

AB 958 (Ting)

PROBLEM – Toxic Chemicals in Fast Food Packaging

A recent survey revealed that hamburgers, french fries, burritos, pizza and other fast food items are often served in paper wrappers or boxes coated with grease-repellent per- and polyfluoroalkyl substances (PFASs, formerly referred to as PFCs). This finding is especially worrisome because on any given day, one in three American children eat fast food. In addition, low income urban communities of color experience higher rates of exposure

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because of greater dependence on packaged food and purposeful fast food marketing in those communities. And studies show that **PFASs used to coat paper and other packaging readily migrate into food**, especially when the packaging is used for oily and hot or heated foods like microwave popcorn.

A child eating a sandwich wrapped in a PFAS-loaded wrapper also ingests some of these toxic chemicals, and PFASs can be passed from mother to child through the umbilical cord and breast milk. Scientists from around the world have sounded the alarm about exposure to this new generation of PFASs.

Perfluorinated Chemicals:

PFAS — toxic synthetic chemicals like those used in nonstick frying pans, raincoats and many other household products — have been used in food packaging for decades. Their widespread use has led to detection of PFASs in the bodies of virtually all Americans, with cookware and food packaging being one of the most direct avenues of exposure when the chemicals migrate into food and beverages. This “leaching” phenomenon is so well characterized, that the FDA

refers to such chemicals as Indirect Food Additives; ie, unintentional food ingredients. The most notorious member of this chemical family is PFOA, used to make Teflon, a powerful carcinogen that polluted the drinking water near a DuPont facility in Parkersburg, West Virginia. In March of this year, DuPont and its spinoff company agreed to pay \$671 million in claims from residents made sick by the contaminated water.

Decades of research have linked PFOA — and its cousin, PFOS, formerly used to make Scotchgard, but phased out by 3M — **to an array of health hazards including cancer, developmental toxicity, and reduced effectiveness of vaccines**. Although PFOA has now been phased out, thousands of similar, **spin-off chemicals are still on the market, and they have not been thoroughly tested for safety**. Dozens of these spin-off PFASs have been found in fast food packaging.

In a recently released paper, **an international group of scientists called for global action to study and regulate the entire class of PFASs**. The scientists describe the proliferation of PFASs, which are extraordinarily persistent in the environment, “as an intractable, potentially never-ending chemicals management issue that challenges the conventional chemical assessment and management paradigm adopted by society since the 1970s.”

The scientists’ concerns stem from recent studies that indicate that the new generation of PFASs behave similarly in the body and the environment to PFOA and PFOS. During one industry experiment on a new form of PFAS, rats exposed to the chemical developed cancerous tumors in the liver, pancreas, and testicles, as well as kidney disease, liver degeneration, and uterine polyps. In addition, **another recent study demonstrates that short-chain PFASs accumulate in human organs and are not fully expelled from the human body**.



Current Federal Law:

Since 1958, the federal Food and Drug Administration (FDA) has been charged with regulating chemicals used in food packaging. However, **the FDA's regulatory system is broken**. The FDA's early approval of nearly 3,000 food packaging chemicals was based on limited toxicology and decades-old science. **Today's science indicates that some of these approved chemicals cause serious harm at extremely low doses — doses considered safe when the FDA approved them.**



In 1997, the FDA adopted new regulatory processes to approve chemicals used in food packaging. These new processes **lessened government and public oversight of the chemicals added to food packaging**, giving more responsibility to manufacturers to determine what is safe.

The primary regulatory option in use today is the Generally Recognized as Safe (GRAS) determination.

This option allows manufacturers, or their chosen experts, to determine if a chemical is safe for use in packaging without notice to, or input from, the FDA or the public. **GRAS determinations are made under a veil of secrecy.** Manufacturers do not have to disclose the identity of the chemical for which they made a GRAS determination, or the safety information upon which they based their decision. Despite these regulatory flaws, approximately 3,700 chemicals have been approved through the GRAS process.

This faulty regulatory structure, whether based on limited science or on manufacturer decision making, has led to the use of **known toxic chemicals in food packaging that can leach into the food**. Although corporate secrecy prevents the number of toxic chemicals used in food packaging from being fully known, a recent analysis indicates that at least 175 chemicals used in food packaging are known or suspected endocrine disruptors, or exhibit carcinogenic, mutagenic, or reproductive toxicity.

Current State Law:

California's Safer Consumer Products Program, established in 2008, requires the Department of Toxic Substances Control to evaluate chemicals used in consumer products that have the potential to adversely impact public health and the environment. The department is to then establish a process to evaluate safer alternatives to the use of a chemical and to potentially regulate the chemical or product. To date, the program has not regulated any chemical or chemical/product combination in a consumer product, as the process established by the law and subsequent regulations is very slow-moving.

While the Safer Consumer Products Program does not address food itself, it is authorized to address food packaging. The chemical/product combination that is the subject of AB 958 is not part of the program's current or draft work plan, and will not likely be included in the work plan or any department action for many years.

SOLUTION: Assembly Bill 958 by Assembly Member Phil Ting of San Francisco

Assembly Bill 958 requires DTSC to establish PFAS-containing food contact materials as priority products subject to the Safer Consumer Products program.

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