

**Introduced by Senator Simitian**February 21, 2007

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An act to add Chapter 10.1 (commencing with Section 108925) to Part 3 of Division 104 of the Health and Safety Code, relating to toxic substances.

## LEGISLATIVE COUNSEL'S DIGEST

SB 456, as introduced, Simitian. Diacetyl.

Existing law, the California Hazardous Substances Act, prohibits the manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State of California, of a package of a misbranded hazardous substance or banned hazardous substance.

This bill would prohibit, on and after June 1, 2008, a person from manufacturing, processing, or distributing in commerce a product containing diacetyl, except that this prohibition may be delayed, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 10.1 (commencing with Section 108925)  
2     is added to Part 3 of Division 104 of the Health and Safety Code,  
3     to read:

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5                             CHAPTER 10.1. DIACETYL

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7     108925. The Legislature finds and declares all of the following:

1 (a) It is necessary for the state to develop a precautionary  
2 approach regarding the production, use, storage, or disposal of  
3 products containing diacetyl, which is an artificial flavoring mixed  
4 with other ingredients to produce a butter-like flavor in a variety  
5 of food products. It is used in hundreds of consumer food products,  
6 including, but not limited to, microwave popcorn, pancake syrup,  
7 cakes, candies, and frozen foods.

8 (b) Exposure to diacetyl vapors has been associated with  
9 constrictive bronchiolitis obliterans, a severe and potentially fatal  
10 lung disease that causes inflammation and scarring in the small  
11 airways of the lungs which leads to severe impairment of lung  
12 function. Most cases do not respond to medical treatment and can  
13 only be cured by lung transplant.

14 (c) A safe exposure level has not been determined by either  
15 state or federal governmental entities by which mitigation measures  
16 can be developed and implemented.

17 108926. (a) Except as provided in subdivision (b), on and after  
18 June 1, 2008, a person may not manufacture, process, or distribute  
19 in commerce a product containing diacetyl.

20 (b) The director, with the concurrence of the Secretary for  
21 Environmental Protection, may defer, for a period not to exceed  
22 two years, subject to a renewal period not to exceed two years, the  
23 effective date of the prohibition described in subdivision (a) with  
24 respect to a specific product containing diacetyl, if both of the  
25 following occur:

26 (1) The director receives a petition from the manufacturer  
27 requesting a deferral of prohibition.

28 (2) The director makes a written finding that prohibiting the  
29 sale of the product would cause substantial economic hardship to  
30 the users of the product, that no feasible alternative to the product  
31 is available, and that there would be no unmitigated human  
32 exposure to the product.

33 (c) For purposes of this section, the following definitions shall  
34 apply:

35 (1) "Diacetyl" means diacetyl (2,3-butanedione, chemical  
36 abstract service number 431-0308).

37 (2) "Director" means the Director of the Office of Environmental  
38 Health Hazard Assessment.

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