

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 9, 2007
POSITION: Oppose

BILL NUMBER: SB 456
AUTHOR: J. Simitian
RELATED BILLS: AB514

BILL SUMMARY: Diacetyl Ban

This bill would prohibit the manufacturing, processing, or distribution of products containing diacetyl effective June 1, 2008. The bill would provide authority for the Director of the Office of Environmental Health Hazard Assessment (OEHHA) to defer the prohibition's effective date for a specific product for a maximum of four years under specified conditions.

FISCAL SUMMARY

This bill provides OEHHA with the authority to defer the ban on a product containing diacetyl if it receives a manufacturer request that meets specified conditions. OEHHA estimates it would require \$87,000 General Fund (GF) in 2007-08 and \$174,000 GF and a Research Scientist III position in 2008-09 and ongoing to review manufacturer requests and determine which requests meet the conditions for a prohibition delay. The bill does not contain an appropriation.

COMMENTS

The Department of Finance is opposed to this bill for the following reasons:

- The bill's language would ban hundreds of consumer food products no later than June 1, 2008; however, it appears that harmful effects from diacetyl are restricted to occupational exposures, making such a broad-based ban unnecessary.
The bill imposes costs upon OEHHA and does not contain an appropriation to cover these costs.
It is unclear by what means or by what entity the bill's provisions would be enforced. No funding is included in the bill for enforcement.
Cal/OSHA, DHS, the federal government, and other stakeholders are currently examining the issue of exposure to diacetyl. They are also looking at occupational safety measures that might be required to ensure worker safety. Since their findings could result in determinations of a PEL and effective mitigation measures, a ban on products containing diacetyl may be premature.
It is unclear how OEHHA would determine that a prohibition on the sale of a specific product would "cause substantial economic hardship to the users of the product", one of the conditions necessary to qualify for an OEHHA authorization to delay ban implementation.

Diacetyl is an artificial flavoring that is mixed with other ingredients to produce a butter-like flavor in a variety of food products. It is used in hundreds of consumer products, among them microwave popcorn, pancake syrup, cakes, candies, and frozen foods. Exposure to diacetyl vapors in the workplace has been associated with constrictive bronchiolitis obliterans, or "popcorn worker lung", a severe and potentially fatal lung disease that causes scarring of the lungs and impairment of lung function.

(Continued)

Analyst/Principal Date Program Budget Manager Date
(0623) D. Harper Karen Finn

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

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COMMENTS (continued)

In the last year, the California Department of Health Services (DHS) confirmed eight cases of California workers who have contracted bronchiolitis obliterans. DHS is investigating additional cases and is a member of a Cal/OSHA-led advisory committee that is examining occupational exposures to this chemical. We note that, according to the author's office, no safe or permissible exposure level (PEL) has been determined by either state or federal governmental entities by which mitigation measures might be developed and implemented. (Note: mitigation measures are control measures that reduce exposure to a specific substance to a pre-determined safe exposure level.)

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2006-2007	FC	2007-2008	FC	2008-2009	
3980/EnvirHlthHaz	SO	No		--	C	\$87	C	\$174	0001