

California Proposition 65

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(Safe Drinking Water and Toxic Enforcement Act of 1986)

California Proposition 65, also known as the Safe Drinking Water and Toxic enforcement Act of 1986, requires businesses to notify the public about certain chemicals in consumer products identified by the State to cause cancer or birth defects. Chemicals such as lead and cadmium are updated and maintained on a list by the state of California. To see the most recent chemical listing, please refer to the following site: http://oehha.ca.gov/prop65/prop65_list/files/P65single022511.pdf.

Proposition 65 Requirements

Based on a business' knowledge of its own operations and chemicals used, Proposition 65 requires a business to identify the chemicals to which it exposes its customers. If the level of exposure is above the "[safe harbor levels](#)" as published by the California Office of Environmental Health Hazard Assessment (OEHHA), a "clear and reasonable" Proposition 65 warning is required.

This label must be provided in a variety of means such as labeling:

- **The product**
- **Posting signs at the workplace**
- **Distributing notices at a housing complex**
- **Or publishing notices in a newspaper**

If no safe harbor level has been established for a chemical on the list, the business is generally required to provide the warning, unless the business can show that the exposure poses "no significant risk level" as defined by the law.

Warning Requirements

A "clear and reasonable" warning must:

1. **clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and**
2. **Be given in such a way that it will effectively reach the person before he or she is exposed.**

Proposition 65 applies only in California and does not ban any product or require notification of the product subject to warning to OEHHA. However, the California Attorney General's Office, any district or city attorney, consumer advocacy group and private citizen may sue a business for violating this law.

Product Specific Settlements

In recent years, a number of lawsuits have been brought over lead content in specific products, resulting in settlements that established the maximum lead content level over which a warning must be placed on the product before being sold in California.

These settlements include:

- Flatware (plates) – 0.226 ppm in paint and surface coating
- Hollowware (bowls and serving dishes) – 0.1 ppm in paint and surface coating
- Cups, mugs, large pitchers, jugs – 0.1 ppm in paint and surface coating
- Wallets, handbags, purses, clutches, totes, belts and footwear
- Paint or other surface coating – 90 ppm
- Leather – 300 ppm
- Polyvinyl Chloride (PVC) – 200 ppm
- Jewelry (including watches and detachable clothing and shoe ornaments) – 100 ppm, 90 ppm for surface coating on such jewelry.