bill, it could have strong public support. Toxic Free Canada argues that consumers need to have the right to know which toxic ingredients are in products they use – and highlight the bisphenol-A (BPA) debate.ⁱⁱ In a 2007 BC survey, 79% of consumers strongly supported mandatory labelling of carcinogens and toxic chemicals in household and consumer products.ⁱⁱⁱ

Why shouldn't consumers have the same rights as workers to know whether they are being exposed to hazardous chemicals?^{iv} Federal and provincial laws across Canada guarantee that workers have access to Material Safety Data Sheets that give details of workplace chemical hazards. Particularly hazardous products must bear clear hazard labels.^v But consumer products don't.

In California, companies must provide a "clear and reasonable" warning to consumers (e.g., via the product label) before knowingly exposing them to 800 listed chemicals that cause cancer or are reproductive toxins, unless the concentration of such chemicals are so low that they do not pose a significant risk.^{vi} This allows consumers to select household and personal care products that contain fewer toxics. It also gave manufacturers an incentive to switch away from toxic ingredients. In Canada, the extensive list of ingredients required on cosmetics packaging, for example, serves only to confuse.

Some Canadian companies are trying to do a little better. The Canadian Consumer Specialty Products Association says that its member companies will voluntarily provide consumers with more detailed ingredient information about certain products, including air care, automotive, cleaning and floor maintenance products and polishes.^{vii} However, it could take some dedicated effort to find the information, and even more effort to understand it. The data might be on labels, on manufacturers' websites or via 1-800 numbers. Similarly, there is no consistency in how the ingredients will be disclosed. Manufacturers, distributors and importers can opt to identify product ingredients by one of four identification systems: International Nomenclature of Cosmetic Ingredients (INCI) name,^{viii} International Union of Pure and Applied Chemistry (IUPAC) name, Chemical Abstract Service (CAS) name, and/or common chemical name.

Peter Julian's Bill could help a lot. Why not send him a letter or email in support: juliapl@parl.gc.ca.

Thursday, April 15, 2010

Dianne Saxe and Jackie Campbell

ⁱ Bill C-338 - *Toxic Substances Labelling Act*.

<http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=4329786&file=4> .

As well, see

<http://www2.parl.gc.ca/Sites/LOP/LEGISINFO/index.asp?Language=E&query=6774&Session=23&List=stat>

ⁱⁱ Toxic Free Canada. Toxic substances bill would protect consumers. March 12, 2009.

At <http://www.toxicfreecanada.ca/articlefull.asp?uid=61>

ⁱⁱⁱ Strategic Communications Inc. (Stratcom) Report for the BC Labour Environmental Alliance Society. BC Public Affairs Omnibus Survey April 12, 2007. At

<http://leas.ca/UserFiles/File/StratCom%20poll%20explain.pdf>

^{iv} Labour Environmental Alliance Society. Position submission to Health Canada – Chronic hazards for consumer chemical labelling. May 11, 2007. At

<http://www.leas.ca/Groups-outline-position-to-Health-Canada.htm>

^v WHMIS. At <http://www.hc-sc.gc.ca/ewh-semt/occup-travail/whmis-simdut/index-eng.php>

^{vi} California Office of Environmental Health Hazard Assessment. Proposition 65 in plain language! Updated March 2010.

<http://www.oehha.org/prop65/background/p65plain.html>

^{vii} CCSPA. CCSPA member companies on board with voluntary

Consumer Ingredient Communication Initiative. News release – March 17, 2010

<http://www.healthycleaning101.org/english/2010march17pressrelease.pdf> . Parameters -

<http://www.healthycleaning101.org/english/consumeringredientcommunication.pdf>

^{viii} Cosmetic Regulation at s. 18. At

<http://laws.justice.gc.ca/PDF/Regulation/C/C.R.C., c. 869.pdf>