



July 28, 2014

The Honorable Mike Gatto, Chairman
Assembly Committee on Appropriations
State Capitol
Sacramento, CA 95814

RE: SB 193 (Monning) – OPPOSE UNLESS AMENDED

Dear Chairman Gatto:

The above listed organizations have taken an “Oppose Unless Amended” position on SB 193, legislation that would increase administrative burdens on business and jeopardizes confidentiality of sensitive customer information by allowing the Hazard Evaluation System and Information Service (HESIS) – a joint program of the Dept. of Industrial Relations (DIR) and the Dept. of Public Health (DPH) - to obtain customer lists from manufacturers, formulators, distributors and others of certain chemicals.

SB 193 provides significant new authority to compel businesses to release highly sensitive information. It is our understanding that the ultimate intent of this is to enable transmittal of warning materials directly to customers,

completely independent of the State adopted hazard communication system long established as the standard mechanism for such warnings. This could interfere with that comprehensive hazard communication system already required under existing law. If the State is going to require a private company to turn over sensitive customer information, it should at least be required to justify this request based on very clear criteria and a thoroughly defined process that fits within existing workplace safety protocols established under federal and state law.

Our industry coalition has proposed two specific amendments that will address our concerns and not inhibit the proponents from achieving their stated objective:

1. Director of Department of Industrial Relations Involvement

This bill will create an enforcement action that we believe should be overseen by the Director of DIR. The purpose of sending alerts directly from HESIS to businesses is not consistent with existing Federally- and State-mandated workplace protocols for transmitting such information. In order to ensure the integrity of those primary workplace hazard protocols, this new authority should be utilized only in extreme circumstances. This overall system for assuring workplace safety is under regulatory authority of the Director. **DIR funds HESIS, reviews all HESIS alerts, the DIR seal appears on all alerts and DIR inspectors distribute alerts to workplaces.** Therefore we believe the Director of Industrial Relations should retain explicit oversight authority.

2. Establish a reasonable trigger threshold

According to the author's office, there have been only four instances in the last 10 years when HESIS would have used the authority provided under this bill. However, the current language would give HESIS the ability to request confidential business information much more broadly. Our proposed language inserts key criteria, taken directly from existing California health regulations, to assure this recourse is used only in the extreme circumstances envisioned by the author.

Coalition Proposed Amendments

Page 5, beginning on line 18:

(3) When there is new scientific or medical information and the Chief of HESIS determines, in consultation with ~~the Chief of the Division of Environmental & Occupational Disease Control~~ the Director of the Department of Industrial Relations, that a substance potentially in use at concentrations or under conditions that poses a serious new or unrecognized health hazard to an employee, and that cannot be made safe under existing standards or orders and requires immediate action to avoid serious harm including but not limited to cancer, reproductive or developmental harm, organ system impairment, or death, chemical manufacturers, formulators, suppliers, distributors, importers, and their agents shall provide to HESIS the names and addresses of their customers who have purchased certain chemicals, as specified by HESIS, or commercial products containing those chemicals and information related to those shipments, including the quantity and dates of shipments, and the proportion of a specified chemical within a mixture containing the specified chemical upon written request by HESIS for every product the final destination of which may be a place of employment in California. This paragraph shall not apply to a retail seller of the substance, either sold individually or as part of a commercial product to the public. The following shall apply to this paragraph:

For the above listed reasons, we urge you to oppose SB 193 in its current form. Should you have any questions, please contact Tim Shestek with the American Chemistry Council at 916-448-2581 or via email at tim_shestek@americanchemistry.com. Thank you in advance for considering our position.

cc: The Honorable Bill Monning