

California Labeling Law Backfires on Organic Grocer

By ACSH Staff — July 15, 2002

In California, any product containing a chemical known to cause cancer in laboratory animals cannot be sold without a warning label, according to Proposition 65, a state consumer-protection law established in 1986.

But one watchdog group plans to sue a large retailer of natural and organic foods to prove just how ridiculous the law is.

Jeff Stier, an attorney for the American Council on Science and Health, plans to sue the Whole Foods Market because it does not affix warning labels, as mandated by Proposition 65, on any of its whole-grain wheat breads. The company's Whole Wheat Farm Bread, billed by Whole Foods Market as the staff of life, is actually full of carcinogens, Stier said.

The carcinogen that Stier specifically refers to in the lawsuit is acrylamide, a naturally occurring chemical found to cause cancer in laboratory rats.

Acrylamide made headlines recently when researchers announced that fried, high-carbohydrate foods such as French fries and potato chips may contain acrylamide.

People like picking on French fries because we know they aren't so healthy if you eat too many of them, Stier said. But any carbohydrate that's baked or fried contains acrylamide.

That includes whole-grain wheat bread, he said.

Stier doubts whole-grain wheat bread is going to cause cancer, just as French fries aren't going to cause cancer. It's the dose that makes the poison, he said. He called that the number one rule of toxicology.

Stier's group, the American Council on Science and Health, is a nonprofit consumer education organization that delights in debunking junk science. In this case, said Stier, ACSH does not buy the argument advanced by Whole Foods Market that trace levels of chemicals in the environment are dangerous and that's why you need to pay 100 percent more to buy organic produce.

The ACSH intends to invoke a provision within Prop. 65 that encourages any private citizen acting in the public interest to bring lawsuits against manufacturers of products that contain hazardous chemicals and do not have warning labels affixed to them.

Stier said he prefers the term bounty hunter as opposed to private citizen.

Bounty hunters can earn up to \$3,000 a day for each day a manufacturer is in violation of Prop. 65's labeling requirement, Stier said. Some environmental activist groups in California exist solely to bring Prop. 65 lawsuits against manufacturers, he added.

They're kind of self-perpetuating, Stier said of the activists. They go around suing people who make different chemicals and different products that have chemicals in them.

But Stier believes his lawsuit against Whole Foods Market will turn the table on activists who share the grocer's green ideologies.

Even the purest of pure foods sold by the purest of Whole Foods' stores contains carcinogens, Stier said.

Stier's group is particularly offended by Whole Foods' concept that trace levels of chemicals in the environment or in foods cause cancer in humans simply because they cause cancer in laboratory animals.

Stier hopes his lawsuit will force lawmakers and activists to acknowledge that Prop. 65 does not properly take into account that it's the amount of exposure to a given chemical that matters.

It's an ill-advised law because it doesn't take into account, number one, that an animal carcinogen is not necessarily a human carcinogen, Stier said.

And, he said, Prop. 65 is a really big problem for businesses in California because they have to put warning labels on everything. They don't know what they have to put warning labels on, he said.

According to Whole Foods Market spokesperson Kate Lowery, the company actually agrees with Stier.

We agree with the absurdity of what they're trying to propose in their news release, Lowery said. We obviously don't agree with them using our name.

She complained that the ACSH's use of Whole Foods Market's name has nothing to do with the actual issue at hand.

It was their way to get publicity out of this thing, Lowery said of Stier and the ACSH.

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