

Warning Full of Beans?

By Reg P. Wydeven

April 8, 2018

When I started working at our law office, I felt pretty special. My first day I went into the lobby to get something, and we had two pots of coffee sitting there. One said ‘Decaf’ and the other said ‘Reg.’ I don’t even drink coffee, but I had my very own pot.

While I don’t drink the stuff, many of my coworkers do. And coffee lovers across the county are about to learn that coffee is potentially bad for your health.

Last month Los Angeles Superior Court Judge Elihu Berle issued a proposed decision that would require coffee roasters, distributors and retailers to include a cancer warning on their products.

Eight years ago, The Council for Education and Research on Toxics, a non-profit watchdog group, sued Starbucks and 90 other companies, asking them to remove acrylamide from its processing. The chemical is produced in the bean roasting process and is a known carcinogen. The group also sought to require the coffee industry to disclose the dangers of acrylamide on warning labels.

The suit was based on The Safe Drinking Water and Toxic Enforcement Act, otherwise known as Proposition 65. The Act was passed in 1986 and was designed to remove cancer-causing chemicals from a myriad of products, and requires warning labels for about 900 chemicals known to cause cancer or birth defects. It allows private citizens, advocacy groups and attorneys to sue on behalf of the state and collect a portion of civil penalties for failure to provide warnings.

The coffee industry, however, asserted that their use of the chemical should be exempt under the law because it results naturally from the cooking process and makes the beans more flavorful. In addition, they maintain the amount found in coffee isn’t harmful and any risks are outweighed by benefits. Finally, they claim that if they remove acrylamide from coffee, it will ruin the taste.

Judge Berle, however, claimed that the coffee makers’ argument amounted to a hill of beans because they failed to show that the threat was insignificant. “While plaintiff offered evidence that consumption of coffee increases the risk of harm to the fetus, to infants, to children and to adults, defendants’ medical and epidemiology experts testified that they had no opinion on causation,” Berle’s proposed ruling read. “Defendants failed to satisfy their burden of proving ... that consumption of coffee confers a benefit to human health.”

Judge Berle can also consider potential civil penalties of up to \$2,500 per person exposed each day over eight years. For a state with almost 40 million residents, that could be a hefty fine. While proposed rulings are not typically overturned, the coffee industry may challenge the ruling before it is final and could seek relief from an appellate court.

In response to the ruling, the National Coffee Association issued a statement saying that the U.S. government’s own dietary guidelines state coffee can be part of a healthy lifestyle and that cancer warning labels would be misleading. William Murray, president and CEO of the NCA, said, “This lawsuit has made a mockery of Prop. 65, has confused consumers and does nothing to improve public health.”

Because California is such a large market and making labels specifically for coffee to be sold strictly there is unfeasible, it’s likely the warnings will show up across the country.

I don’t know if I should say the coffee industry got creamed or took its lumps. My puns have no filter.

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