

Prop 65

A Note to Our Customers Regarding Revisions to California's Proposition 65

In compliance with California's Safe Drinking Water and Toxic Enforcement Act of 1986, otherwise known as Proposition 65, all companies selling or distributing consumer products in or into California are required to inform consumers if using their products potentially could lead to exposure to chemicals listed by the State of California as being known to cause cancer, birth defects, or other reproductive harm. Proposition 65 has resulted in certain consumer products bearing various warning labels over the years. However, recent changes to California regulations implementing Proposition 65 will result in many more consumer products having a warning applied or having a warning statement placed near the products in a retail environment. These warnings generally consist of language drafted by the State of California for particular classes of products - such as automobiles - or for more general use by almost any product. Companies are likely to use the state-drafted language because the use of other language risks penalties for the product manufacturer or retailer if the substitute language is found insufficient. For more information about Proposition 65, the listed chemicals and the warning requirements, please see <https://www.P65Warnings.ca.gov>.

Due to these updated regulations, any products produced on or after August 30, 2018 that are sold in or into California must include a chemical exposure warning if 1) the product contains one of the nearly 900 chemicals listed by the State of California and 2) use of the product may expose the consumer to one or more of the listed chemicals in an amount sufficient to require a warning. In many instances, companies may not know if the use of their product will in fact lead to a sufficient exposure so as to require a warning under California law, and undertaking such an exposure analysis on a product by product basis often is impracticable. Therefore, out of an abundance of caution many companies will apply a warning to their product to inform consumers about the potential exposure and avoid the fines and litigation costs that a failure to warn could bring.

¹State of California, Department of Justice, Office of the Attorney General website: Proposition 65 Enforcement Reporting/Frequently Asked Questions - "I just bought a consumer product that has a Proposition 65 warning. Is it unsafe?" (www.oag.ca.gov/prop65/faq, 07/25/2018)