
SENATE COMMITTEE ON HEALTH

Senator Dr. Akilah Weber Pierson, Chair

BILL NO: SB 1033
AUTHOR: Padilla
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SUBJECT: Protein products

SUMMARY: Requires a manufacturer of a bulk protein product or a packaged protein product that is offered for sale in California, beginning January 1, 2028, to test a representative sample of each lot of the bulk protein product or packaged protein product for heavy metals. Requires a brand owner of a packaged protein product that is offered for sale in California, beginning January 1, 2028, including protein products that are sold directly to consumers, to disclose product information to the public about the results of the heavy metal testing.

Existing law:

- 1) Enacts the Sherman Food, Drug and Cosmetic Law (Sherman Law), enforced by the California Department of Public Health (CDPH), which provides broad authority for CDPH to enforce food safety requirements, including that food is not adulterated, misbranded, or falsely advertised. Food labeling requirements generally adopt federal food labeling laws as the state requirement, including nutrition labeling and allergen labeling, but CDPH is permitted, by regulation, to adopt additional food labeling regulations. [HSC §109875, et seq. and §110380]
- 2) Requires, beginning January 1, 2027, a manufacturer of a bulk prenatal multivitamin product or a packaged prenatal multivitamin product to test a representative sample of each lot at a proficient laboratory for heavy metals. Requires the laboratory to be able to quantify each toxic element to at least 10 micrograms or less of the heavy metal to kilogram of supplement. [HSC §110424.1]
- 3) Requires, beginning January 1, 2027, a brand owner of a packaged prenatal multivitamin product to disclose information on the results of the testing for heavy metals, and to include on the packaging a web address where people can get information on the heavy metal testing. [HSC §110424.2]
- 4) Requires a manufacturer of baby food for sale or distribution in this state to test a representative sample of each production aggregate of the manufacturer's final baby food product, at least once per month, at a proficient laboratory, for arsenic, cadmium, lead, and mercury. Requires the laboratory to be able to quantify each toxic element to at least six micrograms to kilogram of food. [HSC §110962(b)(1)]
- 5) Requires a manufacturer of baby food for sale or distribution in this state to disclose product information for baby food sold, including making publicly available on the manufacturer's website the name and level of each toxic element present in a final baby food product. [HSC §110962(b)(2)]
- 6) Requires, if a baby food product is tested for a certain toxic element subject to an action level, regulatory limit, or tolerance established by the federal Food and Drug Administration

(FDA), to include a Quick Response (QR) code that links to a page on the manufacturer's website that contains test results for the toxic element and a link to an FDA website where consumers can find the most recent FDA guidance and information about the health effects of the toxic element on children. [HSC §110962(b)(B)]

- 7) Prohibits, under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), a person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. [HSC §25249.6]
- 8) Permits, under Proposition 65, a warning to be provided by general methods, such as labels on consumer products, posting of notices, placing notices in public news media, and the like, provided that the warning is clear and reasonable; requires regulations implementing Proposition 65, to the extent practicable, to place the obligation to provide any warning materials on the producer or packager rather than on the retail seller, except where the retail seller itself is responsible for introducing a chemical known to the state to cause cancer or reproductive toxicity. [HSC §25249.11(f)]

Existing federal law:

- 1) Establishes, through the FDA, various requirements for food labels under the Federal Food, Drug, and Cosmetic Act (FD&C Act), which includes the Nutritional Labeling and Education Act and the Food Allergen Labeling and Consumer Protection Act. These include requiring specified nutrition information, a listing of all ingredients, and whether a product contains any of eight major food allergens, such as milk, eggs, shellfish, tree nuts, etc. [21 USC §301, et seq. and 21 CFR §101, et seq.]
- 2) Defines “dietary supplement” as a product intended to supplement the diet that bears or contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance to supplement the diet by increasing the total dietary intake; or, a concentrate, metabolite, constituent, extract, or combination of any of these ingredients. Excludes from this definition something that is represented for use as a conventional food or as a sole item of a meal or the diet. [21 USC §321(ff)]

This bill:

- 1) Requires a manufacturer of a bulk protein product or a packaged protein product that is sold, manufactured, delivered, held, or offered for sale in California, beginning January 1, 2028, to test a representative sample of each lot of the manufacturer's bulk protein product or packaged protein product at a proficient laboratory for heavy metals.
- 2) Defines various terms for purposes of this bill, including the following:
 - a) “Protein product” means a dietary supplement in powdered, liquid, or solid form, containing concentrated protein, often derived from animal or plant sources, used to increase dietary protein intake. Specifies that a protein product contains at least five grams of protein per serving.
 - b) “Bulk protein product” means the bulk protein product in finished form before it is packaged and labeled. Specifies that bulk protein product does not mean the constituent ingredients of a protein product;

- c) “Packaged protein product” means the bulk protein product that has been packaged for sale or distribution to the public. Specifies that the product label can include, but is not required to have, a unique universal product code (UPC);
 - d) “Brand owner” means the person who owns or licenses the trademark that is the most prominent trademark on the principal display panel of the protein product label. Specifies that the manufacturer of a protein product for another person who owns the trademark is not the brand owner;
 - e) “Heavy metals” means arsenic, cadmium, lead, and mercury;
 - f) “Manufacturer” means a person who is either a brand owner who manufactures a protein product, or a person who manufactures but is not the brand owner of a protein product;
 - g) “Representative sample” means a sample that consists of a number of units that are drawn based on rational criteria, such as random sampling, and intended to ensure that the sample accurately portrays the material being sampled; and,
 - h) “Lot” means a batch, or a specific identified portion of a batch, that is uniform and is intended to meet specifications for identity, purity, strength, and composition or, in the case of a dietary supplement produced by continuous process, a specific identified amount produced in a specified unit of time or quantity in a manner that is uniform and is intended to meet specifications for identity, purity, strength, and composition.
- 3) Requires a brand owner of a packaged protein product that is sold, manufactured, delivered, held, or offered for sale in California, including protein products that are sold by a retailer or that are sold directly to consumers, beginning January 1, 2028, to disclose product information to the public as follows:
- a) Requires the brand owner to make publicly available on its website, with all the information on the same web page, for the duration of the product shelf life for a packaged protein product plus one month, the following:
 - i) The name and level of each heavy metal present in each lot of a packaged protein product when the product lot is tested;
 - ii) Information from the product’s supplement facts panel, including the amount per serving of each ingredient; and,
 - iii) The following statement: “Protein products containing certain minerals that are used to supplement protein intake may contain trace levels of heavy metals based on how the ingredients are sourced.”
 - b) Requires the heavy metal testing information to be available to the public without having to provide a UPC number, a lot number, or a proof of purchase;
 - c) Requires the brand owner to provide descriptive information on its website to enable accurate identification of the packaged protein product by the public, including information that makes the levels of heavy metals available to the public by lot;
 - d) Requires the brand owner to provide a website hyperlink to the FDA where the public can find the most recent FDA internet website relating to heavy metals in food;
 - e) Requires the brand owner’s website describing a packaged protein product to include a prominent statement that reads “For information about heavy metal testing on this product” followed by a hyperlink to the website that contains the publicly available test results; and,
 - f) Requires the outermost package of a packaged protein product sold in a retail store beginning January 1, 2028, to include a statement that reads: “For information about heavy metal testing on this product, visit” followed by the website where the information required by this bill is posted. Requires this statement and hyperlink, for a packaged

protein product sold online or directly to consumers beginning January 1, 2028, to be included on the website where the product is sold.

- 4) Requires a “proficient laboratory” that analyzes the protein products for heavy metals, including a manufacturer’s in-house laboratory, to meet the following criteria:
 - a) The laboratory is accredited under the standards of the International Organization for Standardization’s (ISO) and the International Electrotechnical Commission’s (IEC) specified international standard regarding the general requirements for the competence of testing and calibration laboratories as they pertain to the testing of heavy metals. Requires that to the extent such standards contradict the requirements of any federal regulations promulgated pursuant to the FD&C Act pertinent to supplements, the federal regulations control;
 - b) The laboratory uses an analytical method that is at least as sensitive and specific as described in the FDA’s Elemental Analysis Manual for Food and Related Products: Inductively Coupled Plasma-Mass Spectrometric Determination of Arsenic, Cadmium, Chromium, Lead, Mercury, and Other Elements in Food Using Microwave Assisted Digestion; and,
 - c) The laboratory demonstrates proficiency in quantifying each heavy metal to six micrograms or less of the heavy metal to kilogram of supplement through an independent proficiency test, as specified.
- 5) Requires both manufacturers and brand owners to provide test results to an authorized agent of CDPH upon their request, as specified. Permits a brand owner, if it does not manufacture the bulk protein product or packaged protein product, to comply with this requirement by providing the test results of the manufacturer they use to produce the bulk protein or packaged protein product.
- 6) Prohibits a person, beginning January 1, 2028, from selling in California or manufacturing, delivering, holding, or offering for sale in California a protein product, including a protein product that is sold by a retailer or that is sold directly to consumers, that does not comply with the provisions of this bill.
- 7) Contains a severability clause so that if any provision of this bill is held invalid, other provisions or applications can be given effect without the invalid provision or application.

FISCAL EFFECT: This bill has not been analyzed by a fiscal committee.

COMMENTS:

- 1) *Author’s statement.* According to the author, the sale of protein products, marketed as health and nutrition supplements, have skyrocketed in California. Investigations have found that several of these protein products contain unsafe levels of heavy metals for prolonged use, including arsenic, cadmium, and lead. Consumers deserve to know what they are putting into their bodies, and right now there’s a troubling lack of transparency when it comes to toxic heavy metals. California has already enacted laws that regulate contaminants in menstrual products, prenatal vitamins, baby food, and cosmetics. This bill will require manufacturers to test their protein products for heavy metals, make those results publicly available, and prohibit the sale of products that fail to comply thus ensuring informed consumer choice. This bill addresses a growing public health concern, protects Californians from preventable

harm, and reinforces the state's commitment to transparency, safety, and responsible product regulation.

- 2) *FDA regulation of dietary supplements.* Under the FD&C Act, as amended in 1994 by the Dietary Supplement Health and Education Act (often referred to as DSHEA), the FDA does not have the authority to approve dietary supplements for safety and effectiveness, or to approve their labeling, before the supplements are sold to the public. Instead, dietary supplements are regulated by the FDA in much the same manner as food, which means they are subject to requirements relating to good manufacturing practices, and must meet certain labeling standards, among other requirements. According to the FDA, it is the responsibility of dietary supplement companies to ensure their products meet the safety standards for dietary supplements and are not otherwise in violation of the law. Dietary supplement labels are required to have nutrition information in the form of a Supplement Facts label that includes the serving size, the number of servings per container, a listing of all dietary ingredients in the product, and the amount per serving of those ingredients. They also must have a statement on the front of the product identifying it as a “dietary supplement” or similar descriptive term (e.g., “herbal supplement” or “calcium supplement”). The FD&C Act requires that manufacturers and distributors who wish to market dietary supplements that contain a “new dietary ingredient” (NDI) to notify the FDA about these ingredients. An NDI is an ingredient that was not marketed in a dietary supplement in the U.S. prior to October 15, 1994. When notifying the FDA about an NDI, the notification must include information that is the basis on which the manufacturer or distributor has concluded that a dietary supplement containing the NDI will reasonably be expected to be safe under the conditions of use recommended or suggested in the labeling. While the FDA is not required to formally approve an NDI, it will consider a dietary supplement “adulterated” unless the NDI has been present in the food supply in the same chemical form that it is planned to be used in the dietary supplement, or the manufacturer has shown evidence of safety at least 75 days before being introduced or delivered for introduction into interstate commerce, including any citation to published articles.
- 3) *Consumer Reports investigative report on heavy metal contamination in protein powders and shakes.* In October of 2025, Consumer Reports published an investigative report after testing a number of products purchased in New York for lead and other heavy metals in protein powders and protein shakes. This report was a follow-up to a similar Consumer Reports article from July of 2010, which also found elevated heavy metals in protein supplements. The follow-up report in 2025 found that heavy metal contamination has become even more common among protein products than 15 years earlier, suggesting that as the popularity of these products continues to grow, the risks of contamination were growing as well. In fact, the product with the highest lead levels in the most recent report had nearly twice as much lead per serving as the worst product from 2010. According to Consumer Reports, the lead levels in plant-based products were, on average, nine times the amount found in those made with dairy protein like whey, and twice as great as beef-based ones. Dairy-based protein powders and shakes generally had the lowest amounts of lead, but half of the products tested still had high enough levels of contamination that their experts advised against daily use. Consumer Reports used 0.5 micrograms (μg) of lead per day as its “level of concern,” which is the level at which Proposition 65 requires a warning label (see the description of Proposition 65 and safe harbor limits below). Consumer Reports noted that many of these protein supplements are fine to have occasionally, but because lead lingers in the body, small amounts add up over time, and for many people, protein supplements are part of their daily routine. Of the 23 products tested by Consumer Reports in the 2025 report, it identified two

protein powders with such high levels of lead (with each serving containing well over 10 times the concern level of 0.5 µg per day) that it recommended avoiding these two products entirely. Consumer Reports recommended that another two products with about five times the concern level of lead should be restricted to about one serving per week. Consumer Reports suggested that 12 of the products could be consumed occasionally, such as a few times a week, while it found seven products had low enough levels that they could be consumed once a day.

- 4) *Why are these toxic elements in supplements and other food products?* The FDA's "Closer to Zero" initiative is working to reduce childhood exposure to toxic elements in food. According to the FDA, arsenic, lead, cadmium and mercury may occur in the environment naturally (as elements in the earth's crust) and from human activities. Levels in the air, water, and soil used to grow crops, process foods, and raise animals can vary depending on natural geographical proximity to past or current pollution. The amount of arsenic, lead, cadmium, or mercury in certain foods depends on the amount in the environment and how much the plant or animal 'takes up' from the environment.
- 5) *Proposition 65.*
 - a) *Background.* The Safe Drinking Water and Toxic Enforcement Act, commonly referred to as Proposition 65, was a ballot measure passed by California voters in 1986 to address their concern that "hazardous chemicals pose a serious potential threat to their health and well-being, [and] that state government agencies have failed to provide them with adequate protection...." Proposition 65 requires the state to publish a list of chemicals known to cause cancer or reproductive toxicity. This list, which must be updated at least once a year, currently includes approximately 900 chemicals. The Office of Environmental Health Hazard Assessment (OEHHA) administers the Proposition 65 program, including evaluating all currently available scientific information on substances considered for placement on the list. Under Proposition 65, businesses in California are required to provide a "clear and reasonable" warning before knowingly and intentionally exposing anyone to a Proposition 65-listed chemical. Warnings can be made in many ways, including by labeling a consumer product, posting signs, distributing notices, or publishing notices in a newspaper. Once a chemical is listed, businesses have 12 months to comply with warning requirements. There are some exemptions from the warning requirement, including if the exposures they cause are so low as to create no significant risk of cancer or birth defects or other reproductive harm.
 - b) *Enforcement of Proposition 65.* The California Attorney General's Office enforces Proposition 65. Any district attorney or city attorney (for cities whose population exceeds 750,000) may also enforce Proposition 65. In addition, any individual acting in the public interest may enforce Proposition 65 by filing a lawsuit against a business alleged to be in violation of this law. Lawsuits have been filed by the Attorney General's Office, district attorneys, consumer advocacy groups, private citizens, and law firms. Penalties for violating Proposition 65 by failing to provide warning notices can be as high as \$2,500 per violation per day. State law requires any person suing "in the public interest" to enforce Proposition 65, to notify the Attorney General of the lawsuit and outcome of the case. State law authorizes the Attorney General to determine if there is basis to the private action. All reports on Proposition 65 private actions must be filed electronically with the Attorney General's Office.

- c) *Proposition 65 “safe harbor” from warning label requirement.* For some of the listed chemicals, OEHHA has determined a “safe harbor” threshold, meaning that if the exposure is below the safe harbor threshold, business do not have to provide a Proposition 65 warning. For chemicals that have been listed for causing cancer, the safe harbor threshold is labeled as “No Significant Risk Level (NSRL),” while the safe harbor for chemicals listed for reproductive toxicity is known as the Maximum Allowable Dose Level (MADL). Both of these limits are intended to be set with wide safety margins. For example, the MADL is intended to be set at a value where exposure at 1,000 times the MADL will have no observable effect. This bill requires companies to test for four chemicals, all of which are on the Proposition 65 list: arsenic, cadmium, lead, and mercury. While there is no established safe harbor threshold for mercury, here are the exposure limits for the other three chemicals included in this bill:

Arsenic, listed for cancer only:

NSRL: 10 micrograms (μg) per day, or 0.06 μg per day for inhalation

Cadmium, listed for both cancer and reproductive toxicity:

NSRL: 0.05 μg per day for inhalation

MADL: 4.1 μg per day (oral)

Lead, listed for both cancer and reproductive toxicity:

NSRL: 15 μg per day

MADL: 0.5 μg per day

- 6) *Double referral.* This bill is double referred. Should it pass out of this Committee, it will be referred to the Senate Environmental Quality Committee.
- 7) *Related legislation.* AB 2030 (Lowenthal) prohibits selling a dietary supplement for weight loss or muscle building, or an over-the-counter diet pill, to those under 18 years of age. *AB 2030 is set for hearing on March 24, 2026 in the Assembly Health Committee.*

AB 2034 (Addis) makes a number of new requirements related to food additives, including deeming a color additive, food additive, or dietary ingredient as unsafe for food if it is found to induce cancer in a human or animal, or unless the substance and its intended use meets one of certain conditions. AB 2034 establishes a licensing process for certain food additives under CDPH and requires CDPH to maintain a database for notices related to food additives and dietary ingredients. *AB 2034 is set for hearing on April 7, 2026 in Assembly Health Committee..*

AB 2302 (Celeste Rodriguez) establishes requirements related to the testing and disclosure of heavy metals that are similar to this bill, but applies to infant formula. *AB 2302 is set for hearing on March 24, 2026 in the Assembly Health Committee.*

- 8) *Prior legislation.* SB 646 (Weber Pierson, Chapter 602, Statutes of 2025) requires manufacturers of prenatal multivitamin products to test samples of the vitamins for arsenic, cadmium, lead, and mercury, and requires the brand owner of a multivitamin product to disclose the testing results and other information to the public.

SB 754 (Durazo, Chapter 604, Statutes of 2025) requires manufacturers of disposable tampon or pad products to maintain information regarding the concentrations of specified chemicals

beginning December 31, 2026, and requires the Department of Toxic Substances Control (DTSC) to conduct relevant oversight.

AB 82 (Weber of 2024) would have prohibited a retail establishment from selling dietary supplements for weight loss or over-the-counter (OTC) diet pills to any person under 18 years of age without a prescription. AB 82 would have required CDPH to determine which dietary supplements and OTC diet pills were subject to the bill, and develop a notice for distribution to retail establishments for posting that stated that certain dietary supplements for weight loss and OTC diet pills may contribute to specified medical conditions or other serious injury, or death. *AB 82 was held on the Senate Appropriations Committee suspense file.*

AB 899 (Muratsuchi, Chapter 668, Statutes of 2023) requires manufacturers of baby food to test a representative sample of final products for arsenic, cadmium, lead, and mercury, as specified, and to disclose information to consumers about the levels of these toxic elements present in each final product.

AB 1178 (Quirk of 2019) would have required a manufacturer or distributor of dietary supplements that contain live microorganisms, to include the genus, species, and strain of each live microorganism in the dietary supplement on the label of the dietary supplement. *AB 1178 was held on the Senate Appropriations Committee suspense file.*

AB 1316 (Quirk and Cristina Garcia, Chapter 507, Statutes of 2017) requires CDPH to revise its regulations for the Childhood Lead Poisoning Prevention Program to redefine the assessment of risks for the purposes of evaluating a child's risk for lead exposure.

AB 688 (Pan, Chapter 681, Statutes of 2011), among other things, prohibits a retail food facility from selling or offering for sale after the “use by” date infant formula or baby food that is required to have this date on its packaging pursuant to federal law.

AB 455 (Chu, Chapter 679, Statutes of 2003) enacted the “Toxics in Packaging Prevention Act,” which prohibits a manufacturer, importer, agent, or supplier, as defined, from offering for sale or for promotional purposes in this state a package or packaging component that includes a regulated metal, defined as lead, cadmium, mercury, or hexavalent chromium, if that regulated metal has been intentionally introduced into the package or packaging component during manufacturing or distribution.

- 9) *Support.* This bill is co-sponsored by the Environmental Working Group, Consumer Reports, and the Center for Environmental Health. The co-sponsors state that protein products, including powders and beverages, are widely consumed by adults, adolescents, athletes, and families seeking to improve their health and nutrition. However, independent investigations raise serious concerns about contamination with toxic heavy metals, raising significant public health concerns and underscoring the need for stronger oversight. The testing revealed that more than two-thirds of products contained lead levels exceeding what food safety experts consider safe for daily consumption, in some cases by more than ten times the recommended level, and several products also contained cadmium and inorganic arsenic, both of which are linked to serious health risks including cancer. The co-sponsors note that plant-based protein powders were particularly problematic, containing on average nine times more lead than dairy-based products. According to the co-sponsors, research conducted by the Clean Label Project found that nearly half of the protein products tested

exceeded at least one state or federal safety threshold for lead, cadmium, mercury, or arsenic. While not a new problem, it has grown over the years, with average lead concentrations higher than those identified in testing conducted 15 years ago, and fewer products testing below detectable levels. Co-sponsors state that dietary supplements such as protein powders are not reviewed or tested by the FDA before being sold, and there are no enforceable federal limits on heavy metal contamination in these products. Experts warn that even small amounts of lead can accumulate in the body over time and contribute to neurological damage, kidney disease, reproductive problems, and other chronic health conditions. Co-sponsors state that this bill addresses this issue by ensuring protein products are appropriately tested for heavy metals and the information is made public.

Numerous organizations support this bill, stating that research on the levels of heavy metals in protein products is alarming, as exposure to these heavy metals can have serious and potentially permanent health consequences. Consumers are often unaware of these risks due to a lack of mandatory testing and transparent disclosure.

- 10) *Letter of concern.* The Council for Responsible Nutrition (CRN) and Consumer Healthcare Products Association (CHPA) submitted a joint letter of concern, stating that they are both working with their memberships to fully assess the impact of this proposal. CRN and CHPA stated that they remain fundamentally concerned about any statutory requirement mandating the disclosure of naturally occurring heavy metals contained in products regardless of the level and science-based evidence of health impact. CRN and CHPA state that many healthy products that the general public is strongly encouraged to consume, including leafy greens, root vegetables, rice, and fruit crops, all contain some level of heavy metals, but that does not mean that disclosing the presence at any level to consumers of these and other healthy products makes good public policy sense. CRN and CHPA state that should one's exposure to heavy metals meet or exceed certain health thresholds, then consumers should be made aware of this fact, and this is exactly what California already does through Proposition 65. CRN and CHPA state that both the protein products and the specified heavy metals in this bill fall within Proposition 65's purview, and relying on that law, rather than disclosing the presence of heavy metals at any level, is the appropriate mechanism through which to inform consumers of exposures to heavy metals.
- 11) *Opposition.* The American Herbal Products Association (AHPA) states in opposition that this bill would create significant duplicative burdens for industry that would raise consumer concerns out of scope with the potential hazard of heavy metals in protein products. AHPA states that manufacturers of dietary supplements, under existing federal regulations, are required to "establish limits on those types of contamination that may adulterate or may lead to adulteration of the finished batch of the dietary supplement to ensure the quality of the dietary supplement." According to AHPA, under this requirement, companies must identify specifications for the product and perform appropriate testing, including upon finished products on either a lot-by-lot basis or using a sound statistical sampling plan. In addition, Proposition 65 already requires a warning on product labels of heavy metals. AHPA states that consumers are not equipped to understand or interpret the relative hazard represented by different heavy metal test results, and the effect of requiring the listing of such results would heighten consumer confusion and concern regarding protein products. AHPA acknowledges that federal regulators have not established detailed heavy metal limits for dietary supplement products, but to the degree that issues exist regarding the presence of heavy metals in any class of products, California consumers are better served by the allocation of federal and state resources to more consistent enforcement of existing manufacturing, specification, and

testing requirements.

The Natural Products Association (NPA) makes similar arguments to AHPA, including pointing to existing federal requirements pertaining to good manufacturing practices, and pointing to Proposition 65 warning requirements. NPA states that rather than filling a regulatory gap and improving safety, this bill duplicates and overlays existing federal requirements, and that by imposing California-specific testing, disclosure, and labeling requirements, this bill risks creating a fragmented, state-by-state regulatory environment for products that are distributed nationally.

- 12) *Definition of protein product is unclear.* The introduced version of this bill contained a definition of protein product that could be read very broadly: it included “a powdered supplement, liquid beverages, or other food product with concentrated protein...” This definition would have potentially included many food products with added protein, including high protein cereals, high protein yogurts, and a variety of other products that have been introduced to meet a growing consumer demand for foods high in protein. Recent amendments attempted to address this issue and narrow this definition to focus more on the protein supplements that were the subject of the Consumer Reports study. The new definition of protein product specifies that it is “a dietary supplement in powdered, liquid, or solid form, containing concentrated protein...” However, this bill does not define “dietary supplement.” There is a federal definition of “dietary supplement,” described in existing federal law above, which would capture most if not all protein supplement powders, if the author and committee wished to amend the bill to incorporate this federal definition. However, many of the ready-to-drink protein shakes tested by Consumer Reports may not fall under the federal definition of a dietary supplement, and would likely be categorized as a conventional food product. The author and committee may wish to consider additional amendments to more clearly define the products that would be subject to the testing and disclosure requirements of this bill.
- 13) *Technical amendment to remove word “minerals.”* One of the provisions of this bill require protein product brand owners to include the following statement on their website: “Protein products containing certain minerals that are used to supplement protein intake may contain trace levels of heavy metals based on how the ingredients are sourced.” The use of the word “minerals” appears to have been based on similar wording in last year’s SB 646 (Weber Pierson) pertaining to heavy metal testing and disclosure in prenatal vitamins, which are sourced from minerals. Protein products, on the other hand, are typically sourced from animal and plant material, and so the author may wish to modify this statement to remove the word “minerals.”

SUPPORT AND OPPOSITION:

Support: Center for Environmental Health (co-sponsor)
 Consumer Reports (co-sponsor)
 Environmental Working Group (co-sponsor)
 A Voice for Choice Advocacy
 American College of Obstetricians & Gynecologists - District IX
 Breast Cancer Prevention Partners
 California Nurses for Environmental Health & Justice
 Center for Science in the Public Interest
 Clean Earth 4 Kids
 Clean Label Projects
 Families Advocating for Chemical and Toxics Safety

SF BAY Physicians for Social Responsibility
The Strategic Training Initiative for the Prevention of Eating Disorders
Unleaded Kids
One individual

Oppose: American Herbal Products Association
Natural Products Association

-- END --