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Lunchbox supplier nixed lead warnings

If the bags had been labeled, officials say, state would have tossed them.

By Chris Bowman - Bee Staff Writer

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Tens of thousands of state-issued lunchboxes promoting healthy eating would have carried warnings about toxic lead on the vinyl surfaces but for the state's supplier intervening, according to a company e-mail obtained by The Bee.

Had the coolers been so labeled, state health officials said they would have rejected the shipments from supplier You Name It Promotions Inc. of Oakland.

"There would be no way that any product that might require that notice would be acceptable for us to distribute," said Dr. Mark Horton, the state's public health director.

As it turned out, some of the giveaway bags tested positive for high levels of lead, which can be absorbed by food and accumulate in the bloodstream. Lead can impair mental and physical development, especially in children.

State health officials Thursday warned consumers not to use the 56,000 green shoulder-bag-style lunchboxes after confirming Sacramento County findings that some of the bags contained "elevated" levels of lead. The boxes have been distributed at schools and health fairs as part of a state nutrition education program.

The state's action prompted a recall from the bags' producer, T-A Creations of Los Angeles, which promised to refund the supplier on returns.

As a precaution, state health officials warned against the use of an additional 246,000 of its promotional lunchboxes -- all colored blue -- which are undergoing lead tests.

California's Proposition 65 requires consumer warnings on products containing "significant" amount of chemicals known to cause cancer, reproductive harm or birth defects.

Andrew Halim, vice president of T-A Creations, said the company, on the advice of its lawyers, began routinely attaching the lead warning on its vinyl lunchboxes in 2006, even if samples showed no significant amounts of the contaminant.

"We put the labels on for our protection from liability," Halim said.

In the case of the custom order for the state's promotional green lunchboxes, however, the company went against its legal advice and omitted the warning tags at the insistence of the state's supplier, You Name it Promotions, Halim said.

Halim shared with The Bee a Sept. 19, 2006, e-mail from the supplier instructing his company not to attach the warning.

"Now, we need to be very clear that you understand there can be NO label inside the bag other than

the one we created. ... There can be NO label stating this product may contain lead. ...

"This client (the state) has the lead (testing) report and is satisfied with the results. It would look very odd to see the warning label when they have been supplied good test results," the e-mail said.

Marla Kaye, president of You Name It Promotions, defended the company's stance, pointing out that T-A Creations' testing did not show elevated lead levels.

"If we knew the coolers exceeded Proposition 65 lead limits, we never would have distributed these products, and we would have demanded that T-A Creations supply products meeting our specifications," Kaye said.

State health officials said they were wary of the potential lead hazard associated with vinyl products, and they went the extra mile in safeguarding against contamination.

They had the boxes tested during the manufacturing in China and after they were shipped to California, said Janet Huston, health department spokeswoman. The results showed lead at levels far below concentrations that would trigger a Proposition 65 warning on the boxes, she said. The boxes carry slogans in English and Spanish promoting healthy living, such as "Eat fruits & vegetables and be active," and "Eat five a day for better health and be active."

The health department paid \$845,000 for the 300,000 bags, Huston said. Public Health Institute of Oakland has been on contract with the state to distribute the bags to schools, agencies and community groups for the past three years, she said.

Asked whether the state will be repaid, Kathy Keeshen, chief lawyer for the health department, said the state is "evaluating all options."

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