



INDEPENDENT LUBRICANT MANUFACTURERS ASSOCIATION

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March 19, 2014

Honorable Lou Correa, Chairman
Senate Committee on Governmental Organization
1020 N Street, Room 584
Sacramento, California 95812

Re: S.B. 916 (Oppose)

Dear Senator Correa:

The Independent Lubricant Manufacturers Association ("ILMA") opposes S.B. 916, as introduced, for the reasons set forth below. The legislation, if enacted would intentionally create distortions and dislocations in the market for motor oils in and outside of California, while not providing the desired and claimed environmental benefits.

I. Introduction of ILMA

ILMA is a national trade association of 317 member companies. As a group, ILMA's Manufacturing Member companies blend, compound, and sell over 30 percent of the automotive lubricants and over 75 percent of the metalworking fluids utilized in the country. Independent lubricant manufacturers by definition are neither owned nor controlled by companies that explore for or refine crude oil to produce lubricant base stocks. Base stocks are purchased from refiners and re-refiners, who are also competitors in the sale of finished lubricant products, including motor oils. Independent lubricant manufacturers succeed by manufacturing high-quality, often specialized, lubricants. Their success in this competitive market also is directly attributable to their tradition of providing excellent, individualized service to their customers.

A number of ILMA member companies are headquartered in California. Other member companies based outside of the State historically have sold or distributed motor oils and other lubricants into California. ILMA needs to point out that one of its California-based members, Biosynthetic Technologies, stands to benefit significantly from the mandates in S.B. 916, if the legislation is enacted as introduced. However, the Association cannot support governmental restructuring of the motor oils market, effectively choosing "winners" and "losers" at the expense of California consumers and the environment.

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II. S.B. 916 Will Not Solve the Problem of Improper Disposal of Used Oil

Based upon the findings set forth in S.B. 916, as introduced, the impetus for the legislation is that the severe drought in California has highlighted the need to protect the State's water resources from the improper disposal of used oil. However, the legislation if enacted would shift the potential harm to the State's waters from one type of "pollution" to another with possibly even worse consequences.

A. Vegetable Oils and Animal Fats Can Cause Devastating Environmental Effects.

ILMA requests that the Committee take notice that the U.S. Environmental Protection Agency ("EPA") regulates vegetable oils and animal fats under its Spill Prevention, Control and Countermeasure ("SPCC") Regulations, 40 C.F.R. Part 112, with identical requirements to those for petroleum oils. EPA, based on its expertise, has determined that vegetable oils and animal fats share common physical properties with and produce similar environmental effects as petroleum oils, including:

- Coating animals and plants, suffocating them by oxygen depletion or causing them to die from hypothermia, dehydration, diarrhea or starvation;
- Produce rancid odors and catch fire when ignition sources are present;
- Destroy future and existing food supplies, breeding animals, and habitats; and,
- Foul shorelines and clog water treatment plants.

EPA's scientific research with actual spills has shown that spills of vegetable oils and animal fats kill or injure wildlife and have other undesirable environmental fates and effects.

B. Because There is No Infrastructure to Recycle Biosynthetic Motor Oils, More Oils Could be Improperly Disposed Into the Environment

California continues to make progress in increasing the recycling rates for used oil. The mandates in S.B. 916 would thwart and would reverse this progress. ILMA Supplier Members include the leading re-refiners across the country and in the State. They tell the Association that their current re-refining processes are not compatible with used biosynthetic lubricants and, as a result, they would not accept used biosynthetic lubricants as feedstock.

It is important to note that today's fully-formulated motor oils contain additive packages to stabilize the lubricants under the extreme operating conditions found in today's automobile engines. Such additive packages also are included in biosynthetic formulations, which will retard their biodegradability. Importantly, the used motor oil drained from the crankcase — whether petroleum-based or biosynthetic — will have similar contaminants, including combustion byproducts, metals, and polycyclic aromatic hydrocarbon ("PAH") compounds. Accordingly, ILMA does not see how the proponents of S.B. 916 can claim that used biosynthetic motor oils will be "non-toxic" to humans or the environment.

The question becomes what is the fate of used biosynthetic motor oils if they are not acceptable feedstocks for existing re-refineries and no alternative recycling processes or systems are in place

at the time the mandates in S.B. 916 become effective? The likely fate is that significant amounts of used biosynthetic motor oils will be improperly disposed across California, especially if consumers are improperly informed about the toxic nature of the used product and proper disposal costs are higher than for today's used oils. Accordingly, rather than solving a problem, the Legislature will be creating greater environmental risk, given the discussion above about EPA's conclusion that vegetable oils and animal fats cause similar environmental harm.

Based upon the foregoing, ILMA believes the risks of environmental harm from used biosynthetic motor oils are sufficient by themselves to keep S.B. 916 from being reported from the Committee or being passed by the Legislature.¹

III. There is Insufficient Capacity to Meet the Biosynthetic Content Requirements in S.B. 916.

It is estimated, based on current demand in California, that the mandates in S.B. 916 would require more than 30 million gallons annually of biosynthetic motor oils. For the reasons discussed below, ILMA doubts that there will be sufficient capacity in California and elsewhere to satisfy the demand for a 25% biosynthetic blend, and whatever product does exist in the market will be at a much higher price.

A. Biosynthetic Motor Oils Must Meet Specifications for Safe Use in Motor Vehicles

The American Petroleum Institute ("API") and the International Lubricant Standardization and Approval Committee ("ILSAC") have standards which set minimum performance standards for motor oils.² Motor oils, which have been treated and meet the API and ILSAC standards, can obtain a license from API to use its API Service Symbol (the "API donut") with the service designation on containers sold to consumers. The current API service designation is "SN" for gasoline and light-duty engines. The current ILSAC designation is "GF-5." In reviewing API's database of more than 500 worldwide licensees for more than 8,000 products, it appears that only three (3) licensees' products are associated with biobased motor oils.

The automakers, who participate in ILSAC, specify in their owners' manuals the recommended motor oils for their vehicles.³ For example, an automaker may recommend an ILSAC GF-5/API SN oil with a 5W-20 viscosity. It is important to note that the automakers' warranties generally state that they are not responsible for engine repairs or replacements if a non-recommended motor oil is used and caused the harm. S.B. 916, thus, jeopardizes the warranties for California consumers' automobiles if the biosynthetic motor oils mandated by the legislation cannot meet the current API and ILSAC standards recommended by the automakers for their vehicles.

¹ ILMA also challenges the finding in S.B. 916 that biosynthetic motor oils create 88% less greenhouse gas emissions. The Association is not aware of any peer-reviewed studies to support this finding.

² Separate standards exist in European and Asian markets.

³ General Motors has a proprietary and licensable motor oil -- dexos®

B. Motor Oil Standards are Changing, Further Complicating the Mandates in S.B. 916

API and ILSAC are working on the next generation specification for motor oils — GF-6. This new specification in part, is intended to increase fuel economy, improve engine wear protection, and reduce engine aeration. Automakers also want the new specifications to allow for the use of lower-viscosity motor oils while maintaining engine durability. The timeline for the first license of GF-6 is January 1, 2017.

As with previous ILSAC and API categories, a variety of engine tests are used to qualify motor oils, and these bench tests are run under severe, accelerated conditions. At least three new engine tests will be introduced for GF-6 oils. The question becomes where biosynthetic motor oils will fall in the testing queue, as there are limited number of test engines available. In addition, because the base stocks for biosynthetic motor oils are considered to be “API Group V,” there is no “read across” available where one test qualification will cover a range of products.

Even with the discretionary one-year delay built into S.B. 916, the capacity does not exist to satisfy motor oil demand in California, and, even if quantities of biosynthetic product maybe available, there are no assurances they can be qualified and licensed to meet either the current ILSAC GF-5/API SN or soon-to-be-adopted ILSAC GF-6 standards.

IV. S.B. 916 Will Impose Significant New Costs and Could Lead to Supply Disruptions.

While the environmental benefits from the enactment of S.B.916 are speculative at best, there is certainty that the mandates in the legislation will cause biosynthetic motor oils to be more costly than current motor oil formulations and could lead to supply disruptions.

A. Higher Costs Will Burden California Consumers

Simple supply-and-demand economics suggests that the costs of biosynthetic motor oils will be higher if the demand outstrips supply. The commercial capacity needed to supply the demand from the legislation’s mandates will require the investment of capital and the need to earn a reasonable rate of return on such investment. The cost of capital will need to be passed through on a per-gallon basis.

Similarly, there will be costs associated with installing segregated storage or cleaning existing infrastructure (e.g., bulk tanks) to store safely the biosynthetic motor oils to meet the legislation’s definition. Again, these costs will be passed through to consumers.⁴

As previously noted there is no infrastructure for the proper disposal and recycling of used biosynthetic motor oils. To the extent the used product must be managed as a “hazardous waste,” consumers’ costs will be higher.

⁴ The legislation does not address what happens with out-of-state vehicles serviced after the imposition of the mandates

Taken as a whole, these increased costs could be significant and could have disproportionate effects on lower-or fixed-income residents in California who depend upon their vehicles for work. For someone with an older car that consumes motor oil at a rapid pace, the cost of biosynthetic motor oil may be unreasonable.

B. S.B. 916's Mandates May Cause Supply Disruptions

It follows that if supply of biosynthetic motor oils cannot meet demand then market distortions and dislocations should be expected to lead to supply disruptions. While ILMA cannot predict where and when such disruptions will occur, they nevertheless will happen because of the mandates in S.B. 916.

V. Biosynthetic Motor Oils Should Stand on Their Own

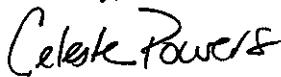
Notwithstanding the U.S. Department of Agriculture's biobased preference program, biosynthetic lubricants, including motor oils, are being developed and commercialized by ILMA member companies and others. However, their penetration into the market, including California, should be based on performance, price, and other factors, including environmental benefit. If biosynthetic motor oils perform "as advertised" by the supporters of S.B. 916, then the legislation should not be needed.

ILMA remains concerned that disrupting an existing marketplace in the aggressive manner mandated in S.B. 916 guarantees by state law a market share to a certain technology that has not won its place in the market, especially when the environmental benefits are speculative at best and likely are worse.

ILMA respectfully opposes S.B. 916, as introduced. As independent lubricant manufacturers who compete directly against their suppliers, we are troubled by the Legislature mandating one technology for motor oils without the proper consideration of the predictable impacts on California consumers and the State's fleet of vehicles, as well as effects on competitors who have supplied California's motor oil market dependability for many, many years. Particularly troubling to ILMA is the lack of evidence by the legislation's supporters to support their end-of-life environmental impact and benefits.

ILMA appreciates this opportunity to share its views with you.

Sincerely,



Celeste M. Powers, CAE, Executive Director

cc: Hon. Marty Block
Hon. Cathleen Galgiani
Members, Governmental Organization Committee
ILMA Board of Directors
Jeffrey L. Leiter, Esq.