



NEW PROP 65 REGULATIONS HAVE BEEN APPROVED

March 27, 2017

In August 2016 OEHHA finalized the new Prop 65 Warning regulations.

- In summary, there is new safe harbor language, a new website for consumers, and attempts to clarify liability as between manufacturers and retailers. The new regulations go into effect on August 30, 2018, new labels can however be used before that time. The language required by Consent Judgments is considered within safe harbor. The new labels contain language that requires the identification of at least one of the Proposition 65 chemicals in the product. The language for each of the types of warnings (i.e. environmental vs. product) has changed.
- The emphasis is for liability to the manufacturer; along with additional duties toward vendors.
- There is new web Proposition 65 site sponsored by OEHHA.
- There are new symbols required on the safe harbor labels.
- Manufacturer/Retail Seller Responsibilities
 - Product manufacturers have primary responsibility for warning.
 - Manufacturer can label product or provide notice to distributor/importer/retail seller that a product may cause an exposure to a listed chemical.
 - Provide warning signs, materials (unless they make other arrangements via contract).
 - Retail sellers confirm receipt of notice act as “pass-through” for warning.
 - Provide non-English language warnings in certain situations.
 - Safe Harbor Content and Methods
- “This product contains...”
 - “This product can expose you to...”
 - The name of at least one chemical in the warning.
 - Warning required for chemicals A and B. Business can include the name of A or B, or both.
 - Named chemicals are those for which warning is being provided.
 - Business selects which chemical(s) to include in warning.
 - Answers question: “What am I being exposed to?”
 - OEHHA web site URL
 - Warning symbol



Phase In:

- Two-year phase-in period.
- Effective date of regulation: August 30, 2018.
- Consumer products manufactured prior to the effective date will not require new warnings if they meet existing safe harbor requirements.
- Court-approved warnings expressly recognized and considered “clear and reasonable” for parties to litigation.
- Tailored Warnings; in addition to the specific warnings listed above, the code has modified the warnings for the following categories:
 - Environmental Exposure
 - Occupational Exposure
 - Specific Product, Chemical and Area Exposure Warnings
 - Food
 - Alcoholic Beverages
 - Food and Non-Alcoholic Beverages
 - Prescription Drug Exposure and Emergency Medical or Dental Care Exposure
 - Dental Care
 - Raw Wood Products
 - Furniture Products
 - Diesel Engines
 - Vehicles
 - Recreational Vessels
 - Enclosed Parking Facilities
 - Amusement Parks
 - Petroleum Products
 - Service Station and Vehicle Repair
 - Designated Smoking Areas

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