



California New Car Dealers Association

June 22, 2009

The Honorable Wesley Chesbro
Chairman, Assembly Committee on Environmental Safety and Toxic Materials
State Capitol, Room 2176
Sacramento, California 95814

Re: SB 346 (Kehoe), As Amended June 1, 2009 – Brake Friction Materials

Position: OPPOSE

Hearing: Assembly Committee on Environmental Safety and Toxic Materials June, 30 2009

Dear Assembly Member Chesbro:

The California New Car Dealers Association (CNCDA) is a statewide trade association that represents the interests of over 1200 franchised new car and truck dealer members. CNCDA members are primarily engaged in the retail sale and lease of new and used motor vehicles, but also engage in automotive service, repair and part sales. We are writing in opposition to SB 346 because it creates a burdensome and nebulous fee scheme without implementation guidance, subverts the intent of the Green Chemistry Initiative, requires an unnecessary and expensive third party certification of parts, and provides a financial disincentive for consumers in need of brake pad replacement.

Unmanageable Fee Structure

SB 346 requires the Department of Toxic Substances Control (DTSC) to “impose a fee of one dollar on each new axle friction material sets sold in the state,” but fails to state which party is responsible for collecting the fee. As written, dealers are unsure whether the fee is to be collected from wholesale or retail purchasers, or whether the fee is to be collected multiple times along the supply chain.

Since the fee is imposed on the purchase of “new axle friction material *sets*,” which contain multiple brake pads, the language is unclear as to whether the fee is to be imposed on *individual* brake pad sales. This fee will increase the compliance burden for our new vehicle dealer members.

This bill would further require our dealers will to create a complicated new system for collecting and remitting the fee to the appropriate account at a time when dealers can ill afford to collect and remit yet another vehicle-related fee increase.

Let the Green Chemistry Initiative Work!

AB 1879 (Feuer) and SB 509 (Simitian) of 2008 (collectively, the Green Chemistry Initiative) were passed and signed by the Governor to create a streamlined source of environmental regulations for consumer products. The Green Chemistry Initiative appropriately puts the onus of technical environmental

policymaking on recognized experts in the scientific community who are better-equipped to appreciate the nuances involved with complicated chemical and product manufacturing processes and their impact upon consumers. While brake particulate-related pollution may or may not require the creation of substantive friction material composition requirements, this determination should be made by disinterested and independent scientists in an apolitical environment. SB 346 undermines the groundbreaking Green Chemistry Initiative process by immediately placing the legislature back into detailed and technical consumer product policymaking.

Unnecessary Certification Requirements

In addition to the bill's substantive requirements, SB 346 also requires that the manufacturer hire a third party to test and certify compliance with the material composition standards, and to provide a specific certification mark onto the friction materials themselves. This introduces a needless complication to the process that will lead to delays and the incursion of unnecessary expenses in the development and marketing of more-advanced braking systems. Brake friction product manufacturers should be allowed to comply or not comply with the bill's substantive requirements and face the appropriate consequences through the state's considerable enforcement authority.

Encourages Consumers to Continue Driving on Worn Brake Pads

By forcing brake friction product manufacturers to provide a certification mark on the product and pay for third parties to certify compliance with the bill's substantive requirements, the state unnecessarily increases the costs of producing compliant brake friction materials—significant costs which will then be passed on to consumers. This burden, along with the fee, will create a financial disincentive for consumers that need to replace dangerously worn brake pads, particularly those in the most dire economic circumstances. Forcing consumers to wait for their next paycheck before replacing their brake pads may have devastating consequences for themselves and other drivers.

For the reasons outlined above, we urge you to vote "NO" on SB 346 when it is heard before the Assembly Committee on Environmental Protection and Toxic Substances. Should you or your staff have any questions or comments, please do not hesitate to contact me.

Sincerely,



Jonathan Morrison
Staff Counsel

cc: The Honorable Christine Kehoe
Members of the Assembly Committee on Environmental Safety and Toxic Materials
Robert Fredenburg, Consultant, Assembly Committee on Environmental Safety and Toxic Materials
John Kennedy, Assembly Republican Caucus
Ralph Simoni, California Advocates, Inc.