GOVERNOR ARNOLD SCHWARZENEGGER

April 18, 2006

The Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

Dear Senator Feinstein,

Thank you for your letter regarding HR 4167, the "National Uniformity for Food Act of 2005."

California has a long and proud tradition of setting landmark health and environmental standards that become the basis of similar actions in other states and at the federal level. I am a strong believer in the rights of individual states to enact laws that protect its citizens and the environment, and the federal government should not interfere in a state's ability to do so.

I share your deep concern regarding the potential consequences this legislation could have on our consumers and public health. As you well know, the history of Proposition 65 ("Safe Drinking Water and Toxic Enforcement Act of 1986") is rooted in the power of the people to enact legislation. In fact, California voters by a sixty-three percent majority passed Proposition 65 in 1986. The citizens of our great State fought hard to provide warning labels on products that knowingly expose individuals to any substance that may cause cancer, birth defects or other reproductive harm. As drafted, HR 4167 would expressly preempt state authority to issue warnings related to public health and safety as currently provided under Proposition 65.

For example, as a result of Proposition 65 Mexican candy manufacturers were forced to reduce harmful levels of lead in the products they sell in California; several major vendors of bottled water were forced to remove cancer-causing arsenic from their products. Major California supermarket chains now post warnings in their fresh and frozen fish sections that contain Food and Drug Administration (FDA) and California Department of Health Services recommendations for safe consumption of fish that contain mercury. These same FDA recommendations are not posted in retail outlets in other states, but rather on the FDA website. I am very concerned that HR 4167 would remove our ability to require these signs in California and undermine our ability to protect our citizens and promote consumer awareness.

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As you know, the FDA has limited activity concerning food contaminants that cause cancer or reproductive effects. FDA's food labeling requirements focus on nutritional content and its advisories focus on short-term health issues. This is very important but fails to consider longer-term concerns over carcinogens and reproductive toxicants, which are specifically provided for under Proposition 65. As such, our California laws fill a gap in important federal FDA programs.

I oppose Congressional preemption of Proposition 65 and I look forward to working with you and our Congressional Delegation to continue California's legitimate and rightful role of upholding strong public health and food safety standards.

Sincerely,

Arnold Schwarzenegger

cc: The Honorable Barbara Boxer,
United States Senate