

**CALIFORNIA FORUM**

Are cancer warnings for coffee junk science? Or is industry serving a cup of spin?

BY CLAUDIA POLSKY*Special to The Sacramento Bee*

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In a recent preliminary court decision that was widely reported and widely misconstrued, a California judge ruled that coffee sold in this state must in the future contain a warning that it contains a chemical known to cause cancer.

The media has greeted the ruling with mockery and commentary that largely parrots the story framing by defense counsel for the coffee industry. This narrative misrepresents both the underlying science and the applicable law. And it risks triggering a political backlash that would harm, not help, public health.

UNDER CALIFORNIA'S PROPOSITION 65 RIGHT-TO-KNOW LAW, THE LEVELS OF ACRYLAMIDE PRESENT IN A CUP OF COFFEE TRIGGER AN INDUSTRY OBLIGATION TO WARN CONSUMERS OF THE CHEMICAL'S PRESENCE. NO OTHER REGULATORY CONSEQUENCES FLOW FROM A PROPOSITION 65 WARNING.

The chemical triggering the cancer warning for coffee, acrylamide, is formed when carbohydrates and an amino acid combine during coffee bean roasting. Acrylamide is a known animal carcinogen, and is believed to be a human carcinogen.

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Under California's Proposition 65 right-to-know law, the levels of acrylamide present in a cup of coffee trigger an industry obligation to warn consumers of the chemical's presence. No other regulatory consequences flow from a Proposition 65 warning.

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Producers can still process coffee as before; sellers can sell it; and consumers can buy it. Coffee drinkers can thus make their own decisions about risk tolerance, and industry is spared direct regulation of acrylamide levels in its product.

Predictably, however, industry has brewed up a cup of spin that combines at least two false story lines about the court's coffee ruling, each eagerly gulped down by the media. First, industry cites data that coffee drinking is net-positive for human health, by, for example, lowering the risk of Type 2 diabetes. This is both true and irrelevant.

An analogy is that eating tuna is generally net-positive even if the tuna contains mercury, because fish consumption has so many health benefits. But eating lower-mercury fish, like salmon, is even healthier than eating tuna. (If we had the political will to regulate mercury pollution sensibly, we could also lower mercury levels in tuna.)

Similarly, if coffee can be prepared so as to greatly reduce its acrylamide level while preserving its health benefits and flavor – which plaintiff's evidence suggests is amply possible – there is only health to gain in incentivizing this reformulation.

Second, industry asserts (and the media uncritically echoes) that cancer warnings here serve no purpose: Consumers will drink their coffee anyway, with either an eye-roll or enhanced anxiety, neither of which is useful. This ignores that it is precisely the threat of having to provide consumer warnings that induces industry to reformulate products.

Litigation motivates industries otherwise unresponsive to toxicity data; with acrylamide in processed foods, it has happened already. Litigation to compel the potato chip industry to warn about high acrylamide levels in its product nearly a decade ago was met with broad media ridicule – only to trigger changes in potato chip manufacture that lowered acrylamide levels, obviated the need to warn, and induced a press mea culpa. Proposition 65 enforcement can similarly help us have our coffee and improve it too.

None of this is meant to suggest that California's decades-old toxics law can't be better. I am part of a lawyer/scientist research team undertaking a three-year study of the successes and limitations of Proposition 65 in reducing exposure to cancer-causing chemicals.

We hope our research will identify ways to maximize the statute's public health benefits, perhaps by recommending how to help the public distinguish between lower-risk chemical exposures and higher-risk ones, and how to focus enforcement efforts on the latter.

Although admittedly less sexy, it is study, reflection, and nuanced recommendation – not tendentious “Holy mochaccino!” headlines – that will deliver to Californians the toxics protection they deserve.

CLAUDIA POLSKY IS AN ASSISTANT CLINICAL PROFESSOR OF LAW AND DIRECTOR OF THE ENVIRONMENTAL LAW CLINIC AT THE UC BERKELEY SCHOOL OF LAW. REACH HER AT CPOLSKY@LAW.BERKELEY.EDU.



Claudia Polsky

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