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California Presses Its Green Chemistry Initiative

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by [Peter Hsiao](#), [Robert L. Falk](#)

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California has undertaken a number of new initiatives in its environmental and product liability laws. One of the most significant is its Green Chemistry Initiative to attempt on a state level to remove or reduce toxic chemicals in products, and to require advance study and disclosure of chemical risks. Introduced by Governor Schwarzenegger in April 2007, the Department of Toxic Substances Control has conducted a series of public workshops, expert panel meetings and electronic solicitations to collect ideas for how to implement the Initiative.

These efforts have led to the introduction and recent amendment of Assembly Bill (“AB”) 1879 by our former colleague, Assemblyman Michael Feuer. The proposed legislation would empower DTSC, with the help of a “Green Ribbon” panel, with new statutory authority to adopt regulations by January 1, 2011 to identify and regulate chemicals of concern in consumer products.

AB 1879 proposes the creation of a systematic process to evaluate products for green chemistry regulation. The process includes 13 life-cycle criteria to be considered including the product’s manufacturing process, use characteristics, and its waste and end-of-cycle disposal. Based upon that analysis, AB 1879 allows DTSC to adopt a broad variety of regulations that may require:

- (1) Disclosure of additional information needed to assess a chemical of concern and its potential alternatives,
- (2) Labeling or other types of consumer product information,
- (3) Restrictions on the use of the chemical of concern in the consumer product,
- (4) Prohibition of the use of the chemical of concern in the consumer product,
- (5) Controlled access to or limited exposure to the chemical of concern in the consumer product,
- (6) Requiring the manufacturer to manage the product at the end of its useful life, including recycling or responsible disposal of the consumer product,
- (7) Seeking funding for green chemistry challenge grants where no feasible safer alternative exists,
- (8) And – in a broadly worded authorization, DTSC would be authorized to seek any other outcome to accomplish the requirements of the law.

AB 1879 is joined to a companion bill, Senate Bill (“SB”) 509. SB 509 aims to make more chemical risk information available to the public by directing the DTSC to create a web accessible Toxics Information Clearinghouse of chemicals listing their hazards and toxicological end-point data.

Morrison & Foerster is carefully following the Green Chemistry Initiative and participating in the agency process. If you would like more information, please contact [Peter Hsiao](#), the Chair of the firm’s Green Chemistry Group, [Bob Falk](#), or any other member of the Group.